



# Resource RJD Case & Program Eligibility Recommendations



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This resource outlines the types of cases that are appropriate for this model of restorative justice diversion (RJD) and offers general information about how this program works.

## Types of Cases

This RJD model is intended for the most serious cases a district attorney's office (DAO) is permitted by law to divert. Cases should have an identifiable person harmed (victim), which relates to issues of guilt, explained below. Burglary, robbery, assault, arson, car theft, and carjacking are types of cases for which this model is best suited.

Moreover, the program is both intended to create accountability to the self-identified needs of people harmed, while also ending racial and ethnic disparities in the juvenile legal system. Therefore, the types of cases that are ideal for diversion are those with a clear, identifiable person harmed *and* those crimes which most often result in young people of color being incarcerated or placed on probation. The cases referred should be ones that would definitely have been charged by the DAO, otherwise the program results in system net-widening, which dilutes the purpose and effectiveness of the program.

## Issues of Guilt

Cases in which there is clear evidence of guilt are best for this program. Cases in which the young person maintains that they were not involved are not appropriate, nor are claims of mistaken identity (this program is not meant to serve as an investigative tool). The young person need not be fully aware of the impact of their behavior at the time of arrest in order to participate. Often, it is through the Restorative Community Conferencing (RCC) process itself (including plan completion) that a young person understands the meaning of taking full responsibility for their harmful acts.

## Prior History

The program will take cases with young people who reoffend. Studies show that second-time offenses are most successful in the RCC process.

## What about youth in dependency?

The program is open to taking youth who are under some form of dependency custody and whose cases involve a clear, identifiable person harmed and clear evidence of guilt. The program would like a mix of cases in terms of family involvement; youth are not required to live with or be in contact with their biological families in order to participate in the RJD program.

## Geography

It is important for the program to be located or provide services within the zip codes generating the highest number of referrals of BIPOC youth into the legal system.

## Confidentiality / “Reverse Miranda”

As covered in the MOU, nothing learned by way of the RJD program can be used against participants in the process. Information learned *outside* of the RJD program can be used if the process is not satisfactorily completed. Further details on the scope of confidentiality are available in the MOU.

## No Prosecuting During Pending RJD or RJD Plan Completion

As covered in the MOU, the DAO will not prosecute a young person whose case is currently being addressed through the RJD process.

## Prosecuting / Status Outcomes

On a quarterly basis, the referring agency (e.g. the DAO, police department, probation office, etc.) will receive a general status update for the cases it referred.

If the young person repeatedly fails to complete the plan and a reconvene is unsuccessful in helping them get on track, the case will be returned to the DAO, who retains the option to prosecute. Plans to repair the harm (the agreements that result from the RJD process) are to be completed on a timeline decided by participants of the Restorative Community Conference.

## Case Closure

When a plan is completed, the DAO will not file charges for that case.