

EVIDENCE BASED DECISION MAKING FOR DEFENSE ATTORNEYS

(EBDM) (updated November 2014)

In 2011, Eau Claire received a grant from the National Institute of Corrections and the Office of Justice Assistance to begin the process of Evidence Based Decision Making (EBDM) in Eau Claire County. This is a system wide endeavor that will reach from arrest to post sentencing. The policies that are being implemented are based on the latest criminal justice research. Eau Claire was one of three counties chosen to advance to phase III of the grant initiative. This means our county will continue to receive technical assistance from experts in the field to help make our local initiatives a success. Experts will review our outcomes and effects and publish the recidivism data that comes out of our county once we have implemented our evidence based system.

WHAT IS EVIDENCE BASED DECISION MAKING?

EBDM is a process of using the latest research to make smarter decisions in the criminal justice system. Experts in the various fields have studied and reported to our county criminal justice stakeholders the latest research in the criminal justice field. The intent is that persons in the position of making decisions can use this information when formulating policy decisions on arrest, charging, sentencing, and supervision.

Some of the key principles of the research include the following:

1. An accurate assessment of an offenders risk and needs is important to determine the type of intervention needed.
2. Low risk offenders should receive minimal interventions. High and medium risk offenders should receive more intense programming and interventions.
3. It may actually be harmful for low risk persons to receive intensive interventions and increase their chances for recidivism.
4. Interventions that target an individual's specific criminogenic needs based on a valid risk assessment are more likely to reduce recidivism.

5. Low risk offenders should be handled separately from medium and high risk offenders. Evidence has shown that high risk offenders are more likely to influence low risk offenders than vice versa.
6. Treating and providing services in a person's natural environment have been proven more effective at reducing recidivism than in institutional and prison settings.
7. Punishment without treatment has not been shown to reduce recidivism and may actually increase recidivism for some offenders.
8. Punishment and sanctions should be graduated and swift. Rewards for good behavior should be given four times more than punishments.
9. Supervision should include treatment for the 8 criminogenic needs. Not all can be addressed at the same time.
10. Do not distract offenders and impede probation by imposing conditions that don't relate to their risks and needs.
11. Treatment programs need to be evaluated continually for fidelity.
12. Be careful of risk assessments that were developed from research from male samples when treating females.
13. Women may take longer to recover from trauma, as they are four times more likely than men to have long-lasting PTSD and to have accompanying depression and anxiety. This needs to be considered at sentencing.
14. Research found that there is no evidence that drug offenders given harsher sentences were less likely to reoffend even though they had less time to do so. Those offenders given harsher sentences were more likely to recidivate based on research by Donald P. Green and Daniel Winik (2010).
15. Specific deterrence consists of principles of swiftness, certainty, and severity. Severity or harshness of a sentence has the weakest effect on recidivism. (Steven N. Durlauf and Daniel S. Nagin, 2001)
16. Incarceration compared to probation increases recidivism.
17. Cognitive behavioral programs rooted in social learning theory are the most effective at reducing recidivism.
18. Use more positive than negative reinforcements for the best outcomes.
19. Treatment should target current issues and not dwell on past issues. Deniers are not more likely to recidivate than persons that admit their crimes. Spending time getting offenders to admit their past crimes is not an effective strategy for treatment.
20. Realize that some risk factors are static and are slower to change, (substance abuse), while some are acute and can change quickly. (i.e., employment)

21. Intensive supervision programs without treatment waste money and do not reduce recidivism.
22. Poorly implemented treatment can actually increase recidivism.
23. Low risk sex offenders should not be placed in high risk sex offender treatment. This will increase their likelihood to recidivate. (Study by Brian Lovins)

CRIMINOGENIC NEEDS

Research has found that there are 8 criminogenic risk/need factors that are most likely to effect future crime. These include the following:

1. History of Antisocial attitudes

This is the number one predictor for recidivism. These beliefs include negative impressions about the law, negative impressions about social conventions, (i.e., “works not for me”), negative expressions about self management, and lack of empathy.

2. Antisocial associates

This includes pro-criminal associates and isolation from pro-social persons.

3. Antisocial Personality

This includes impulsivity, and criminal thought, egocentrism, aggressiveness and risk taking.

4. Family and/or marital issues

5. Substance Abuse

6. School

7. Employment issues

8. Leisure and Recreation

Surprisingly, AODA issues are not in the top 4 most influential criminogenic factors. To be successful with an offender, any intervention must address these risk/need factors. You must look at the responsivity of each particular offender and treatment must be geared toward their needs. You must

consider the individual's motivation, learning style, gender, age and culture. Research tells us that the top two risk factors need to be addressed early and intensely, however in many counties there is little programming for these risk factors. You should advocate to get cognitive programming in your community to address these needs. Research suggests that recidivism is reduced for persons whose needs are addressed in their community. There is no way to "practice skills" learned in cognitive treatment when persons are incarcerated.

Anxiety/Stress, Low self esteem, Intelligence, Health, Mental Health have not been shown to effect future criminality although may need to be addressed in order to address other factors. Mental illness alone does not predict criminal behavior. (See study by Morgan, Fisher, and Wolff) Treating someone for mental illness alone will not prevent future criminal activity.

Programs such as "scared straight", boot camps, and intensive supervision without treatment have not been shown to be effective in reducing recidivism.

WHAT IS A COMPAS EVALUATION?

The COMPAS evaluation is a risk/needs assessment which has been validated. DOC currently has a contract with COMPAS and will be completing this assessment on all new probation cases. The COMPAS will carry through with a client even if he/she goes to an institution. The COMPAS addresses an offender's risk of recidivism, violent recidivism, and risk of failure to appear. It also measures a person's criminogenic needs.

The risk factors are static factors and will be completed by the COMPAS evaluator. The need factors are based on a client's self report.

There are studies questioning the accuracy of the COMPAS tool. These can be found on the internet and question its validity. (See "Evaluating the Predictive Validity of the Compas Risk and Needs Assessment System" by Tim Brennan, William Dieterich, and Beate Ehret.) Defense attorneys can use these studies to challenge the COMPAS results. Defense attorneys should remember that this is just a tool and not always accurate. It cannot measure an individual person's risk of re-offending on a specific charge. It will not be accurate in every case. Many believe it is not a good tool for sex or domestic violence offenses. The COMPAS does have some specialty scales for mental health, female offenders, sex offenders and other

categories. These scales may not be completed unless specifically requested. Not all evaluators have been trained on all the scales. You should review the COMPAS to make sure it is accurately completed. The instruction manual on the COMPAS has been attached. It is important that the persons administering the COMPAS be adequately trained. Once enough COMPAS evaluations are completed in Wisconsin, the test will be normed for our specific population. Besides the COMPAS evaluation, there are other risk/needs assessments that can be done on your clients. You will need to talk to a trained social worker to find a qualified evaluator. Another validated tool is the LSI-R (Level of Service Inventory Revised). Be advised however, that the LSI-R was developed primarily from research with male samples and tends to neglect risk factors that may be specific to women or experienced in a qualitatively different way by women. (See Hanna-Moffitt, 2009). Therefore this may not be a good tool for evaluating female offenders.

Defense attorneys should be aware that the COMPAS tool will require persons to provide incriminating information. For example, by answering the “needs” questions honestly, they may be admitting antisocial tendencies as well as antisocial peers. They may be conceding a significant AODA issue. You should measure the benefits of taking the COMPAS against the risks. Like the MMPI, there are scales on the COMPAS that will measure the truthfulness of your client’s responses. In Eau Claire County, the District Attorney has assured us that there will be incentives for defendants to take the COMPAS and to report honestly on their needs. These benefits will include reduced jail sentences for cooperation in treatment. Once the EBDM process begins in Eau Claire, all probation sentences should include treatment options in lieu of jail based on the COMPAS. Lengthy jail sentences should be reduced upon participation in treatment programs based on the needs identified in the COMPAS tool.

Please be aware that the COMPAS trainers are very clear that the test was not designed to determine length of incarceration or the need for incarceration. It can’t predict the likelihood of a given offender committing a given offense. It is not a perfect predictor of future criminality. DA’s should not be using this tool for any of the above reasons. This is contrary to the instructions given by the designers of the tool and would be a non-evidence based use of the tool not supported by research.

Once the EBDM process is implemented in Eau Claire, COMPAS evaluations will be required in all probation cases. This is to ensure that only medium and high risk offenders are placed on probation and that their actual needs are addressed. If you have a client that shows up as low risk on

the COMPAS, you should be approaching the DA for minimal intervention including deferral of the charges, fines, or community service. These persons should not be placed on probation unless it is an unusual situation where public outcry would require it. Small amounts of restitution should be dealt with by civil judgment or deferred agreement if we are following evidence based practices.

Defense attorneys can request their own COMPAS on clients be completed through Amanda Dodge, at the Community Transition Center (715-855-5300 or 715-491-5194) or at eauclaire.jailassessor@lsswis.org. As of November, 2014, Miranda Pederson will also be doing COMPAS assessments and can be reached at the same e mail. All assessments should be routed through Amanda Dodge. Holly Linn is the supervisor at the Transition Center and if necessary can be reached at the same number. Amanda Dodge also has an office on the 2nd floor of the courthouse. This office is located in the same suite as the DAGP coordinator and the diversion coordinator. The results of the COMPAS can be used at the pretrial with the District Attorney to negotiate. Initially, we were not required to disclose these results to the District Attorney's office, however, now it is presumed that the District Attorney will also have a chance to review the COMPAS assessment.

Copies of the COMPAS manual and sample COMPAS evaluations are attached. Also attached is the COMPAS referral form and a letter that you can give to your client explaining what the COMPAS is, and what they need to do to have the assessment completed.

Evidence tells us that only 10% of low risk offenders will reoffend. Intervention with these offenders may actually increase there risk of recidivism according to research. Resources should be used for high risk offenders (60% likelihood of reoffense) and medium risk offenders (33% likelihood of reoffending). High risk persons should be getting high dosages of treatment (200 hours or more) Conversely, low risk offenders should be left to self correct. You should attempt to avoid disruption in low risk offender lives. If you have a low risk offender with high needs you should

attempt to find resources outside the criminal justice system to address their needs.

CTC (Community Transition Center) PROTOCOL FOR BOND

A protocol for determining who should report to the Community Transition Center (CTC) as a condition of bond, and what should happen if they don't report as ordered, has been developed in Eau Claire County. This protocol is not absolute but should be used as a guideline and followed in most cases. Cases that should be referred to the CTC for bond conditions include the following:

- Persons with a proxy score more than or equal to 3
- 3rd offense and higher OWI's.
- Multiple pending drug cases with use issues (not THC).
- Bail jumping charges due to alcohol/drug use.
- Miscellaneous cases with Proxy 3 or more, plus use issues.

CTC response to violation protocol:

All CTC bond conditions should be general. They should not specify how often someone needs to report to the CTC for testing. The staff at CTC will determine this based on risk scales and cooperation.

Sanctions for positive and /or missed tests are listed below:

A. Positive test response/Sanction schedule

- Sanction one - CTC adjusts testing schedule
- Sanction two - Jail overnight, Case manager and programming
- Sanction three - Bail jumping charge

B. Missed test response/Sanction schedule

- Sanction one-CTC adjusts testing schedule
- Sanction two-Back to Court following day at 11:00a.m. intake court for the Court to address the failure to comply. The Court either reinstates testing or amends the bond.

CTC may order programs for individuals that are subject to testing. This requires an individualized finding by the Court as required by *State of Wisconsin v. Wilcenski*, 346 Wis. 2nd 145 (2013).

CTC Termination- Court Review

- Any CTC termination will be addressed by the Court at the next scheduled court appearance.
- If a Court appearance is not reasonably near in time to the termination, the District Attorney will schedule a court appearance via an Order to Show Cause hearing.

The time frame for the sanctions guidelines for missed and positive tests will start over every 60 days. Persons living outside of the area should not be given CTC bonds because of the travel involved in random testing.

WHAT IS A PROXY?

A proxy is a three question screening tool originating in Hawaii designed to do a quick assessment of an offender's risk level. By January, law enforcement will be completing a proxy tool upon arrest to determine an offender's risk level. Those felons who screen as low risk on the Proxy may be released from custody and summoned to court for their appearances in lieu of being held in custody. Low risk misdemeanants will be targeted for the diversion program currently being designed by Rich White. Proxy's are already being completed on "in custody" defendants. If you have a case where your client was held in jail you should be able to get a Proxy from Phil Kuehn, jail programs coordinator. The proxy result can be used at the pretrial to argue for diversion in lieu of probation.

There does seem to be some evidence contesting the accuracy of the Proxy. It is a low risk screening tool and should not be used as anything else. There has been some research that it is inconsistent with the COMPAS tool. There does seem to be some bias in scoring young adult offenders in that they will screen higher risk than older offenders. Regardless, its use will prevent some felons from being held in custody and hopefully allow first offenders to be diverted precharging out of the criminal justice system. A copy of the proxy is attached to this manual.

EAU CLAIRE COUNTY DIVERSION PROGRAM

Eau Claire County has implemented a pre charge diversion program. This program gives citizens an opportunity to avoid criminal prosecution by attending a short program on the consequences of criminal behavior and paying a program fee of \$250. This program is eligible to first time offenders and those individuals scoring low risk on the proxy form. The idea around this program is that it offers low risk individuals an opportunity to self correct and keeps them separated from programming with higher risk offenders. Persons are referred to this program by law enforcement or the District Attorney's office. If upon reviewing a file you believe you have a low risk offender that could benefit from this program you should contact Angie Braaten, Diversion Program Coordinator at 715-839-4768. (Angie.Braaten@da.wi.gov) The earlier you contact the coordinator the better for your client. If they are placed in the Diversion Program prior to charging they will avoid an entry on the CCAP system.

USE OF EVIDENCE BASED DECISION MAKING AT SENTENCING

Judges will require a COMPAS presentence in all contested felony sentencing hearings. DOC will be incorporating the COMPAS into their presentence investigations. You should be prepared to address the needs assessed in all of your arguments. The Eau Claire Transition Center should be able to address many of the criminogenic needs listed on the COMPAS. DOC also is contracting with ATTIC correctional to provide cognitive intervention counseling. This will be a key treatment in dealing with antisocial attitudes and beliefs. If your client is not in custody, it may be a good idea to refer him/her to the Transition Center prior to sentencing to begin treatment. This programming can be used to argue for an alternative to incarceration or prevent a prison sentence. Evidence would suggest that swift treatment is better than delayed treatment. This supports an early referral to treatment before the sentencing hearing. It also supports probation instead of prison because of the waiting lists for prison programming. Research suggests persons respond to treatment better in their natural environment.

STRAIGHT JAIL SENTENCES

The new jail will be coupled with a newly devised electronic monitoring program. There will be approximately 40 units available for offender use.

The EM Deputy may be located in the transition center instead of the jail. Procedures for using the EM are currently being discussed. Because the huber facility capacity will be greatly reduced, EM will be used extensively in lieu of huber.

In addition to EM, the District Attorney has agreed to allow for structured sentences which will allow for less jail time for those participating in the Community Transition Center (CTC). For example, on a sentencing after revocation case, a client may get a 6 month sentence which will be reduced to 3 months if he/she participates in a program at the CTC. The jail will also be offering programming in the jail. It is expected that Huber inmates will be allowed to attend the CTC programming and some of the CTC groups may be held in the jail. You should be requesting reduced jail sentences if your client is willing to participate in treatment. Brittany Nessel should be able to provide use with the schedule of what and when all their programs are offered.

REVOCATION HEARINGS

Agents will be expected to follow COMPAS recommendations in their treatment plans. They will have the COMPAS evaluation and a list of programming that offenders will be expected to participate in while on probation. They will prioritize these treatment programs based on need. If a client is facing revocation, the agent's file should be checked to make sure the COMPAS needs were being addressed by the agent and the treatment recommendations followed. Alternatives may include a referral to the CTC to address unmet needs. Agents have been trained on the COMPAS and motivational interviewing and should be using the COMPAS tool in all treatment plans. You may also want to check on the fidelity of the treatment programs used by the Department of Corrections. Are the programs being monitored for accuracy in treatment principles, delivery of services, and data collection? Treatment that is not evidence based will not be effective in changing behavior. The DOC should have data available on how programs are being evaluated for effectiveness and fidelity. If a program is not obtaining good results in treatment then it may not be evidence based and the client may need to be referred to other programming. For example, non behavioral group therapy has not been proven effective at reducing recidivism. Neither have military type programs, intensive supervision without treatment, and "scared straight" programming. Cognitive programs

that are run correctly have been shown to reduce recidivism on an average of 25%. Offenders should only be participating in programming that fits their risk/needs assessment.

GENDER SPECIFIC INFORMATION

Dr. Pat Van Voorhis is an expert on Women's assessments and spoke with and trained members of the criminal justice community in Eau Claire on the use of Women's scales in doing assessments to determine the risk and needs of our female population.

Eau Claire County will be doing a Women's scale to attach to the COMPAS to address the needs of female clients. This will be used as an addendum until the COMPAS women's scale is turned on.

With women, there are certain risk factors that do have an effect on recidivism. These factors are specific to women and include the following:

1. relationship dysfunction
2. family conflict
3. child abuse
4. adult victimization
5. parental involvement
6. parental stress
7. housing safety
8. anger
9. depression/anxiety

There is some dispute with the experts whether these are risk factors or responsivity factors, but the latest research indicates these are actual risk factors for women. You should be aware of these risk factors when you are preparing sentencing alternatives for your female clients.

Responsivity factors for women include transportation, and childcare. These require a less intensive amount of intervention but do need to be addressed. They are barriers that women need to address to get to their risk factors. Again, you will want to explore both the risk and responsivity factors when preparing your clients for sentencing.

The risk factors for women are best addressed by cognitive behavioral therapy but with less emphasis on empathy for the victim because women are less likely to blame the victim than men. Women's programs should work on trauma, healthy relationships, and parental skills. We also need to look at women's strengths such as self efficacy, family support, parental involvement, and educational needs when designing their case plans.

With women, as with men, we need to prioritize risks. You will need to look at the Core COMPAS and the women's scale. You should consider practical considerations, program availability, and impediments to further readiness. Only work on a few risk factors at a time and involve the women in the decision making. Be prepared to respond to these risk factors at sentencing.

All community organizations should be trained on the women's scale so that everyone is on the same page for the treatment plan. It is important to have all providers use the same goal plan so that the women aren't re-victimized by going over the same events over and over again. (Stop reassessing). If you are reviewing a client's records and there is more than one goal plan, this may be why your client is not having success in treatment or probation.

In regards to the COMPAS risk scales, Dr. Van Voorhis believes these are valid scales even for women and even if the women's appendage is not added into the score. She indicates that if we have women with many high needs on the women's scales, and they are still coming out low risk on the COMPAS risk scale, we should report this to COMPAS to see about reviewing the validation of the risk scales for women.

Dr. Van Voorhis has questions about the validity of the URICA in that there is instability on the validation of these scales. There is some indication that motivation is not stable and that women may be in denial one day and not the next. She feels that if we need to cut back on our assessment, this may be a good place to start. If the District Attorney is relying on the URICA to show your client is not motivated to change you should be aware of questions on the validity of this assessment tool.

Dr. Van Voohis recommends programs such as "Moving On" which targets healthy relationships, anger and responsivity for our women clients. She also likes Stephanie Covington's "Beyond Trauma" and "Helping Women

Recover” These programs are different than Trem (trauma) training. Women should never be forced to be in Trem or Trauma groups. They need to be ready to attend these groups and deal with trauma. If you client is being sanctioned for not attending trauma counseling you should make the court aware of the research surrounding the negative impact of forced trauma counseling.

TREATMENT COURT REFERRALS

Eau Claire County currently has 5 treatment courts.

1. Drug Treatment Court
2. AIM Treatment Court
3. Veterans Court
4. Mental Health Court - CSP eligible
5. Mental Health Court – Non CSP eligible (begins February, 2013)

To make a referral to a treatment court, you should log on to the Eau Claire County Treatment Court website and click on the Treatment Court Referral Form. Once the form is completed it should be submitted to Kelly.Henneman@co.eau-claire.wi.us. She will send the referral on the Eau Claire Treatment Court triage team and they will review it and determine which court would be most appropriate for the client. Some clients may not be appropriate for any treatment court. Factors that would prevent admission into a treatment court include, low risk COMPAS assessment (for Drug and AIM court participation), client is considered a violent offender pursuant to the “Roessler” criteria, lack of treatment history, and previous participation in a treatment court.

Persons who are not accepted into a treatment court may be referred for other programming. If your client has a low risk COMPAS assessment, and you believe this to be inaccurate as to their true risk level, it may be possible to get an override by the assessor or the Department of Corrections. For example, repeat OWI offenders may show as low risk on the COMPAS, but may still be eligible for admission into a treatment court. Referrals to the Eau Claire Veteran’s court are currently on hold while the need and the organization of that court is being studied. If you are wondering if your client will be prevented from entering the treatment courts because of past or prior convictions, a copy of the violent offender grid is attached to this manual and should be consulted.

EAU CLAIRE NEW MISDEMEANOR OWI PROGRAM

Eau Claire received a grant from the Office of Justice Assistance to address our current OWI population (misdemeanor) and our pretrial detainees in the jail. The OWI program will begin in Eau Claire on November 1, 2014. The coordinator of this program will be Angie Braaten who also coordinates the Diversion program. Ms. Braaten's phone number is 715-839-4768 and her e mail is Angie.Braaten@da.wi.gov . The purpose of the program is to get persons in for an AODA assessment as soon as possible and begin treatment without delay. Your client upon meeting with Angie will be referred for a COMPAS risk assessment and an AODA screen. Persons will next be sent to the Community Transition Center for further assessment, case planning and referrals for AODA and or other needed treatment. There are no costs to the persons involved so they should be able to begin the process immediately. Persons wanting to participate must have a blue sheet (plea offer) from the DA's office prior to contacting Angie Braaten to set up an appointment. Clients should be aware that this assessment will not fulfill the IDP requirement for reinstatement of their driving privileges. Treatment completed, however, should count towards the requirements of their driver safety plan. Persons will also be required to comply with random testing at the Transitions Center on Barstow St. and will need to do some community service hours. Persons who complete the program will be able to take advantage of lower jail sentences and home detention and/or electronic monitoring. A copy of the reduced penalties is attached to the manual. Note that the Eau Claire Judges have agreed to go below the mandatory minimums pursuant to Wis. Stat. Sec. 346.65(2)(dm) for 3rd and 4th offenses if all program requirements have been met. Sentencing will take place in the same matter that it did for the old IDIP program. Defendants will be sentenced to the guideline requirements for jail, but all jail will be stayed except the minimums as listed on the guideline sheet. The remainder of their time will not have to be served provided there is successful completion of the program. Persons sentenced on the 2nd offense and on home detention and persons sentenced to EM on 3rd offenses will be required to report to the CTC for testing daily. Persons who violate the program will be required to return to court and may have their stayed jail time revoked. All persons must serve the first 48 hours in jail custody, however if they were booked in on

the weekend and served in custody time of 48 hours, this will count as their initial 48 hour in custody time. Not all persons are entitled to spend their time on home detention or electronic monitoring. This must be approved by the Sheriff. Persons with the following will not be eligible:

- Serving violent felony conviction sentences
- Have prior escape charges
- Serving felony drug conviction charges
- Placement on the SORP registry
- Felony domestic violence conviction prior or current
- Multiple felony OWI convictions
- Persons violating program rules

This is not a complete list and decisions will be made on the totality of the circumstances. Have your clients go on line to the Eau Claire County jail web site and sign up immediately for EM to see if they qualify.

PRETRIAL PROGRAM

Beginning in November 2014, Eau Claire will be implementing a pretrial bond program designed to allow the release of persons who are appropriate to be released with conditions, but are currently being held on cash bonds. Angie Braaten will be the pretrial coordinator and will supervise those persons who are medium or low risk based off of COMPAS risk scores once they are released from jail. High risk offenders will be supervised at the Community Transition Center. The coordinator will refer persons in custody for an immediate COMPAS risk assessment and then review the person's criminal history, warrant and probation hold status, and within 72 hours will make a recommendation to the court regarding bond. Persons who receive a cash bond at their initial appearance should be set for a review in 72 hours. This program is not designed for high risk offenders charged with serious crimes who are on high cash bonds. If you are representing someone you feel would benefit from this program, please e mail Angie Braaten after your initial bond hearing. Her email is Angie.Braaten@da.wi.gov.

CONCLUSION

Evidence based decision making should begin at the time of arrest and follow your client through sentencing. As a defense attorney you should be aware of the basic principles of evidence based decision making and make sure that these principles are considered at each stage of proceeding. At bond you should be arguing for conditions of bond that are relevant to your client's criminogenic needs. Persons who are low risk offenders should be released prior to their initial appearance. If you are representing a low risk offender you should be advocating for a deferred agreement pre charging to prevent them from appearing on the CCAP system. If they have already been charged you should be advocating for a disposition with the least amount of intervention. At this point, the City Attorney Office will not agree to pre charging diversions on city ordinance tickets. Pre charging diversion may be possible on cases referred to the District Attorneys Office.

At or prior to the pretrial you may want to request that a COMPAS evaluation be done. This will help you negotiate a settlement that addresses your client's need with the least amount of incarceration time. You will have to determine if the risk of incrimination is worth the benefit of having the COMPAS evaluation completed. If there are treatment recommendations based on the COMPAS, cooperation with those recommendations should result in lower incarceration time for your clients. You will want to make sure the COMPAS was completed accurately by a qualified evaluator. If your client scores low risk on the COMPAS that information should be used for a non-probation and/or incarceration recommendation for sentencing.

You have a responsibility to understand the research based purpose of the COMPAS evaluations used in court. If District Attorneys or Agents are using them for determination of recommending a prison sentence versus probation, then you should be jumping out of your seat. The test is not designed for this purpose. If you feel the COMPAS does not accurately reflect your client's risk then you must point this out to the Court and why you think it is inaccurate. You may want to get another risk assessment done by a qualified evaluator. You can challenge the validity of the COMPAS by reviewing those studies questioning its accuracy in determining risk.

Your client should understand that they will be expected to participate in programming based on the needs they have reported. This should be explained to them prior to taking the COMPAS assessment. This should also help them to have a vested interest in the treatment since it is based on self-reported needs. Your client should understand that their participation in treatment will result in a better sentence for them.

If you are handling a revocation for a client, make sure you review the treatment plan set out in the agent's file. If the agent did not devise a program based on the COMPAS assessment then you have an argument against revocation of their probation. An alternative to revocation plan should include treatment based on the COMPAS needs.

As attorneys, you have a duty to weigh the waiver of confidential information against the risk of incrimination. You will need to advise clients whether you feel that a COMPAS would be beneficial to their case. You will need to keep updated on the latest research to insure sentences are evidence based.