



# ADULT DIVERSION FUNDING COMMITTEE

*Office of the State Court Administrator  
1300 Broadway, Suite 1200  
Denver, CO 80203*



# ANNUAL LEGISLATIVE REPORT



*The Pretrial Adult Diversion Program*

*HB 13-1156*

*§18-1.3-101, C.R.S.*



STATE FISCAL YEAR 2020

# ADULT DIVERSION FUNDING COMMITTEE



## COMMITTEE MEMBERS

### Jim Bullock

*District Attorney, 16<sup>th</sup> Judicial District  
Colorado District Attorney's Council*

### Bob Booth

*Assistant Deputy Attorney General  
Director of MFCU, Criminal Justice  
Attorney General's Office*

### Sarah Hofstetter

*Probation Analyst  
Division of Probation Services  
State Court Administrator's Office*

### Megan Ring

*Colorado State Public Defender  
State Public Defender's Office*

### Joe Thome

*Director, Division of Criminal Justice  
Department of Public Safety*

## COMMITTEE STAFF

### Kara Martin

*Court Services Division  
Colorado Judicial Branch*

*Tuesday, March 02, 2021*

Members of the General Assembly:

Enclosed is the Pretrial Adult Diversion Program Annual Legislative Report for Fiscal Year 20. Consistent with House Bill 13-1156, the Committee administers pretrial adult diversion funding to advance the statutory goals of preventing criminal acts, restoring victims of crime, facilitating payment of restitution, and reducing the number of cases in the criminal justice system. The ten locally designed programs profiled in this report serve these goals by holding participants accountable and offering redemption through rehabilitation and avoidance of consequences inherent in traditional criminal legal system involvement.

The Committee strives to balance its fiduciary obligations while recognizing the need for locally driven programming decisions. Scarce funding and increased competition for limited funds prompted the Committee to articulate the following guiding principles for reviewing applications and making funding allocation decisions, consistent with the language and spirit of Sec. 18-1.3-101, C.R.S., and in the absence of a more specific statutory mandate:

- To promote the statutory focus on diversion of **crimes**, funding should not be used to divert civil infractions.
- To promote the legislative intent of repairing harm to victims, including payment of restitution, **diversion of crimes involving victims harmed and/or owed restitution** is a higher priority than diversion of victimless crimes.
- In reference to the statutory emphasis on **rehabilitation and reintegration**, the diversion of cases involving such services is a higher priority than diversion not involving such interventions.
- In reference to the statutory recognition of collateral consequences of conviction, offenses with more **serious collateral consequences** are considered higher priority for diversion.

Even with these guiding principles, current funding (75% reduction) makes it unlikely that the Committee will be in a position to adequately fulfill the increasing number of funding requests, 14 in FY 21. In the interim, with intermittent courthouse closures, delayed trials, increased issuance of summons and citations in lieu of arrests, and reduction of jail populations related to the COVID-19 pandemic, the pretrial Adult Diversion Program will support diversion as a solution that addresses public safety, safeguards public health, fosters accountability, supports victims of crime and offers access to rehabilitative services. We will also hold ourselves and the funded programs accountable for advancing equal access to diversion and administering it in a fair and just manner.

With gratitude,

Handwritten signatures of Jim Bullock and Megan Ring in blue ink.

Jim Bullock  
Funding Committee Co-Chair

Megan Ring  
Funding Committee Co-Chair



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## EXECUTIVE SUMMARY

Over the past six years, prosecutor-led pretrial Adult Diversion programs operating pursuant to HB 13-1156 have become a foundational pillar of criminal justice operations in a growing number of rural and urban judicial districts throughout Colorado. The legislative intent expressed in the Adult Diversion statute includes prevention of crime, restoration of victims, payment of restitution, and reduction of criminal court case volume. There was an increase in applications for diversion program funding from 4 in FY 15 to 14 in FY 21.

The adult diversion model proves successful, as indicated by the following outcomes:

- **Growth in Number of Programs:** 4 sites in FY 15, 12 in FY 21
- **Growth in Participant Enrollments:** 299 in FY 15, a high of 1,592 in FY 18
- **Successful Completion Rates:** 85% of participants successfully completed diversion, resulting in dismissal or non-filing of charges and avoidance of long-term collateral consequences of convictions
- **Safety Rate:** Only 2% of participants committed a new offense during diversion, a period of up to two years, representing a 98% safety rate
- **Treatment Assessment and Initiation:** One-third of the 1,259 diversion participants were referred for treatment assessment. Seventy-eight percent (78%) of them, 318 people, enrolled in treatment, such as mental health or substance abuse treatment
- **Enrollment Rate:** Approximately 80% of individuals referred to diversion programs statewide are offered and accept the opportunity, rather than entering a plea, serving their time or going to trial. Instead, they choose to accept accountability for their conduct, repairing their harms, and making needed behavioral changes.
- **1-Year Recidivism Rate:** The percentage of successful diversion program completers against whom new misdemeanor or felony charges were filed was 9% in FY 18, 6% in FY 19 and 9% in FY20.
- **Restitution Collection:** Diversion facilitates the collection of restitution, \$103,499.85 in FY 20, compared to \$69,791.39 in FY 19 and \$99,244.39 in FY 18.
- **Number of Enrollments:** Enrollment declined slightly to 1,259 in FY 20 from more than 1,500 in FY 18 and FY 19.

The General Fund allocation has remained \$400,000 since the first year of program funding, FY 15, when it supported programs in four judicial districts, to FY 20, when it supported programs in 10 districts. Budget cuts reduced the allocation by 75%, to \$100,000, in FY 21, which was spread among 12 program sites. As of FY 21, 55% of Colorado's 22 judicial districts operated diversion programs funded, at least in part, through §18-1.5-101, C.R.S. The reduced funding means reducing allocations to existing programs and/or denying applications of new applicants, inhibiting expansion.



## STATUTORY REPORTING REQUIREMENTS

This annual report addresses the requirements specified in §13-3-115(6), C.R.S., including

- The number of people screened and eligible for the adult diversion program;
- The number of people enrolled;
- Demographic information of program participants, including age, gender, and ethnicity;
- Participant status, the number of participants successfully completing the program, terminated from the program with the reason for termination, and remaining in the program; and
- An accounting of expenditures and unexpended funds at the fiscal year end.

The Adult Diversion Coordinator, Kara Martin, welcomes questions regarding this report and may be contacted at kara.martin@judicial.state.co.us or (720) 625-5963.

## PROGRAM OVERVIEW

### **BACKGROUND**

HB 13-1156 created a mechanism for diverting individuals accused of statutorily eligible<sup>1</sup> offenses away from traditional criminal legal system involvement. The bill, enacted in August 2013 and found in §18-1.3-101, C.R.S., defined the parameters of pretrial adult diversion and provided a mechanism to fund program operations. A public web page, <https://www.courts.state.co.us/Administration/Unit.cfm?Unit=adultdiv>, houses program information.

HB 13-1156 also established the Adult Diversion Funding Committee (Funding Committee). Funding Committee composition and duties, such as development of a funding application process, are set forth in §13-3-115, C.R.S. Through communications with the Colorado District Attorneys' Council, the Funding Committee invites applications from elected district attorneys and programs operating in partnership with them. Since October of 2013, the State Court Administrator's Office has coordinated the Funding Committee's work, assisting with application materials and processes, funding guidelines and report forms. The Funding Committee reviews funding requests annually and meets bi-monthly to discuss program progress, review participant data, and manage other business items related to the administration of program funds. Application materials and funding guidelines are found at the end of this report in Attachments I – III. Below are FY 20 Funding Committee members.

### FY 20 ADULT DIVERSION FUNDING COMMITTEE MEMBERS

NAME	AGENCY REPRESENTING	EMAIL
<b>Bob Booth</b>	<i>Office of the Attorney General</i>	bob.booth@coag.gov
<b>James Bullock</b>	<i>Colorado District Attorneys' Council</i>	jbullock@da16co.gov
<b>Megan Ring</b>	<i>Office of the Public Defender</i>	megan.ring@coloradodefenders.us
<b>Sarah Hofstetter<sup>2</sup></b>	<i>Office of the State Court Administrator</i>	sarah.hofstetter@judicial.state.co.us
<b>Joe Thome</b>	<i>Division of Criminal Justice, Department of Public Safety</i>	joe.thome@state.co.us

<sup>1</sup> Offenses excluded from diversion eligibility are sexual assault (§18-3-402, C.R.S.), sexual assault on a child (§18-3-405, C.R.S.), any sexual offense against an at-risk adult or at-risk juvenile (§18-6.5-102 (2), (4), C.R.S.), any sexual offense committed with the use of a deadly weapon (§18-1-901 (3)(e), C.R.S.), enticement of a child (§18-3-305, C.R.S.), sexual exploitation of a child (§18-6-403, C.R.S.), procurement of a child for exploitation (§18-6-404, C.R.S.), sexual assault on a child by one in a position of trust (§18-3-405.3, C.R.S.), or any child prostitution offense (Title 18, Article 7, Part 4). The statute also limits instances in which offenses involving domestic violence and sex offenses may be considered for diversion.

<sup>2</sup> During FY 20, Probation Analyst Sarah Hofstetter replaced Jalice Vigil to represent the Office of the State Court Administrator.



## **PROGRAM SITES**

The original adult diversion funding recipients are the 6<sup>th</sup> (Archuleta, La Plata and San Juan Counties), 9<sup>th</sup> (Rio Blanco, Garfield and Pitkin Counties), 15<sup>th</sup> (Cheyenne, Kiowa, Prowers and Baca Counties), and 16<sup>th</sup> (Crowley, Otero and Bent Counties) Judicial Districts. The number of funded programs increased to six in FY 17, with the addition of the 20<sup>th</sup> (Boulder County) and 21<sup>st</sup> (Mesa County) Judicial Districts, and to nine in FY 18, with the addition of the 2<sup>nd</sup> (Denver County), 4<sup>th</sup> (El Paso and Teller Counties), and 22<sup>nd</sup> (Dolores and Montezuma Counties) Judicial Districts. In FY 19, the 7<sup>th</sup> Judicial District received program funding to operate in Delta County, maintaining the number of funded programs at nine<sup>3</sup>. The number of programs increased to ten in FY 20, adding a program in the 12<sup>th</sup> Judicial District (Alamosa, Conejos, Costilla, Mineral, Rio Grande and Saguache Counties), and to twelve in FY 21, adding programs in the 5<sup>th</sup> (Clear Creek, Eagle, Lake and Summit Counties) and 14<sup>th</sup> (Grant, Moffat and Routt Counties) Judicial Districts. Aside from the 4<sup>th</sup> Judicial District, all previously funded programs continue to operate with Adult Diversion and/or Correctional Treatment Board funding.

With several programs operational for the three to five years required for new program development, according to implementation science, the Funding Committee allocated funding for a program evaluation design that was completed during FY 20. The evaluation design states an evaluation should include recommendations for program improvement, development of best practices, and identification of appropriate performance and outcome measures to assess program effectiveness. With the program operational and funding in high demand, the program evaluation will also inform funding allocation and program scaling. The program design is found at the end of this report, as Attachment I. An evaluation will be completed when funding becomes available.

FY20 represented the sixth year of operation for the four programs launched during the initial program funding. Although the number and cumulative amount of funding applications has continued to increase, the pandemic has interrupted service of participants, causing a decline in the number of participants and a reduction of funding by 75%, from \$400,000 to \$100,000, spread among 12 distinct diversion programs. The programs adjusted their screening and assessment procedures, eligibility criteria, target population, array of services and intervention, and mode of providing supervision and access to services. Programs continue their efforts “to do more with less,” committed to meeting the growing need for diversion resources within their communities. Correctional Treatment Board funding remained consistent throughout FY 20 and FY 21, providing a supplemental resource for individuals navigating substance-abuse and co-occurring disorders.

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<sup>3</sup> Because the 4<sup>th</sup> Judicial District did not receive funding, the number of funded programs remained at nine with funding of the 7<sup>th</sup> Judicial District.

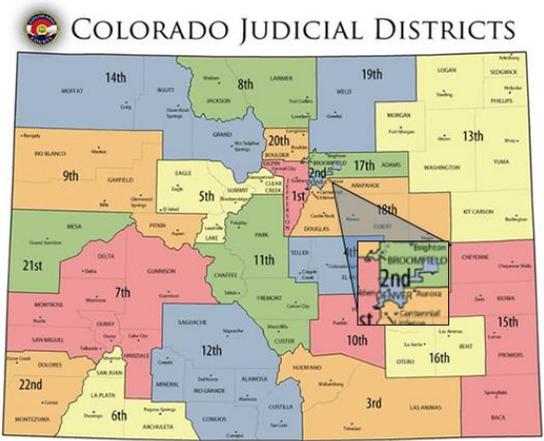


# DIVERSION PROGRAM PROFILES

Population & demographics from Colorado Department of Local Affairs, State Demography Office

<b>2<sup>nd</sup> JD</b>	<b>Denver County</b>	<b>Elected District Attorney Beth McCann</b>
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<b>FY 20 PROGRAM OVERVIEW</b>		Year Started		2018	
AD Funds Requested	\$169,315	AD Funds Awarded	<b>FY 20: \$0.00 FY 21: \$0.00</b>		
CT Funds Requested	\$30,000	CT Funds Awarded	<b>FY 20: \$27,502.69 FY 21: \$52,556.00</b>		
Eligibility Criteria / Target Population	<p>Potentially Eligible: Level 3/4 drug felonies, prior felony or M1 conviction except DV, cases involving restitution, ending traffic, municipal or county court warrants or cases unless related to M1 assault/DV</p> <p>Exclusions: Victim Rights Act charges, class 1/2 felonies, crimes of violence, crimes against children/at-risk persons, residential burglaries</p> <p>Disqualifiers: pending felony, pending misdemeanor assault/DV or sex offense, probation, habitual traffic offender status, pending warrants for assault/dv or misdemeanor sex offense</p>				
Program Goals	<ul style="list-style-type: none"> <li>Offer diversion to 60% of eligible candidates</li> <li>70% of participants to successfully complete diversion</li> <li>Treatment providers evaluate mental health and substance use treatment needs and provide services</li> <li>Participants achieve at least 1 goal on the Service Planning Instrument</li> <li>70% of participants referred for treatment to engage in at least 8 sessions</li> </ul>				
Projected Enrollment	100	# Adults Screened	232	# Adults Enrolled	68
# Successful	29	# Terminated	3	Successful Completion Rate	91%
FY 19 One-Year Post Program Recidivism Rate <sup>4</sup>				10%	
Diversion Fees	Flat fee \$150	Supervision Fees Collected	\$6,186		
Treatment Assessment	Service Planning Instrument (SPIn), URICA				
Partner Agencies	Mental Health Center of Denver, Denver Health, OBHS Substance Abuse Program, TJCC				



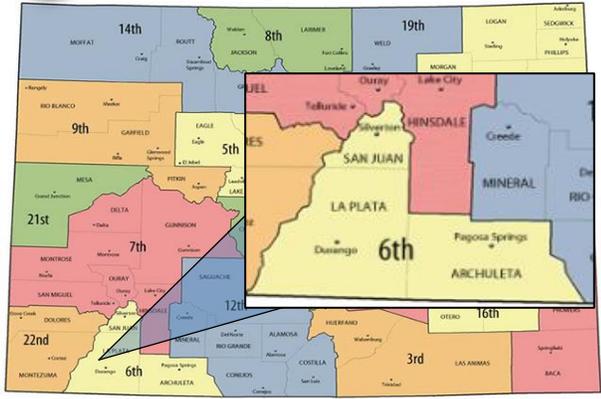
EST. POPULATION (2019): 729,239

<b>ACHIEVEMENTS</b>
<ul style="list-style-type: none"> <li>Expanded from serving young adults 18-26 years of age to serving adults of any age</li> <li>Average wait time of 2 weeks for treatment</li> <li>An average of 58 participants were in the diversion program at the end of each quarter</li> <li>32 participants were referred for treatment assessments and all enrolled in treatment services</li> <li>\$20,109 in restitution collected and distributed to crime victims</li> </ul>
<b>CHALLENGES</b>
<ul style="list-style-type: none"> <li>Limited inpatient treatment options</li> <li>Availability of housing for participants</li> <li>Changes in drug possession offense classification decreased the number of diversion candidates</li> </ul>

<sup>4</sup> For purposes of this report, recidivism is defined as a court filing for a new felony or misdemeanor offense that occurred within one year following termination of the diversion agreement. For example, if a program began in FY 19, one-year recidivism would be determined at the end of FY 20.

FY20 PROGRAM OVERVIEW		Year Started	2015		
AD Funds Requested	\$62,416	AD Funds Awarded	FY 20: \$36,816.00 FY 21: \$7,920.00		
CT Funds Requested	\$22,000	CT Funds Awarded	FY 20: \$19,582.69 FY 21: \$24,047.00		
Eligibility Criteria / Target Population	Low to medium risk; offenses (e.g., DUR, criminal mischief, careless driving and others requiring interventions to avoid recurrent court involvement); low to medium level DV; Individuals needing rehabilitation (e.g., substance use disorder, anger management, conflict management, etc.); cases appropriate for restorative justice, useful public service and diversion supervision.				
Program Goals	<ul style="list-style-type: none"> <li>• Increase support from treatment agencies, courts and community to legitimize and expand diversion;</li> <li>• Increase # of substance abuse treatment referrals;</li> <li>• Decrease recidivism</li> </ul>				
Projected Enrollment	275	# Adults Screened	211	# Adults Enrolled	194
Successful Completions	156	Unsuccessful Terminations	51	Successful Completion Rate	75%
Diversion Fees	\$50/month unless indigent	Supervision Fees Collected	\$10,965		
FY 19 One-Year Post Program Recidivism Rate		7%			
FY 18 One-Year Post Program Recidivism Rate		6%			
FY 17 One-Year Post Program Recidivism Rate		10%			
FY 16 One-Year Post Program Recidivism Rate		11%			
Treatment Assessment	Offense-related assessments (e.g., as substance use, mental health, DV)				
Partner Agencies	The Education Center, La Plata Family Center, Department of Human Services, Axis Health, Preferred Counseling, Axis Health, Nicole Fuller, CAC III, Mobile Jo Testing, NA, AA, Nicole Fuller and Jo Ellen Bourg, Optimum Counseling, La Plata Court Pretrial Services, DA Office in-house Restorative Justice Program, Food Bank, Cottonwood Clinic, AnyLab Test Now, ArchPoint Lab				

**COLORADO JUDICIAL DISTRICTS**



EST. POPULATION (2019): 71,000

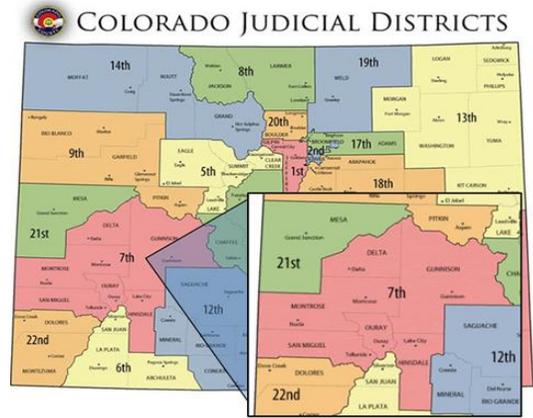
**ACHIEVEMENTS**

- Reduction of treatment wait times
- 145 people received referrals for treatment assessment and 105 enrolled in treatment following assessment
- An average of 102 participants were in the diversion program at the end of each quarter
- Use of exit surveys to improve operations
- Collaboration with law enforcement to develop pre-arrest diversion
- Use of Victim/Offender Dialogues, Hospital Safety Conferences, and Traffic Conferences

**CHALLENGES**

- Participant inability to pay for treatment and fees, leading to termination for non-compliance
- Provider shortages
- Unstable program funding and inability to generate alternate funding
- Loss of Mental Health Diversion Program funding
- Homelessness/lack of affordable housing
- Lack of local training for restorative justice practitioners
- Impact of COVID on operations and referrals
- Increase in case volume due to court shifting supervision of DUR cases to diversion program

7th JD		Delta, Gunnison, Hinsdale, Montrose, Ouray and San Miquel Counties			Elected District Attorney Daniel Hotsenpiller Incoming District Attorney Seth D. Ryan	
FY20 PROGRAM OVERVIEW		Year Started		2018		
AD Funds Requested	\$29,893.36	AD Funds Awarded	FY 20: \$21,375.36 FY 21: \$4,620.00			
CT Funds Requested	\$3,974.00	CT Funds Awarded	FY 20: \$1,500.00 FY 21: \$18,751.00			
Eligibility Criteria / Target Population	<ul style="list-style-type: none"> <li>Eligible charges may include felony, misdemeanor or petty offenses including but not limited to marijuana possession-under 21, burglary (non-residential), burglary tools possession, forgery, fraud, impersonation, trespass, criminal mischief, tampering, theft, DV, obstruction</li> <li>Disqualifiers: misdemeanor or felony convictions the prior year, participation in adult diversion the prior year, other pending criminal charges</li> </ul>					
Program Goals	<ul style="list-style-type: none"> <li>Divert at least 40 first time, low-level adult offenders from the criminal legal system by providing evidenced-based programming</li> <li>80% of participants will complete diversion successfully</li> <li>Less than 10% of successful participants will re-offend within two years after program completion</li> <li>Reparation of harm to victims by facilitating payment of restitution</li> </ul>					
Projected Enrollment	40+	# Adults Screened	31	# Adults Enrolled	24	
# Successful	15	# Terminated	2	Rate of Successful Completion	88%	
FY 19 One-Year Post Program Recidivism Rate				13%		
FY 18 One-Year Post Program Recidivism Rate				NA		
Supervision Fees	\$300-\$600 paid over the period of diversion		Supervision Fees Collected	\$2,500		
Treatment Assessment	ACE, PCL-Short, PHQ-9, AUDIT-C, DAST-10, SASSI-4, LSI					
Partner Agencies	Integrated Insight Therapy (OBH Licensed clinical mental health facility), Ignite Change, and therapist Maria Call, Delta County Alternative Sentencing Department					



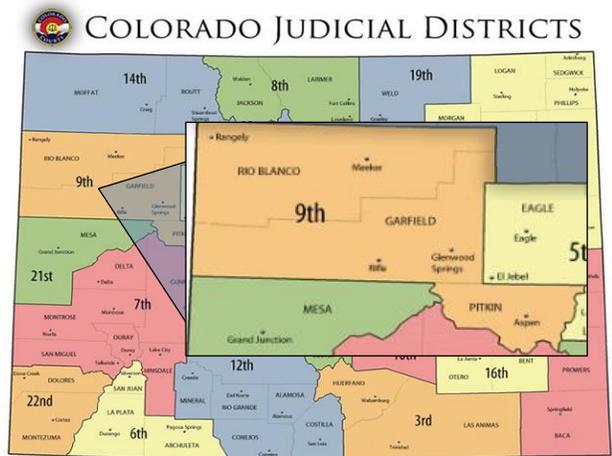
EST. POPULATION (2019): 105,360

<b>ACHIEVEMENTS</b>	
<ul style="list-style-type: none"> <li>Implementation of new evidenced-based assessment processes</li> <li>Six participants were referred for treatment assessment; all enrolled in treatment</li> <li>An average of 13 participants were in the diversion program at the end of each quarter</li> <li>Reduced wait time for treatment, fewer than 7 days from referral</li> <li>Tiered structure, with duration of diversion ranging from 6 to more than 12 months, depending on the level of offense</li> </ul>	
<b>CHALLENGES</b>	
<ul style="list-style-type: none"> <li>Decline in referrals during the COVID pandemic due to delays in court appearances and telephone court appearances. Staff expect increased referrals when normal court operations resume.</li> <li>Some participants use COVID-19 as a universal excuse for missing case management appointments, UA's, therapy, and Useful Public Service. Staff address this behavior and hold participants accountable, while acknowledging health and safety concerns of participants and staff.</li> </ul>	



9th JD	Garfield, Pitkin, and Rio Blanco Counties	Elected District Attorney Jefferson Cheney
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FY20 PROGRAM OVERVIEW		Year Started	2015		
AD Funds Requested	\$48,722.00	AD Funds Awarded	<b>FY 20: \$35,705.00</b> <b>FY 21: \$7,680.00</b>		
CT Funds Requested	\$6,500.00	CT Funds Awarded	<b>FY 20: \$6,416.54</b> <b>FY 21: \$5,000.00</b>		
Eligibility Criteria / Target Population	<ul style="list-style-type: none"> <li>Charges of harassment, disorderly conduct, criminal mischief and theft (County and District Court)</li> <li>Cases appropriate for restorative justice practices</li> <li>Case by case: Serving a minor and hunting violations (1<sup>st</sup> time offender only), lower level felonies, minor in possession of alcohol/marijuana, DV</li> </ul>				
Program Goals	<ul style="list-style-type: none"> <li>Incorporate restorative justice practices</li> <li>Divert 80-150 cases into diversion</li> <li>Identify treatment needed for rehabilitation</li> </ul>				
Projected Enrollment	150	# Adults Screened	113	# Adults Enrolled	110
# Successful	88	# Terminated	2	Successful Completion Rate	98%
FY 19 One-Year Post Program Recidivism Rate		3%			
FY 18 One-Year Post Program Recidivism Rate		2%			
FY 17 One-Year Post Program Recidivism Rate		4%			
FY 16 One-Year Post Program Recidivism Rate		2%			
Supervision Fees	\$50/month average	Supervision Fees Collected	\$5,800		
Treatment Assessment	Substance use, mental health and domestic violence offender assessments				
Partner Agencies	Alpine Springs Counseling, Mind Springs Health, YouthZone, Restorative Justice practitioners Mary Rippey and Jennie Curtis, Garfield County Sheriff's Department				



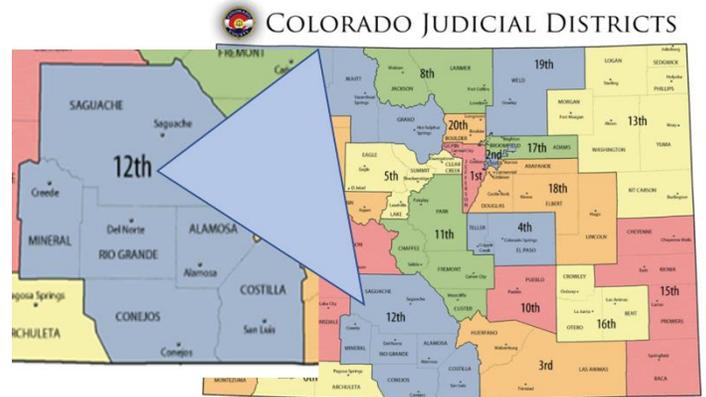
EST. POPULATION (2019): 84,231

ACHIEVEMENTS
<ul style="list-style-type: none"> <li>Use of exit survey to improve program quality</li> <li>Several diversion agreements include a restorative justice circle</li> <li>18 people referred for treatment assessment; all enrolled in treatment</li> <li>An average of 63 participants were in the diversion program at the end of each quarter</li> </ul>
CHALLENGES
<ul style="list-style-type: none"> <li>Staffing resources limits availability of diversion</li> <li>Participant lack of access to technology for virtual treatment/teletherapy</li> </ul>



12th JD	Alamosa, Conejos, Costilla, Mineral, Rio Grande and Saguache Counties	Elected District Attorney Robert Willett Incoming District Attorney Alonzo Payne
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FY 20 PROGRAM OVERVIEW		Year Started		2019	
AD Funds Requested	\$59,384.00	AD Funds Awarded	<b>FY 20: \$42,425.00</b> <b>FY 21: \$9,120.00</b>		
CT Funds Requested	\$8,000.00	CT Funds Awarded	<b>FY 20: \$3,791.35</b> <b>FY 21: \$3,000.00</b>		
Eligibility Criteria / Target Population	<ul style="list-style-type: none"> <li>DA guidelines address eligibility for those with prior criminal legal involvement</li> <li>Eligible: misdemeanor property crimes, misdemeanors involving victims, traffic; Other matters considered case by case</li> <li>Exclusions: F1-F3, felony DV cases, residential burglaries, identity theft and/or identity fraud, mistreatment of at-risk juvenile, adult, or elder, felony sex offenses, person felony offenses involving victim under age 18, DF1-DF3, DUI, misdemeanor DV if prior DV diversion or conviction within past 5 years</li> </ul>				
Program Goals	<ul style="list-style-type: none"> <li>Increased accountability of 250 participants</li> <li>Referrals to restorative justice services or treatment assessments</li> <li>90% successful completion rate</li> <li>Satisfaction rate of 85% for victims and community members regarding restorative justice processes</li> <li>One-year recidivism rate of less than 10%</li> </ul>				
Projected Enrollment	250	# Adults Screened	170	# Adults Enrolled	106
# Successful	74	# Terminated	12	Successful Completion Rate	86%
FY 19 One-Year Post Program Recidivism Rate					NA
Supervision Fees	Lowered from \$50/month to \$25/month or waived	Supervision Fees Collected	\$3,894.39		
Treatment Assessment	Offense specific assessments such as substance use, DV, mental health, etc.				
Partner Agencies	San Luis Valley Behavioral Health Group, Center for Restorative Programs				

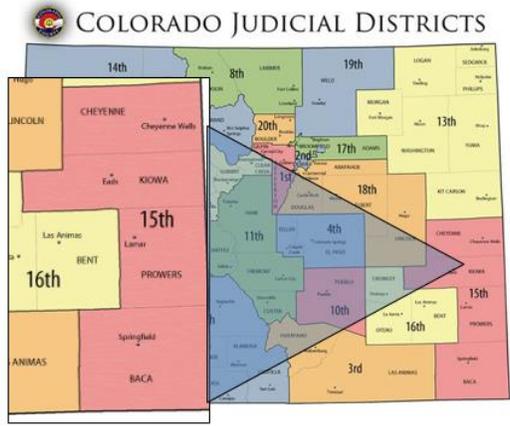


EST. POPULATION (2019): 47,040

ACHIEVEMENTS
<ul style="list-style-type: none"> <li>Launched program in FY 20</li> <li>Implemented exit survey to improve program quality</li> <li>Hired a case manager to increase interaction with participants and provide support</li> <li>All participants who were referred for treatment assessment enrolled in treatment</li> </ul>
CHALLENGES
<ul style="list-style-type: none"> <li>Lack of interagency record management system</li> <li>Reduced referrals due to COVID-19</li> <li>Inability to meet in person due to COVID-19</li> <li>Burdensome reporting requirements</li> <li>Inadequate funding of staff positions</li> <li>Lack of treatment providers; excessive treatment wait times (improved with availability of teletherapy)</li> <li>Geographic size of judicial district and concentration of providers in Alamosa County</li> </ul>



FY20 PROGRAM OVERVIEW		Year Started	2015		
AD Funds Requested	\$37,154.56	AD Funds Awarded	<b>FY 20: \$36,154.56</b> <b>FY 21: \$7,780.00</b>		
CT Funds Requested	\$0.00	CT Funds Awarded	<b>FY 20: \$0.00</b> <b>FY 21: \$0.00</b>		
Eligibility Criteria / Target Population	<ul style="list-style-type: none"> <li>Generally, low-risk, nonviolent individuals without a history of prior felonies, charged facing misdemeanor and felony offenses</li> <li>Eligible: non-residential burglary, possession of burglary tools, drug possession including obtaining by fraud and forged prescriptions, forgery (case by case), fraud (forgery, credit/financial device use/possession); impersonation, trespass, criminal mischief, tampering, theft</li> <li>Exclusions: serious violent or sexual offenses; some offenses involving DV; some drug offenses</li> </ul>				
Program Goals	<ul style="list-style-type: none"> <li>Expand eligible crimes, including felonies</li> <li>Provide individualized client management, with 90% of participants successfully completing diversion</li> <li>Full payment of restitution to victims of crime</li> </ul>				
Projected Enrollment	55	# Adults Screened	27	# Adults Enrolled	27
# Successful	11	# Terminated	8	Successful Completion Rate	58%
FY 19 One-Year Post Program Recidivism Rate					0%
FY 18 One-Year Post Program Recidivism Rate					8%
FY 17 One-Year Post Program Recidivism Rate					5%
FY 16 One-Year Post Program Recidivism Rate					15%
Supervision Fees	\$10-\$25/month	Supervision Fees Collected	\$4,420		
Treatment Assessment	Offense-specific assessments, including mental health, substance abuse, anger management, DV				
Partner Agencies	Southeast Health Group, Ryon Medical, First Step Recovery, Moving Forward, Cindy Vigil, Safecare Colorado, Crossroads Turning Points, and Divert Direct				

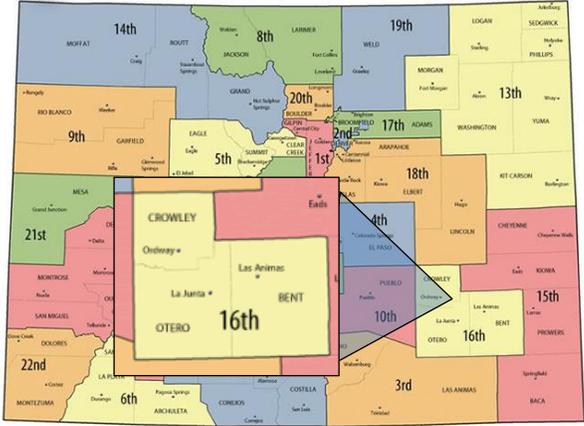


EST. POPULATION (2019): 18,898

ACHIEVEMENTS
<ul style="list-style-type: none"> <li>38% of participants are on diversion for felony offenses</li> <li>Victims received full payment of restitution from successful diversion participants</li> <li>An average of 24 participants were in the diversion program at the end of each quarter</li> <li>17 participants were referred for treatment assessment; 13 enrolled in treatment</li> </ul>
CHALLENGES
<ul style="list-style-type: none"> <li>Limited service providers (e.g., the closest domestic violence offender treatment provider is a two-hour drive for participants in Baca County, making semi-weekly meetings an impossibility for participants with jobs)</li> <li>With the local population declining, most program candidates have previous criminal legal system involvement and higher rates of recidivism</li> </ul>

FY20 PROGRAM OVERVIEW		Year Started		2014	
AD Funds Requested	\$73,000.00	AD Funds Awarded	<b>FY 20: \$67,000.00 FY 21: \$14,380.00</b>		
CT Funds Requested	\$0.00	CT Funds Awarded	<b>FY 20: \$0.00 FY 21: \$2,000.00</b>		
Eligibility Criteria / Target Population	<ul style="list-style-type: none"> <li>People without prior criminal legal system involvement, others case by case</li> <li>Misdemeanor or felony charges</li> </ul>				
Program Goals	<ul style="list-style-type: none"> <li>Successful completion by 70% of participants</li> <li>Identify treatment needs to foster compliance with the law</li> <li>Each participant to have a GED or equivalency prior to completing diversion</li> <li>Payment of restitution to victims of crime</li> </ul>				
Projected Enrollment	70	# Adults Screened	87	# Adults Enrolled	59
# Successful	32	# Terminations	13	Successful Completion Rate	71%
FY 19 One-Year Post Program Recidivism Rate				20%	
FY 18 One-Year Post Program Recidivism Rate				8%	
FY 17 One-Year Post Program Recidivism Rate				3%	
FY 16 One-Year Post Program Recidivism Rate				2%	
Supervision Fees	\$50/month	Supervision Fees Collected	\$29,737.18		
Treatment Assessment	Mental health, substance use or domestic violence assessment if indicated				
Partner Agencies	Moving Forward Counseling Services LLC and Southeast Health Group				

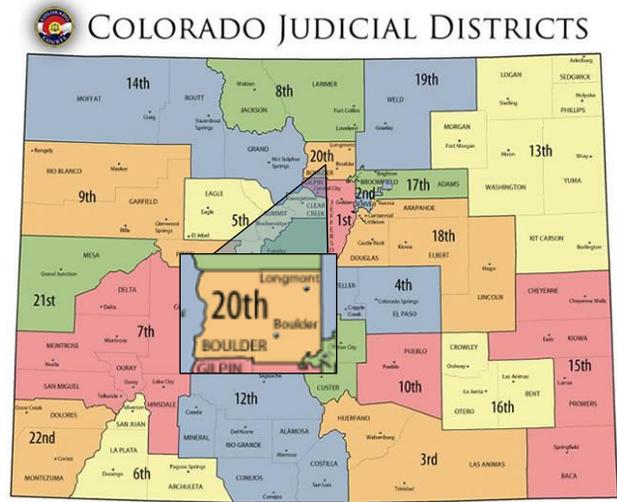
**COLORADO JUDICIAL DISTRICTS**



EST. POPULATION (2019): 30,011

ACHIEVEMENTS
<ul style="list-style-type: none"> <li>56 people referred for treatment assessment; 54 enrolled in treatment</li> <li>An average of 24 participants were in the diversion program at the end of each quarter</li> </ul>
CHALLENGES
<ul style="list-style-type: none"> <li>Few treatment providers</li> <li>Lack of public transportation and distance to treatment</li> <li>Participant inability to afford treatment if ineligible for Medicaid or for uncovered services</li> </ul>

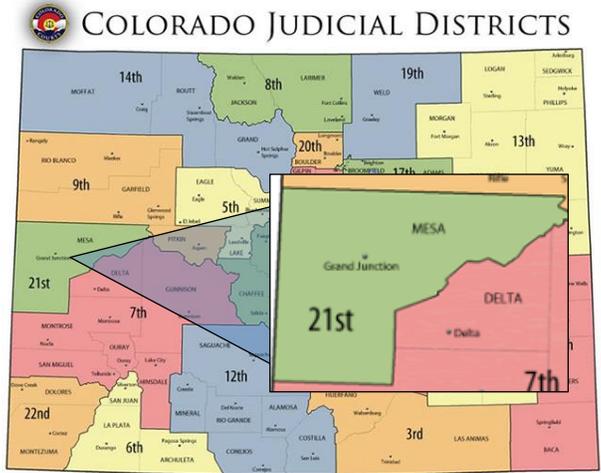
FY20 PROGRAM OVERVIEW		Year Started		2016	
AD Funds Requested	\$75,509.03	AD Funds Awarded	<b>FY 20: \$34,672.36 FY 21: \$6,000.00</b>		
CT Funds Requested	\$2,500.00	CT Funds Awarded	<b>FY 20: \$37,000.00 FY 21: \$20,000.00</b>		
Eligibility Criteria / Target Population	<ul style="list-style-type: none"> <li>Adults of all ages (expanded from young adults)</li> <li>Eligible petty offenses, misdemeanors, drug misdemeanors, drug felonies and first-time felonies; includes minor in possession, shoplifting</li> <li>Exclusions: F1-F2, DV, sex offenses, stalking, violation of bail bond, protection order violations, witness retaliation/tampering, escape, animal cruelty involving injury/death, weapons offenses, high level drug distribution, DUI</li> <li>Case by case: 2<sup>nd</sup> and 3<sup>rd</sup> degree assault, low level arson and obstruction</li> </ul>				
Program Goals	<ul style="list-style-type: none"> <li>Effective assessment-driven case planning to support skill development, connection with needed services and other positive changes</li> <li>Defendant accountability and victim satisfaction</li> <li>Reduction of criminogenic risk factors and recidivism</li> </ul>				
Projected Enrollment	150	# Adults Screened	292	# Adults Enrolled	265
# Successful	291	# Terminated	29	Successful Completion Rate	91%
FY 19 One-Year Post Program Recidivism Rate					5%
FY 18 One-Year Post Program Recidivism Rate					4%
FY 17 One-Year Post Program Recidivism Rate					0%
Supervision Fees	Average of \$50/month	Supervision Fees Collected	\$23,548		
Treatment Assessment	Service Planning Instrument (SPIn), substance abuse and mental health assessments				
Partner Agencies	Boulder County Public Health Community Substance Abuse Prevention program, Center for Change, Collegiate Recovery Center, Phoenix Multisport, Boulder Alcohol Education Center, Rangeview Counseling Mental Health Partners, Attention Homes, Bridge House, Workforce Boulder County, The Learning Source				



EST. POPULATION (2019): 327,164

ACHIEVEMENTS
<ul style="list-style-type: none"> <li>Diversion Coordinator administered SPIn assessment on 100% of supervised diversion participants for individualized case planning and skill development</li> <li>Participants reported skill development, improved decision-making and connection with community services, programs and activities</li> <li>97% of Restorative Justice participants reported awareness of the harms created by their offenses, 91% reported awareness of harm to the community, 87% reported awareness of harm to family, and 96% reported they repaired harm to victims; 100% of victims who participated in facilitated restorative justice processes reported satisfaction with the process</li> <li>Most participants showed a reduction in criminogenic risk factors over the course of diversion</li> <li>Few participants reoffended during their period of diversion</li> <li>An average of 86 participants were in the diversion program at the end of each quarter</li> <li>58 people referred for treatment assessment; 34 enrolled in treatment</li> </ul>
CHALLENGES
<ul style="list-style-type: none"> <li>Wait time for treatment due to provider caseload limitations, especially with psychiatry</li> <li>Lack of group service availability and cost</li> <li>Provider comfort with harm reduction model</li> </ul>

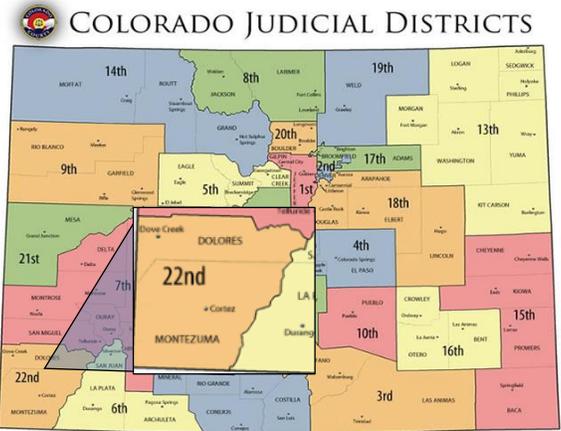
FY20 PROGRAM OVERVIEW			Year Started		2016
AD Funds Requested	\$122,464.00	AD Funds Awarded	<b>FY 20: \$72,451.72</b>		
AD Funds Requested	\$0.00	AD Funds Awarded	<b>FY 21: \$15,580.00</b>		
CT Funds Requested	\$0.00	CT Funds Awarded	<b>FY 20: \$0.00</b>		
CT Funds Requested	\$0.00	CT Funds Awarded	<b>FY 21: \$0.00</b>		
Eligibility Criteria / Target Population	<ul style="list-style-type: none"> <li>• Individuals without prior criminal legal system involvement assessed as low or medium risk; some higher risk</li> <li>• Most non-VRA petty offenses and misdemeanors, Animal Services and DUR cases</li> <li>• Lower level non-VRA felonies and Law Enforcement Assisted Diversion case by case</li> </ul>				
Program Goals	<ul style="list-style-type: none"> <li>• At least 90% of participants will not have a new misdemeanor or felony filing during diversion supervision</li> <li>• Terminate at least 40% of participants early</li> </ul>				
Projected Enrollment	600	# Adults Screened	209	# Adults Enrolled	198
# Successful	213	# Terminated	61	Successful Completion Rate	78%
FY 19 One-Year Post Program Recidivism Rate					15%
FY 18 One-Year Post Program Recidivism Rate					11%
FY 17 One-Year Post Program Recidivism Rate					11%
Supervision Fees	\$45/month	Supervision Fees Collected	\$12,305		
Treatment Assessment	Proxy, SSI, LSI; SOARS when indicated				
Partner Agencies	Mesa County Criminal Justice Services Department				



EST. POPULATION (2019): 154,933

ACHIEVEMENTS
<ul style="list-style-type: none"> <li>• Implementation of Law Enforcement Assisted Diversion as a new point of entry into diversion</li> <li>• More than 90% participants did not have a new misdemeanor or felony filing during the diversion period</li> <li>• 65% of participants received early termination from diversion due to compliance with diversion requirements</li> <li>• Commitment to not terminate diversion participants solely due to inability to pay costs of supervision</li> <li>• An average of 62 participants were in the diversion program at the end of each quarter</li> </ul>
CHALLENGES
<ul style="list-style-type: none"> <li>• Follow through by program candidates/participants (e.g., attendance of intake appointment, maintenance of communication with program)</li> <li>• Participant inability to pay supervision fees</li> <li>• Launching the Law Enforcement Assisted Diversion not long before COVID-19 pandemic</li> <li>• Reduced referrals to diversion due to limited court operations</li> </ul>

FY20 PROGRAM OVERVIEW		Year Started		2017	
AD Funds Requested	\$134,000.00	AD Funds Awarded	<b>FY 20: \$53,400.00 FY 21: \$11,470.00</b>		
CT Funds Requested	\$50,000.00	CT Funds Awarded	<b>FY 20: \$48,206.73 FY 21: \$23,463.00</b>		
Eligibility Criteria / Target Population	<ul style="list-style-type: none"> <li>No prior convictions for the subject offense;</li> <li>No open warrants for arrest;</li> <li>For DUI/DWAI, BAC must be .2 or lower, restitution of no more than \$1000.00; and no prior convictions for alcohol-related driving offenses</li> </ul>				
Program Goals	<ul style="list-style-type: none"> <li>Enroll 500 diversion participants;</li> <li>Reduce recidivism</li> <li>Oversee 80 participants receiving alcohol/drug education and therapy</li> <li>Coordinate with community service providers and restorative justice programs</li> <li>Increase program visibility through consistent frequent court and Recovery Center meeting attendance</li> </ul>				
Projected Enrollment	500	# Adults Screened	208	# Adults Enrolled	208
# Successful	171	# Terminated	7	Successful Completion Rate	95%
FY 19 One-Year Post Program Recidivism Rate				5%	
FY 18 One-Year Post Program Recidivism Rate				2%	
Supervision Fees	\$50/month for alcohol/drug offenses	Supervision Fees Collected	\$16,393		
Treatment Assessment	Offense-specific substance use and DV evaluations				
Partner Agencies	The Recovery Center, Pinon Project, Four Corners Child Advocacy Group, Montezuma County Social Services				



EST. POPULATION (2019): 28,197

ACHIEVEMENTS
<ul style="list-style-type: none"> <li>Coordinate with The Recovery Center, Pinon Project, Four Corners Child Advocacy Group and Montezuma County Social Services to obtain support and resources critical to participant success</li> <li>Collection of \$10,563 in restitution for victims of crime</li> <li>Weekly attendance of court to meet with program candidates and bi-weekly meetings with the Recovery Center to identify and address participant needs</li> </ul>
CHALLENGES
<ul style="list-style-type: none"> <li>COVID-19 related case delays</li> <li>Lack of staffing resources</li> <li>Communication with participants who may not have a phone or internet service; participant difficulty complying with requirements without phone/internet service</li> <li>Absence of treatment and service providers, including the lack of any local domestic violence offender treatment providers</li> <li>Diversion candidate/participant lack of transportation; absence of public transportation</li> <li>Participant inability to pay costs of treatment</li> </ul>

## FINANCIAL SUMMARY

HB 13-1156 provides \$400,000 in allocations from the General Fund for Adult Diversion. During FY 20, 11 programs applied for funding in the total amount of \$890,761.95. The Funding Committee was unable to award the amounts requested, impeding the ability of local programs to fully implement program designs. In FY 20, the diversion programs continued to operate on a reimbursement basis with allocated funds expensed by the end of the fiscal year.

**Table 1, Overview of Adult Diversion Programs: Funding Requests, Awards and Participant Enrollment**

Fiscal Year	# Applicants for Adult Diversion Funding	# Adult Diversion Programs Awarded Funding	Adult Diversion Funding <sup>5</sup> Requested	Amount Awarded <sup>6</sup>	# Participants Enrolled	% Change in Participant Enrollment (from Prior Year)
FY 21	14	117	\$1,137,954.00	\$269,000.00	Unknown <sup>8</sup>	Unknown
FY 20	11	9 <sup>9</sup>	\$890,761.95	\$544,000.00	1,259	-17%
FY 19	9	9	\$748,454.78	\$477,000.00	1,518	-5 %
FY 18	9	9	\$694,653.16	\$477,000.00	1,592	+ 90%
FY 17	6	6	\$570,324.02	\$454,428.86	837	+ 67%
FY 16	5	5	\$277,923.46	\$277,923.46	502	+ 68%
FY 15	4	4	\$240,060.00	\$240,060.00	299	NA

Funding for staff to who supervise day-to-day operations represents most program expenditures, as shown below in Tables 2 and 3.

**Table 2, Overall Adult Diversion Program Expenditures<sup>10</sup> by Category**

Fiscal Year	Personnel	Training	Consultants	Operating Costs	Non-Correctional Treatment	Other
FY 20	91%	<1%	3%	3%	1%	2%
FY 19	82%	8%	0%	7%	1%	3%
FY 18	84%	1%	0%	4%	12%	0%
FY 17	85%	2%	1%	8%	1%	3%
FY 16	65%	2%	12%	8%	7%	6%
FY 15	73%	1%	14%	10%	2%	1%

<sup>5</sup> These amounts exclude Correctional Treatment Fund requests.

<sup>6</sup> Awards exceeding \$400,000 include Correctional Treatment Fund awards.

<sup>7</sup> The 2<sup>nd</sup> Judicial District received Correctional Treatment funds for Substance Abuse Disorder or co-occurring treatment needs of its Adult Diversion Program participants, but not an Adult Diversion funding award. Therefore, the 2<sup>nd</sup> JD is not counted in this number.

<sup>8</sup> With overall funding reduced by 75% and with uncertainties related to the COVID-19 pandemic, forecasting the number of FY 21 participants would be highly speculative. The number served is likely to be lower than in prior years.

<sup>9</sup> As stated in Footnote 7, the 2<sup>nd</sup> Judicial District received Correctional Treatment funding for Substance Abuse Disorder or co-occurring treatment needs of Adult Diversion Program participants but not Adult Diversion Funding. The 2<sup>nd</sup> JD is not counted in this number.

<sup>10</sup> Expenditures are rounded to the nearest percentage.



Table 3, Adult Diversion FY 20 Expenses by Category and Program								
JD	Adult Diversion Funds					Correctional Treatment Funds		
	Expense Categories			Adult Diversion		Expenses	CTCF	% of Award Expended
	Personnel	Non-Personnel	Combined	Award	% of Award Expended			
2	\$0	\$0	\$0	\$0	NA	\$27,503	\$27,503	100%
6	\$33,748	\$0	\$33,748	\$36,816	92%	\$13,835	\$19,583	71%
7	\$13,587	\$3,373	\$16,950	\$21,375	79%	\$1,490	\$1,500	99%
9	\$26,085	\$3,633	\$29,718	\$35,705	82%	\$2,970	\$6,417	46%
12	\$30,425	\$12,000	\$42,425	\$42,425	100%	\$0	\$3,791	0%
15	\$27,000	\$9,155	\$36,155	\$36,155	100%	\$0	\$0	NA
16	\$60,966	\$6,034	\$67,000	\$67,000	100%	\$0	\$0	NA
20	\$25,105	\$1,498	\$26,603	\$34,672	77%	\$11,392	\$37,000	31%
21	\$72,453	\$0	\$72,452	\$72,452	100%	\$0	\$0	NA
22	\$53,400	\$0	\$53,400	\$53,400	100%	\$26,793	\$48,207	56%
<b>Total</b>	<b>\$342,769</b>	<b>\$35,692</b>	<b>\$378,461</b>	<b>\$400,000</b>	<b>95%</b>	<b>\$83,983</b>	<b>\$144,000</b>	<b>58%</b>

Correctional Treatment Funds are allocated pursuant to §18-19-103, C.R.S.

Financial support for other programming needs, such as housing, education, and mental health treatment, often remains unmet. Programs consistently express the need to assist participants with food, housing, medical care, transportation, cell phones and the like to support their stability and successful completion of diversion. Many programs seek external funding to address this shortfall. Participant supervision fees shown in Table 4 are likewise helpful, yet insufficient. Most programs offer fee reduction or waiver based on financial need, limiting the amounts collected.

Table 4, FY 20 Adult Diversion Participant Fees Collected	
Judicial District	Amount Collected
2	\$6,186.00
6	\$10,965.00
7	\$2,500.00
9	\$5,800.00
12	\$3,894.39
15	\$4,420.00
16	\$29,737.18
20	\$23,548.00
21	\$12,305.00
22	\$16,393.00
<b>Total</b>	<b>\$115,748.57</b>

With diversion programs primarily located in more rural, impoverished Colorado communities, program participants often struggle to meet all but minimal payment requirements. These fees offset or support payment of external service providers to fulfill diversion agreement requirements. Unexpended fees contribute to future participant programming or offset funding shortfalls.

As shown in Table 5, program expenditures have increased each year. Competition for the \$400,000 in adult diversion funding has increased from 4 applicants in FY 14 to 14 in FY 21. Following submission of a decision item to more than double adult diversion funding during the 2020 legislative session, the pandemic-related budget crisis resulted in program cuts of 75%. As a result, funding of \$100,000 was divided among 12 programs.

**Table 5, Program Expenditures: A Four-Year Comparison**

Fiscal Year	Expenses Incurred/Paid with Adult Diversion Funds	Expenses Incurred/Paid with Correctional Treatment Funds	Total Expenses Incurred/Paid
FY 20	\$378,460.57	\$83,982.66	\$462,443.23
FY 19	\$368,755.16	\$51,661.13	\$420,416.29
FY 18	\$365,850.12	\$47,864.37	\$413,714.49
FY 17	\$308,684.86	\$5,480.16	\$314,165.02

Accompanying the increased number of funding applications is an increased amount of funding. Requests for Adult Diversion funds have grown from \$240,060 in FY 15 to nearly five times that amount, \$1,137,954, in FY 21. During FY 20, the adult diversion grant funding requests exceeded the allocated amount permitted by statute for the fifth consecutive year. As existing programs demonstrate success, the need for diversion as a viable option for individualized responses to offender behavior grows. With funded programs operational in 12 of Colorado’s 22 judicial districts as of FY 21, financial limitations are the primary barrier to the expansion of access to diversion. Even prior to the pandemic-related funding reduction from \$400,000 to \$100,000 in FY 21, the limited amount of funding was insufficient to fund necessary and requested program expenses. Table 6 shows the disparity of program requests and FY 21 awards.

In FY 21, \$100,000 was allocated for Adult Diversion, compared to \$400,000 in past years. Fourteen jurisdictions requested \$1,137,954 in grant funding, compared to the 11 jurisdictions requesting \$890,761.95 in grant funding in FY 20, a 28% increase and almost 300% the amount of available funding. In FY 20, 12 programs received grant awards, including new programs in the 5<sup>th</sup> and 14<sup>th</sup> Judicial Districts. Of the programs requesting grant funding in FY 21, none received an allocation that met their operational needs, as reflected below.

**Table 6, FY 21 Adult Diversion and Correctional Treatment Requests and Awards**

Judicial District	Adult Diversion Funds			Correctional Treatment Funds		
	Funding Requested	Award	% of Request Awarded	Funding Requested	Award	% of Request Awarded
2	\$193,000	\$0	0%	\$61,200	\$52,556	86%
3	\$73,241	\$0	0%	\$0	\$0	NA
5	\$25,000	\$5,975	24%	\$0	\$0	NA
6	\$71,886	\$7,920	11%	\$27,000	\$24,047	89%
7	\$75,762	\$4,620	6%	\$21,840	\$18,751	86%
9	\$88,584	\$7,680	9%	\$5,000	\$5,000	100%
11	\$102,441	\$0	0%	\$0	\$0	NA
12	\$69,613	\$9,120	13%	\$3,000	\$3,000	100%
14	\$82,500	\$9,475	11%	\$23,500	\$20,183	86%
15	\$39,155	\$7,780	20%	\$0	\$0	NA
16	\$73,000	\$14,380	20%	\$2,000	\$2,000	100%
20	\$34,000	\$6,000	18%	\$45,000	\$20,000	44%
21	\$122,687	\$15,580	13%	\$0	\$0	NA
22	\$108,925	\$11,470	11%	\$27,315	\$23,463	86%
<b>Total</b>	<b>\$1,137,954</b>	<b>\$100,000</b>	<b>9%</b>	<b>\$215,855</b>	<b>\$169,000</b>	<b>78%</b>

Supplemental funding for substance use disorder and co-occurring treatment from the Correctional Treatment Board, pursuant to §18-19-103, C.R.S., continues to supplement Adult Diversion funding. In FY 20, the Funding Committee allocated Correctional Treatment Funds and midway through the fiscal year, re-evaluated those allocations based on fund utilization and need. The Committee worked with the programs to adjust their allocations to ensure that awarded amounts best matched program needs and expenditure patterns for the remainder of the fiscal year. The Committee will do the same in February 2021.

## PARTICIPANT DATA

At the end of the sixth year of operation, adult diversion programs have demonstrated similar patterns of success. Overall, 85% of diversion participants successfully completed their diversion programs, resulting in the dismissal or non-filing of charges and avoidance of long-term collateral consequences of convictions. This rate, although slightly higher, remains consistent with the past three years. Of all participants exiting diversion, only 2% committed a new offense during the period of diversion, reflecting a 98% safety rate.

**Table 7, Diversion Eligibility, Enrollment, Services and Success**

	FY 17	FY 18	FY 19	FY20
<b># People Screened for Adult Diversion</b>	985	1712	1636	1,580
<b># People Enrolled in Adult Diversion</b>	837	1592	1518	1,259
<b># People Who Successfully Completed Adult Diversion</b>	<b>509 (79%)</b>	<b>826 (78%)</b>	<b>1176 (79%)</b>	<b>1,080 (85%)</b>
<b># People under Diversion Agreements at Fiscal Year End</b>	369	723	766	752
<b># People Who Did Not Successfully Complete Diversion</b>	134	228	313	188
<b>Reason for Termination from Diversion</b>				
<b>Did not Comply with Diversion Agreement</b>	97	148	213	136
<b>Committed New Offense</b>	<b>24 (4%)</b>	<b>47 (4%)</b>	<b>70 (5%)</b>	<b>30 (2%)</b>
<b>Voluntarily Withdrew from Diversion</b>	11	31	7	6
<b>Absconded</b>	0	24	21	16
<b>Other Reason (e.g., death)</b>	2	2	2	0
<b># Participants Referred for Treatment Assessment</b>	178	380	381	410
<b># Participants Who Began Treatment following Assessment</b>	172	301	280	318

The number of participants referred for treatment assessment has increased since FY 17. In FY 20, approximately one-third of all enrolled participants were referred for treatment assessment. Almost 80% of those referred for treatment assessment began treatment following the assessment.

The length of diversion supervision varies by jurisdiction, offense and individual participant. By statute, diversion supervision may not exceed two years, subject to potential extension by one year when restitution is the sole remaining unfulfilled requirement of successful completion. At the end of FY 20, 752 individuals were enrolled in funded diversion programs. This number does not reflect other adult diversion programs in Colorado funded by sources other than Adult Diversion grants.

The statutory framework affords local discretion in designing diversion programs, affording the flexibility needed to tailor each program to its unique community, aligned with the priorities of the elected district attorney. For this reason, the Funding Committee cautions against drawing conclusions based on success rates among the various programs. Similarly, participant numbers vary based on a variety of factors – population size, arrest rates, court case filing volume, and the resources needed to serve various participant groups. For example, the staffing and financial resources needed to divert a participant with substantial treatment and supervision needs, perhaps requiring a longer period of supervision based on diversion of a felony offense, cannot be compared to the resources involved in the unsupervised diversion of a low need, low risk participant accused of committing a petty offense or low-level misdemeanor. The numbers, though, fail to capture this distinction.

As shown in Table 7, non-compliance with the diversion agreement was the primary reason for termination from the diversion programs, accounting for 72% of terminations, while 16% of terminations occurred due to a new offense. Those charged with a new offense represent only 2% of all diversion participants exiting the program in FY 20, a safety rate of 98%. Table 8 shows an increase from 79% in FY 19 to 85% in FY 20 in the rate of participants successfully completing diversion, divided by the total number of people exiting diversion.

**Table 8, Completion Rates by Judicial District**

Judicial Districts	# of Participants Who Did Not Successfully Complete Diversion		# of Participants Who Successfully Completed Diversion		% of Participants Who Successfully Completed Diversion	
	FY19	FY20	FY19	FY20	FY19	FY20
	2 <sup>nd</sup>	4	3	20	29	83%
6 <sup>th</sup>	73	51	162	156	69%	75%
7 <sup>th</sup>	2	2	8	15	80%	88%
9 <sup>th</sup>	0	2	69	88	100%	98%
12 <sup>th</sup>	NA	12	NA	74	NA	86%
15 <sup>th</sup>	2	8	22	11	92%	58%
16 <sup>th</sup>	8	13	31	32	79%	71%
20 <sup>th</sup>	25	29	235	291	90%	91%
21 <sup>st</sup>	156	61	352	213	69%	78%
22 <sup>nd</sup>	43	7	276	171	87%	96%
<b>Overall</b>	<b>313</b>	<b>188</b>	<b>1,175</b>	<b>1,080</b>	<b>79%</b>	<b>85%</b>

As shown in Table 9, the overall percentage of individuals screened for diversion who enroll was 80% in FY 20. This calculation includes those who decline to enroll and those denied the opportunity to enroll because they are ineligible. Prosecutorial reasons for declining access to diversion are wide-ranging: decisions to dismiss charge, offer a lower level plea, offer a prosecution alternative that better meets the person’s needs (e.g., problem-solving court), deny due to disqualifying factors (e.g., criminal history, specific facts of the incident, victim input, program fit considering candidate needs, non-local residence, probation or parole status, and the like).

**Table 9, Diversion Enrollment Rates by Judicial District**

Judicial Districts	# People Screened for Diversion		# People Screened for Diversion Who Enroll		Enrollment Rate (% of People Screened Who Enroll)	
	FY19	FY20	FY19	FY20	FY19	FY20
	2 <sup>nd</sup>	127	232	61	68	48%
6 <sup>th</sup>	233	211	222	194	95%	92%
7 <sup>th</sup>	15	31	14	24	93%	77%
9 <sup>th</sup>	99	113	86	110	87%	97%
12 <sup>th</sup>	NA	170	NA	106	NA	62%
15 <sup>th</sup>	27	27	25	27	93%	100%
16 <sup>th</sup>	49	87	38	59	78%	68%
20 <sup>th</sup>	283	292	269	265	95%	91%
21 <sup>st</sup>	457	209	457	198	100%	95%
22 <sup>nd</sup>	346	208	346	208	100%	100%
<b>Overall</b>	<b>1,636</b>	<b>1,580</b>	<b>1,518</b>	<b>1,259</b>	<b>93%</b>	<b>80%</b>



## DEMOGRAPHICS

One purpose of collecting demographic information is to identify trends regarding success or unsuccessful program termination across demographic categories that may help identify areas of needed program improvements or attention. Another is to identify whether particular demographic groups are receiving opportunities to participate in alternatives to prosecution proportionate to their involvement in the criminal legal system, notwithstanding disproportionality in discretionary decision-making points that may adversely impact them prior to initiation of criminal charges. Accurate and consistent collection of demographic information continues to be a challenge, with variation among jail case management systems utilized from one jail to another and regarding Judicial Branch databases. The Colorado Division of Criminal Justice within the Department of Public Safety addresses these challenges in their HB 19-1297 county jail inmate data and in their Community Law Enforcement Action Reporting Act Reports.<sup>11</sup> Table 10, based on data extrapolated from Division of Criminal Justice HB 19-1297 information, provides insight into the gender, race and ethnicity of individuals in custody of county jails within the judicial districts of funded adult diversion programs.

Judicial District and County		Inmate Pop.	Gender			Race					Ethnicity		
			Male	Female	Other	Black	Native American	Other	White	Unknown	Non-Hispanic	Hispanic	Unknown
2 <sup>nd</sup>	Denver	2060	85%	15%	<1%	28%	1%	<1%	67%	2%	57%	29%	<1%
6 <sup>th</sup>	La Plata	201	84%	16%	<1%	2%	24%	2%	71%	<1%	Unknown/Incomplete		
7 <sup>th</sup>	Delta	60	73%	27%	<1%	Unknown/Incomplete							
	Gunnison	22	82%	18%	<1%	5%	<1%	<1%	95%	<1%	Unknown/Incomplete		
	San Miguel	9	67%	23%	<1%	22%	<1%	22%	44%	11%	78%	22%	<1%
9 <sup>th</sup>	Pitkin	19	79%	21%	<1%	<1%	<1%	5%	89%	<1%	Unknown/Incomplete		
	Garfield	111	86%	14%	<1%	3%	<1%	<1%	96%	<1%	69%	31%	<1%
	Rio Blanco	19	79%	21%	<1%	3%	<1%	<1%	95%	<1%	84%	11%	<1%
12 <sup>th</sup>	Rio Grande	32	75%	25%	<1%	<1%	<1%	<1%	100%	<1%	31%	69%	<1%
	Conejos	27	Unknown/Incomplete										
	Alamosa	86	79%	21%	<1%	Unknown/Incomplete							
15 <sup>th</sup>	Baca	7	86%	14%	<1%	<1%	<1%	<1%	100%	<1%	Unknown/Incomplete		
	Prowers	65	77%	23%	<1%	Unknown							
16 <sup>th</sup>	Crowley	6	67%	33%	<1%	<1%	<1%	<1%	83%	17%	50%	33%	17%
	Bent	73	90%	10%	<1%	Unknown/Incomplete							
	Otero		Unknown/Incomplete										
20 <sup>th</sup>	Boulder	414	358	56	<1%	7%	<1%	1%	90%	<1%	52%	15%	33%
21 <sup>st</sup>	Mesa	548	86%	14%	<1%	5%	<1%	<1%	93%	<1%	77%	21%	1%
22 <sup>nd</sup>	Montezuma	108	79%	21%	<1%	Unknown/Incomplete							

The Community Law Enforcement Action Reporting Act Report, Colorado Division of Criminal Justice (Oct. 2020)<sup>12</sup>, provides the following data regarding population, summons or arrest, and court filings across four demographic groups, set forth in Table 11. The Community Law Enforcement Action Reporting Act Report, Colorado Division

<sup>11</sup> To improve data accuracy of race/ethnicity designations below, the Division of Criminal Justice used a statistical model to predict whether individuals were Hispanic in the arrest and court data below.

<sup>12</sup> Data from Community Law Enforcement Action Reporting Act Report, Colorado Division of Criminal Justice (Oct. 2020), <https://cdpsdocs.state.co.us/ors/docs/reports/2020-SB15-185-Rpt.pdf>, and presentation to Colorado Commission on Criminal Justice, [https://cdpsdocs.state.co.us/ccj/meetings/2020/2020-10-09\\_CY2019-CLEAR-Act-Rpt.pdf](https://cdpsdocs.state.co.us/ccj/meetings/2020/2020-10-09_CY2019-CLEAR-Act-Rpt.pdf).

of Criminal Justice (Oct. 2020), reveals data that demonstrating that Black and Hispanic people are less likely to received deferred judgments than White people and more likely to receive jail sentences.

Black				White			
Population	Arrest or Summons	Court Filings		Population	Arrest or Summons	Court Filings	
		District	County			District	County
4%	12%	11%	8%	72%	58%	56%	60%
Hispanic				Other			
Population	Arrest or Summons	Court Filings		Population	Arrest or Summons	Court Filings	
		District	County			District	County
19%	29%	30%	29%	5%	2%	3%	3%

The Funding Committee monitors program data and access to diversion by historically marginalized groups with respect to overrepresentation in the criminal legal system and underrepresentation in prosecution alternatives. Adult diversion programs report participant demographic information upon program exit, rather than for ongoing participants. Efforts are underway to improve the quality of this data by uniformly capturing reasons for denial of program entry, which may range from non-prosecution to factors such as parole or probation status, non-local residence, program fit (e.g., severity of candidate needs), criminal history or level of criminogenic risk, among other factors. This information will help us establish a baseline and measure improvements regarding access to diversion as a prosecution alternative across demographic groups.

		Judicial District <sup>13</sup>									
		2 <sup>14</sup>	6	7	9	12	15	16	20	21	Combined
Race	Black/African American	83%			100%	100%		100%	71%	78%	82%
	American Indian/Alaskan Native		64%		100%	75%		100%			72%
	Asian/Pacific Islander		100%	100%		100%			100%		95%
	Multi-Racial	100%			100%				100%		100%
	Unknown	100%		75%		79%			83%		83%
	White	95%	77%	92%	99%	87%	62%	70%	91%	78%	84%
Ethnicity	Latinx/Hispanic	100%	72%	75%	100%	82%	25%	67%	95%	61%	79%
	Non-Latinx/Hispanic	86%	76%	93%	99%	90%	80%	74%	91%	81%	85%
	Unknown	100%				60%		66%	85%	100%	79%
Gender	Female	90%	81%	88%	97%	85%	40%	72%	90%	84%	85%
	Male	95%	71%	90%	100%	85%	82%	70%	87%	73%	83%
	Other		100%						100%		100%
Age	18-25	92%	80%	100%	98%	77%	25%	67%	91%	79%	86%
	26-40	100%	77%	60%	100%	85%	64%	91%	93%	73%	83%
	41-60		65%		100%	92%	80%	44%	79%	78%	77%
	61+		100%	100%	100%	100%	100%	100%	100%	89%	96%

Table 12 shows minimal differences regarding successful completion rate by gender. With respect to age, individuals 61 and over successfully complete diversion at the highest rate and those the least likely to successfully complete diversion are in the 41 to 60 year-old age group. The number of non-White diversion participants in non-metro area judicial districts is derived from low participant numbers and should be viewed with caution.

<sup>13</sup> Demographic data from the 22<sup>nd</sup> Judicial District was not finalized at the time of report preparation.



## DIVERSION OFFENSE DATA

Programs divert an array of case types, ranging from petty offenses to felonies and drug felonies. Most programs divert at least some felonies, and prior to the reclassification of felony possession, drug felonies. The most frequent case type diverted varied from jurisdiction to jurisdiction, largely depending on the frequency with which the offense type was diverted and reflective of local diversion program priorities. The following examples illustrate the range of offenses diverted among a handful of diversion programs: In the 6<sup>th</sup> Judicial District, the most diverted offenses are misdemeanors, including unclassified traffic misdemeanors and drug misdemeanors (e.g., driving under restraint, harassment, third degree assault, criminal mischief), traffic (e.g., careless driving, leaving scene of accident), felonies (e.g., burglary, contributing to delinquency of a minor), drug felonies and petty offenses. In the 21<sup>st</sup> Judicial District, the majority of diverted offenses were misdemeanors, including unclassified traffic misdemeanors (e.g., driving under restraint, theft, harassment), followed by traffic (e.g., possession of altered/false driver's license, no insurance, careless driving), petty offenses (e.g., minor in possession, marijuana possession under age 21) and felonies (possession of controlled substance, criminal mischief, fraud). In the 22<sup>nd</sup> Judicial District, the most common diverted offenses were misdemeanors, including unclassified traffic misdemeanors such as DUI/DWAI, and drug misdemeanors, followed by traffic (e.g., careless driving, a wide range of speeding offenses, no insurance, and driving without a license), felonies, drug felonies and petty offenses (e.g., minor in possession).

Increased competition for limited funds prompted the Funding Committee to develop the following priorities to guide application review, consistent with Sec. 18-1.3-101, C.R.S., and in the absence of a more specific statutory mandate:

- To promote the statutory focus on diversion of **crimes**, funding should not be used to divert civil infractions.
- To promote the legislative intent of repairing harm to victims, including payment of restitution, **diversion of crimes involving victims harmed and/or owed restitution** is a higher priority than diversion of victimless crimes.
- In reference to the statutory emphasis on **rehabilitation and reintegration**, the diversion of cases involving such services is a higher priority than diversion not involving such interventions.
- In reference to the statutory recognition of collateral consequences of conviction, offenses with more **serious collateral consequences** are considered higher priority for diversion.



## COMMUNITY IMPACT

Throughout the fiscal year, the Adult Diversion Funding Committee receives both quantitative data and participant narratives or anonymous feedback surveys to better understand the program impacts and benefits.

### RESTITUTION COLLECTION

The prospect of avoiding criminal convictions and obtaining dismissal of charges are effective incentives for the payment of restitution, benefitting victims and diversion participants alike. Furthering the legislative intent of restoring victims of crime and facilitating restitution payment, 13% of FY 20 diversion enrollments, 165 cases, required the payment of restitution as a condition of successfully completing diversion, in addition to six cases requiring repair or replacement of fence posts and mailboxes and painting of walls. Restitution collected statewide amounted to \$103,499.85 in FY 20, compared to \$69,791.39 in FY 19. Collections were highest in the 2<sup>nd</sup>, 6<sup>th</sup>, 20<sup>th</sup> and 22<sup>nd</sup> Judicial Districts.

### PARTICIPANT NARRATIVES

A diversion participant faced three separate trespassing charges after entering land to hunt without the owner's permission. The victim asked that the diversion candidate "do something honest and meaningful." The participant agreed to gather, cut and deliver firewood to three individuals, one for each case. The diversion coordinator contacted the county Human Services office, who identified individuals in need of firewood. With their permission, the diversion participant gathered, cut, and delivered two cords of firewood to each person, including a disabled military veteran, a financially struggling elderly woman who lives alone, and a financially struggling single mother. The diversion participant found the experience rewarding and the firewood recipients were grateful.

A diversion participant was charged with third degree assault, resisting arrest and disorderly conduct, after appearing in court intoxicated. During approximately 10 months in the diversion program, he received a mental health assessment and weekly therapy, substance use testing and case management services. He maintained employment, purchased his first home and did not test positive for alcohol or any controlled substances. He successfully completed the diversion program.

A young, single mother entered diversion to resolve a drug possession charge. After initially testing positive for methamphetamines, she has since tested clean over the past five months and participates in Enhanced Outpatient Therapy twice a week to assist with maintenance of her sobriety.

A single father seemed headed toward criminal legal system involvement, similar to family and friends. Raised in an environment of addiction, he was determined to raise his child without drugs or alcohol. Depressed, he fired a handgun at his barn. On the verge of successfully completing diversion, he has received 11 months of counseling. He is studying for his last GED completion and has taken parenting classes. Although he was reluctant to participate in counseling, he persevered, breaking the cycle of family violence and addiction. Diversion provided him with an opportunity unlikely to have otherwise been available to him.

A person entered the diversion program to resolve felony burglary charges. During the diversion period, he relapsed with heroin use. Faced with the possibility of losing his family and being terminated from diversion, he worked towards getting sober. He completed drug and alcohol classes, in addition to ongoing treatment. While fulfilling these requirements, he worked full-time, as the sole provider for his family, and returned to college. He completed his two-year period of diversion, sober from drugs and alcohol, and was nearing his college graduation date. He was thankful for the opportunity to participate in diversion and for help getting his life back on track.

A young person with a history of family trauma and homelessness was offered diversion on possession of methamphetamine and paraphernalia charges. They desired to stop using, but their friends and hobbies were connected to substance use. They struggled with decision-making and following through on goals. The diversion coordinator utilized motivational interviewing and harm reduction principles to help the participant build self-efficacy and personal safety skills, to identify sober activities and to develop sober peer supports. The participant destroyed their paraphernalia and began to receive counseling, abstaining from methamphetamine use and becoming self-aware regarding alcohol use. The participant discovered an undiagnosed mental health condition that resulted in hallucinations. The participant found therapy beneficial and built positive, trusting relationships, overcame prior trauma, and became more independent by living alone and maintaining full time employment. The participant took responsibility for their substance use by writing a letter identifying relationships that were harmed.



## FY 21 PROGRAM FORECAST

Like FY 20, FY 21 promises to be an unusual year for the Adult Diversion Program. Adult Diversion funding fell by 75% to \$100,000 in FY 21, drastically reducing funding for the 10 programs operating in FY 20 and new programs in the 5<sup>th</sup> and 14<sup>th</sup> Judicial Districts added in FY 21. First quarter FY 21 data provides little basis from which to reliably predict the remainder of the year. Programs will operate to the best of their abilities, given the loss of funding, modified operational procedures, remote court appearances, virtual treatment, and the inability to meet face-to-face. It is anticipated that this will allow programs to refine their target populations and operating procedures and enhance community partnerships.

The Funding Committee will continue to maximize available resources, such as Correctional Treatment funding for substance use assessments and treatment, to sustain program growth. With the continued interest in and success of diversion programming in Colorado, the Committee will support the growth of local programs that provide optimal service delivery for participants to the greatest extent possible in this environment of scarce funding.

## ADDENDUM

**ATTACHMENT [ I ]** - Adult Diversion and Mental Health Diversion Programs Evaluation Design

**ATTACHMENT [ II ]** - FY 20 Adult Diversion Funding Application

**ATTACHMENT [ III ]** - FY 20 Funding Guidelines



JUNE 2020

# COLORADO ADULT & MENTAL HEALTH DIVERSION PROGRAMS

PROCESS & OUTCOME EVALUATION DESIGN



**HEATHER GARWOOD**

GARWOOD CONSULTING SERVICES, LLC  
Fort Collins, CO

**Prepared for:**

COLORADO JUDICIAL DEPARTMENT  
STATE COURT ADMINISTRATOR'S OFFICE  
Denver, CO

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## BACKGROUND

According to the Bureau of Justice Statistics (BJS), at the end of 2016, over 4.5 million adults in the United States were under the supervision of probation or parole. That equates to one in 55 adults. Further, although they are the lowest incarceration rates in over ten years, BJS statistics indicate that jails still incarcerate 226 inmates per 100,000 U.S. residents, and prisons, 431 per 100,000 residents. The collateral consequences of having a record of a criminal conviction can negatively impact a person's ability to maintain employment and housing, and access social assistance (Evans, 2014; see also <https://niccc.csgjusticecenter.org>). Collateral consequences that disrupt protective and stability factors exacerbate an already challenging cycle of involvement with the criminal legal system.

### *Colorado Diversion*

Colorado statute allows for the State Court Administrator's Office (SCAO) to provide administrative support for two diversion programs: the Adult Diversion Program (ADP) and the Mental Health Diversion Program (MHDP), see Table 1, below. Passed in 2013, C.R.S. §18-1.3-101 allows for the creation of an ADP to divert "defendants from the criminal justice system when diversion may prevent defendants from committing additional criminal acts, restore victims of crime, facilitate the defendant's ability to pay restitution to victims of crime, and reduce the number of cases in the criminal justice system" (C.R.S. §18-1.3-101(1)). Similarly, the legislature passed SB 249 in 2018, allowing for the creation of a four-district pilot program to divert "individuals with mental health conditions who have been charged with a low-level criminal offense... out of the criminal justice system and into community treatment programs" (p. 2). Most recently, the legislature's passage of HB 1393, which awaits the Governor's signature, would expand the number of potential pilot sites.

Legislation passed in 2019 requires an evaluation of the pilot MHDPs to include "recommendations for best practices, including target populations, participant treatment and oversight, funding, and any proposed revisions to the model recommended by the Colorado commission on criminal and juvenile justice" (C.R.S. §18-1.3-101.5(6.5)(b)), with a report of findings to be completed and submitted to the legislature by November 1, 2021. What follows is an evaluation design that comports with existing MHDP statute. This designed study provides the Colorado Judicial Department with options to explore and evaluate process and outcome measures using a mixed-methods (i.e., qualitative and quantitative) design for both the ADP and MHDP. The design options are informed by existing research, as well as local and administrative stakeholder interests.

A review of existing research informs the evaluation design. While not an exhaustive review, the scope focused the evaluation design by considering studies of diversion outcomes, informing appropriate research questions, and providing evaluation frameworks from which to base the evaluation design.

Table 1. Diversion Programs Summary

<b>Program</b>	<b>Statute</b>	<b>Target Population</b>	<b>Districts</b>
Adult Diversion Program (ADP)	§18-1.3-101 & §13-3-115 (establishes funding committee)	Varies by district, often individuals with limited criminal history charged with offenses up to and including felonies	2 <sup>nd</sup> , 6 <sup>th</sup> , 7 <sup>th</sup> (Delta Co. only), 9 <sup>th</sup> , 12 <sup>th</sup> , 15 <sup>th</sup> , 16 <sup>th</sup> , 20 <sup>th</sup> , 21 <sup>st</sup> , and 22 <sup>nd</sup>
Mental Health Diversion Program (MHDP)	18-1.3-101.5	Individuals with mental health conditions charged with offenses up to and including lower level felonies	6 <sup>th</sup> , 8 <sup>th</sup> , 16 <sup>th</sup> , and 20 <sup>th</sup>

*Adult Diversion: Literature & Colorado Programs*

According to a 2018 study conducted by the Center for Court Innovation (Rempel et al.), although diversion programs began in the 1970’s, research did not generally support their efforts to reduce convictions, recidivism, or costs. One reason for this is concern over net-widening, in which minor offenses otherwise unlikely to attract prosecutorial attention prior to the establishment of diversion programs are referred for diversion (Clancey & Howard, 2006). Currently, in response to increasing caseloads and smaller budgets, diversion efforts are seeing a resurgence (Lowry & Kerodal, 2019). The 2018 study evaluated 16 prosecutor-led diversion programs in 11 prosecutor offices, likely representing the largest and most diverse diversion evaluation study in the literature.

As illustrated in the Center for Court Innovation (CCI) study, diversion programs come in a variety of shapes and sizes—they may be pre-arrest or post-arrest, pre-file or post-file, and may include misdemeanors, felonies, or a combination (Rempel et al., 2018). Additionally, diversion efforts may be led by pretrial services, by probation or some other community supervision case management agency, by the courts, or by prosecutors (Lowry & Kerodal, 2019; Sirotych, 2009).

Overall, findings from the CCI study demonstrate that diversion can effectively decrease convictions (and subsequent exposure to conviction-related collateral consequences) and sentences to incarceration. The impact on recidivism was mixed, although four out of the five programs that were evaluated for this outcome did demonstrate a recidivism reduction (Rempel et al., 2018). A study conducted by Mueller-Smith and Schnepel (2019) also found that diversion efforts in Texas has positive impacts related to recidivism and employment.

In Colorado, legislation passed in 2013 created a state funding mechanism for district attorney-operated ADP’s (C.R.S. §18-1.3-101(1)). According to the FY18-19 Annual Legislative Report developed by the Office of the State Court Administrator, a total of ten ADP implementation sites operated in Colorado during the fiscal year ending June 30, 2020. And just like the CCI study finding, the implementation sites vary in their screening processes, selection criteria, and program focus. Given that Colorado’s implementation sites vary in much the same ways as the sites in the CCI study, this evaluation design will base some evaluation components (e.g.,

interview protocols) on the CCI study. Permission was obtained to modify and use the CCI study evaluation tools.

### *Mental Health Diversion: Literature & Colorado Pilot Programs*

According to a study by BJS, results of the 2011-12 National Inmate Survey indicate that an estimated 14% of persons incarcerated in state and federal prisons and 26% of persons incarcerated in jails had experienced serious psychological distress within 30 days of survey completion. This is three to five times the rate of the general U.S. adult population (Bronson & Berzofsky, 2017). A 2015 publication by the Substance Abuse and Mental Health Services Administration reported that between 60 and 87% of people in the criminal legal system who have a serious mental disorder also have a substance abuse disorder. Efforts to address this over-representation have included programs like diversion and specialty courts. The goals of these programs tend to include the avoidance of collateral consequences associated with criminal legal system involvement, engagement in mental health treatment and services, and incarceration and recidivism reduction (Lattimore, Broner, Sherman, Frisman, & Shafer, 2003).

Like general diversion programs, mental health diversion programs may take a variety of forms, including those that target potential program participants pre-booking or prior to arrest, and those that target potential participants post-booking (Lattimore et al., 2003). Sirotich (2009) grouped the post-booking programs into three types: jail-based programming usually administered by pretrial services; court-based programming with mental health clinicians who assess potential participants through the court process; and specialized mental health courts. Colorado uses a combination of these kinds of post-booking programs.

A review of the existing literature related to mental health diversion programs reveals a general lack of quality research design methods (e.g., experimental or quasi-experimental designs), and mixed and variable outcomes for the mental health diversion programs that have been evaluated (Bird, & Shemilt, 2019; Morgan et al., 2012; Sirotich, 2009). A systematic review conducted by Sirotich (2009) explored outcomes from 18 studies, including evaluations of pre-booking diversion, jail-based diversion, court-based diversion, mental health courts, and cross-model / pooled comparisons. Overall, the results indicated a significant reduction in the amount of jail time served by diverted individuals compared to those who were not diverted (10 studies measured this outcome; 8 studies indicated a significant reduction, and 2 additional studies found no difference). However, of the 7 studies that measured the percentage of persons re-arrested, only one study found a significant reduction in re-arrest prevalence, and one study found an increase among those in diversion programming. Similar results are indicated for the number, or incidence, of re-arrests: of the 11 studies that reported this outcome, only one indicated a significant reduction among diversion participants, and one study indicated a significant increase in the number of arrests.

Although not specific to diversion programming, a meta-analysis conducted by Morgan et al. (2012) reviewed mental health treatment effects on offenders with mental illness (OMI). Their systematic review yielded just 26 includable studies, and results for included outcome measures varied: while treatment effects generally indicated improvement in symptoms and

functioning, the impact on criminal recidivism, when measured, was limited. Just 4 studies measured this outcome, with 3 of the 4 studies demonstrating a small to moderate effect size (0.25 to 0.54) and one study demonstrating a negative effect (-0.55). Additionally, although existing research supports the use of the risk-need-responsivity (RNR) framework for criminal rehabilitation (Bonta & Andrews, 2017; Bonta, Law, & Hanson, 1998), and the included studies were all evaluating treatment effects on offenders, only one included study was appropriately adherent to all three principles (was sufficiently intensive, targeted criminogenic needs, and used cognitive-behavioral techniques). In fact, predictors of recidivism for OMI's are generally the same as for non-OMI's; in other words, with the exception of antisocial personality disorder, the presence of a mental illness in and of itself generally does not predict recidivism (Bonta, Law, & Hanson, 1998).

Although the adherence to RNR is empirically supported, existing research also points to the importance of addressing stability factors such as consistent housing (e.g., independent living, residential treatment, or halfway house) when working with this population (Case et al., 2009). Addressing mental health needs of people in the criminal legal system does have positive public health impacts and may decrease the compounding impact that mental illness can have with other criminogenic needs (Skeem, Steadman, & Manchak, 2015). Morgan et al. (2012) conclude that treatment programs working with this population need to balance both psychiatric and criminogenic targets in their treatment approaches (see also Case, Steadman, Dupuis, & Morris, 2009). In addition, Lamberti (2007) suggests using a balanced framework that incorporates competent service providers, access to needed services including mental health treatment, and legal leverage to support engagement in order to treat both mental health *and* criminogenic needs and consequently reduce recidivism.

## LOGIC MODEL

Since this evaluation design plan is intended to evaluate two programs with multiple implementation sites that have some commonalities, a single logic model was developed that incorporates both programs (see Figure 1). The purpose of the logic model is to provide a broad conceptual framework of the programs, focusing primarily on elements that should be common to most, if not all, implementation sites. The model is not designed to capture individual implementation site nuances as those should be captured in the evaluation itself. The logic model framework was used to identify relevant research questions to be addressed in the evaluation design.

This logic model was created based on the review of numerous documents, including but not limited to program annual reports, reporting forms, relevant statutes, funding applications, and feedback from program stakeholders. Specifically, administrative and program stakeholders were asked:

*What is missing from the model? What suggestions do you have for modifications? Is there anything that is included that you think shouldn't be, or that only applies to one program or the other (e.g., there are a few elements that are specifically attributed to the MHDP)?*

Figure 1, the revised logic model, incorporates suggested stakeholder modifications. The evaluator(s) and stakeholders should be open to further modifications based on information garnered from the process and outcome portions of the evaluation.

Figure 1. Logic Model: Adult & Mental Health Diversion Program

Assumptions	Resources / Inputs	Activities	Outputs	Short & Long-Term Outcomes	Impact
	<i>In order to accomplish our set of activities we will need the following:</i>	<i>In order to address our problem, we will conduct the following activities:</i>	<i>We expect that once completed or under way these activities will produce the following evidence of service delivery:</i>	<i>We expect that if completed or ongoing these activities will lead to the following changes:</i>	<i>We expect that if completed these activities will lead to the following changes in 3-5 years:</i>
<ul style="list-style-type: none"> <li>• Criminal convictions adversely impact people’s protective factors (e.g., employment, housing, education).</li> <li>• Low-level crimes can be diverted from the CJ system without negatively impacting public safety.</li> <li>• Diversion allows people to be held accountable while avoiding the negative collateral consequences that come from a criminal conviction.</li> </ul>	<ul style="list-style-type: none"> <li>• Legislative authorization &amp; budget allocation</li> <li>• Support and collaboration between DA, judges, public defenders, law enforcement &amp; local treatment providers (i.e., MH providers for MHDP)</li> <li>• SCAO coordinator</li> <li>• Funding</li> <li>• Treatment / intervention partners identified</li> <li>• Target population to be served</li> </ul>	<ul style="list-style-type: none"> <li>• Funding application distributed to districts.</li> <li>• Funding applications reviewed and funding decisions made by Funding Committee.</li> <li>• Diversion programs that are funded are established.</li> <li>• Diversion personnel are hired &amp; trained.</li> <li>• Diversion candidates are identified through screening and offered program.</li> <li>• Quarterly reporting forms and completed by programs.</li> </ul>	<ul style="list-style-type: none"> <li>• Diversion agreements offered and accepted</li> <li>• Diversion cases managed</li> <li>• Participants referred to interventions (including MH tx for MHDP participants)</li> <li>• Participants complete agreements</li> <li>• Successful Diversion completion</li> <li>• Case dismissed / not filed</li> </ul>	<ul style="list-style-type: none"> <li>• Treatment engagement (especially for MHDP participants)</li> <li>• Stability and criminogenic needs are addressed / reduced.</li> <li>• Reduced recidivism.</li> <li>• Restoration to victims.</li> <li>• Payment of restitution.</li> <li>• Reduced number of cases filed and / or prosecuted.</li> <li>• Reduced jail bed days (specifically including people w/MH needs for MHDP).</li> </ul>	<ul style="list-style-type: none"> <li>• Increased use of MH and other systems to address MH needs rather than CJ system (for MHDP especially).</li> <li>• Fewer negative collateral consequences for people in the CJ system.</li> <li>• Improved CJ system efficiencies and cost savings to the public, including prosecution and jail savings.</li> </ul>

## STAKEHOLDER FEEDBACK – EVALUATION DESIGN

Administrative and program level stakeholder feedback was solicited as part of the evaluation design process. Specifically, stakeholders were asked:

*What research questions would you like to see answered in the program evaluation (you may consider the attached logic model as you think about this)? Broadly, the evaluation will be designed to address both process and outcome questions. What evaluative questions do you have that are not currently addressed in the annual reports for these two programs? What qualitative program elements should be explored? What outcome measures should be addressed?*

Stakeholders were given ten days to respond with feedback. A total of four administrative stakeholders responded; two provided feedback and two indicated they did not have feedback to offer. The administrative stakeholder feedback is as follows:

*Diversion generally in Colorado is not able to explain the connection(s) between program eligibility criteria and explicit conditions of an agreement that tie into actual, defined participant outcomes. Understanding this flow would demonstrate the effectiveness of programs in meeting legislative intents and also identifying appropriate diversion candidates in a consistent, fair, and impartial way.*

*All three of my questions below are designed to really study the individuality of the [MHDPs] from different frames of reference.*

- I'd like to see the differences in the exclusionary criteria and how that impacts eligibility and ultimate cost-savings. I'm guessing that, locally, many jurisdictions have additional exclusionary criteria that greatly reduce the intended impact of the program.*
- I would like to hear how some sites have been able to adjust their process to ensure they were capturing people in MHDP who were released from jail before they were able to be screened (I'm not sure if this has actually happened anywhere; but a qualitative review of input that includes how the process could be changed to capture eligible participants could capture similar information).*
- Finally, I know several sites have deviated from the CCJJ intercept model, which was the initial concept for MHDP. I would like know what those deviations have been and what the impact has been (in other words, how has the deviation from that model either bolstered or detracted from the intended impact).*

Two additional program stakeholders responded. One provided documentation from the all-pilot meeting of the MHDPs in January – the goals, community resources, and Sequential Intercept Model maps for each district. The other program stakeholder provided the following feedback:

*The only feedback we would offer is that we found a significant need for case management of each diversion case - in order for it to be successful. Moving forward, we*

*would have established a case management position as a part of this program, as MHDP did not seem to run well, or be successful without that case management.*

*Secondly, the idea of a co-responder model looks to be more useful and allow for more participation in the program. We found in our jurisdiction that the targeted population the legislation suggested would benefit was not so. There were very few candidates in custody, remaining in jail. Most all posted bond. In order to engage participants who need mental health services, we were hoping to implement a co-responder model, in which referrals to the program could be made by an officer writing a summons, not making an arrest. Our hope is to implement this model if the program runs again in the future.*

Although stakeholder feedback was limited, stakeholders that did respond generally expressed an interest in understanding how the individual site activities are aligned with the goals of the program and how these activities lead (or not) to intended impact and outcomes.

## METHODS

This evaluation design will use a parallel mixed methods design, meaning that qualitative analysis and quantitative data collection and analysis will occur simultaneously; one method will not necessarily inform the other. These methods will provide formative (i.e., improvement) and summative (i.e., impact or outcome) feedback (Rovai, Baker, & Ponton, 2014).

Table 2: Evaluation Objectives

Process evaluation	Assess ADP & MHDP implementation quality – including funding applications, participant and program data, and site stakeholder interviews – in up to 10 ADP districts and 4 MHDP districts.
Outcome evaluation	Compare recidivism, incarceration, and restitution outcomes of diversion participants to outcomes of comparison group of non-diversion offenders with similar basic demographics (e.g., age, sex, race), offense charges, and comparable arrest and / or conviction histories (if available) based on frequency and / or offense severity.

A review of applicable statutes, program goals as described in funding applications, program annual reports, and existing research, summarized above, informed crafting of research questions. Priority questions concern seven general themes:

1. Collateral consequences / conviction reduction
2. Case reduction
3. Restoring victims
4. Restitution
5. Recidivism reduction
6. Accountability
7. Implementation

These themes reflect a majority of the priorities articulated by the implementation site funding applications and existing statute.

### *Process Evaluation*

The purpose of a process evaluation is to determine how a program delivers the results that it does (Rovai, Baker, & Ponton, 2014; Newcomer, Hatry, & Wholey, 2015). Generally, what is it doing and / or not doing to reach its stated goals, and is the program accomplishing those goals? In this evaluation design, we must evaluate two different diversion programs (Adult Diversion and Mental Health Diversion), each of which has multiple implementation sites. The process evaluation portion will incorporate both qualitative (e.g., document review and interviews of site representatives) and quantitative data. Quantitative data for this portion of the evaluation will be specific to the goals set by implementation sites, and analysis will utilize basic descriptive statistical methods.

First, the evaluator should review existing documentation for each implementation site, relevant to the research questions above, using the information to answer as many of the interview questions as possible to reduce the burden on the implementation sites. Second, the evaluator should conduct an in-depth interview with implementation site stakeholders through a single implementation site representative who gathers information and responds on the site's behalf, or with different individuals who, based on their roles, can respond to different portions of the interview. See Appendix A. In addition to gathering answers to the interview questions, the evaluator should verify the adequacy and accuracy of the answers compiled from the review of implementation site documentation. Finally, the evaluator should analyze site-specific quantitative data using descriptive statistical methods to further inform how well sites meet each of their identified goals, including those related to target population and successful diversions.

The written documentation, interview, and site-specific descriptive statistical analysis results can then inform the development of site-specific logic models. The site-specific model will connect program goals to activities to intended outcomes. This approach will concretely illustrate activities that do not connect to implementation site goals and desired outcomes and the absence of activities needed to support goals and desired outcomes. Combined with any site-specific outcome analysis described below, this process should identify and articulate strengths and areas of improvement for individual implementation sites and the diversion programs overall.

Table 3: Process Evaluation Research Questions

**Questions – data sources include document review and implementation site interviews**

1. Collateral Consequences / Conviction Reduction: How are sites working to meet the goal of reducing conviction (thereby reducing the collateral consequences of conviction)? To what extent are they meeting this goal?
2. Case Reduction: How are sites working to meet the goal of improving criminal justice system efficiencies (including reducing cases in the criminal justice system)? To what extent are they meeting this goal?
3. Restoring Victims: How do programs work to restore victims of crime?
4. Restitution: How do programs facilitate the collection of restitution?
5. Recidivism Reduction: How do programs work to decrease recidivism?
6. Accountability: How do programs ensure that participants are accountable to the program requirements? What supervision, case management, or monitoring methods do they use?
7. *MHDP only*, Implementation: To what extent does each program adhere to or deviate from the CCJJ diversion model? For programs that depart from the model, what is the goal or desired outcome for each departure? How does the program measure the impact of those changes from the model? To what extent do the changes help programs attain their goals?

*Outcome Evaluation*

Review of existing program documentation (e.g., annual reports, statute, reporting requirements, and funding applications) informed the selection of the outcome measures to be evaluated. Stakeholder feedback, existing literature evaluating diversion efforts, and data availability and accessibility factored into the crafting of the research questions for this portion of the study. Given these parameters, the primary outcomes to be analyzed in this study include convictions, recidivism, jail days, and payment of restitution.

Table 4 summarizes the outcome related research questions and their corresponding hypotheses and proposed analysis methods. The evaluator must create a non-diversion comparison group to test the differences between and possible outcome correlations for the ADP, MHDP, and non-diversion groups. Options for creating the comparison group, each with its own limitations, include:

1. Using a pre-post implementation model and creating district-specific pre-implementation groups for each of the implementation districts. Limitations include district attorney (DA) changes and statutory or policy changes post-implementation.
2. Creating a comparable non-diversion group from a similarly situated (e.g., geography, population, DA political affiliation, etc.) and similarly resourced (e.g., treatment availability) non-diversion district. Although statutory changes would apply uniformly to a diversion district and a non-diversion district, differences between DA's, courts, treatment providers, etc. may impact outcomes for either or both groups. This approach would require the creation of a number of non-diversion comparison groups, to be matched to individual diversion districts based on the aforementioned

considerations. Resources, including the time it takes to create the comparison groups from existing data, may limit the feasibility of this approach.

3. Create an aggregate non-diversion group from all non-diversion districts. This approach may reduce the confounding impact of district-specific practices and resources limitations. However, the diversion and non-diversion groups may have significant practical differences between them or may be more or less weighted toward other confounding variables (e.g., differences in urban, suburban, rural representation). Further, it stands to reason that if the comparison group is aggregated across all non-diversion districts, then the ADP and MHDP groups should also be aggregated. Doing so may suppress district-specific impacts (positive or negative), especially given the level of local control that the implementation sites have in designing their programs.

The evaluator and SCAO staff should select the best approach, considering available resources and other known limitations.

Once the non-diversion comparison group or groups are created, initial analysis will test whether there are any differences between the ADP, MHDP, and / or non-diversion groups (specifically comparing the means between these groups). The limitations for this design include the absence of efforts to ensure that comparison groups are equivalent. However, these means comparison tests (see Table 4 for details) can make a preliminary determination as to whether any differences exist between groups (Rovai, Baker, & Ponton, 2014). If there are no statistically significant differences between the groups, we will be unable to reject the null hypothesis (indicated by  $H_0$  for each research question in Table 4 below), and there will be no need to move on to a correlation design (e.g., regression analysis). If no differences exist between the means, any regression analysis that would show a statistical difference would be an error.

Table 4: Outcome Evaluation Research Questions

Questions & Hypotheses	Analysis Methods
<p>1. Did districts that implemented diversion programs experience reduced conviction rates for the targeted case types following program implementation?</p> <p><i>Hypothesis A – conviction reduction</i>            H<sub>0</sub>: No difference in rate of conviction exists when comparing a district’s conviction rate 12 months pre-implementation to the 12 months post-implementation.            H<sub>1</sub>: Districts experienced a lower conviction rate in the 12 months post-diversion implementation than in the 12 months pre-implementation.</p>	<p>Simple descriptive statistical analysis will be used, comparing the district’s rates of conviction and case dismissal for the targeted case types during the 12 months before and the 6, 12, and 24 months after the diversion program implementation; descriptive statistics include calculating measures of central tendency such as the mean as well as calculating the raw number of convicted and dismissed cases</p>
<p>2. Was recidivism<sup>1</sup> reduced? Two hypotheses (B &amp; C) will be tested relative to this question.</p> <p><i>Hypothesis B – incidence of (any) re-arrest</i>            H<sub>0</sub>: No difference in incidence of re-arrest exists between the ADP, MHDP, and non-diversion groups.            H<sub>1</sub>: The ADP group has lower incidence of re-arrest compared to the non-diversion group.</p>	<p>Statistical analysis for a means comparison (e.g., independent samples <i>t</i>-test, ANOVA, or their non-parametric equivalent – Mann-Whitney <i>U</i>, or Kruskal-Wallis <i>H</i> test, respectively)<sup>2</sup></p> <p><i>Hypothesis B: Dependent Variable (DV) = re-arrest incidence (any)</i></p>

<sup>1</sup> Recidivism will be defined as any new misdemeanor or felony filings (including unclassified traffic misdemeanors under Title 42, and drug misdemeanors and felonies) during the diversion or supervision period, or within one year following completion of diversion or other sentence (for non-diversion group).

<sup>2</sup> Tests for means comparison are tests in which the analysis determines whether there are statistically significant differences (differences that do not occur by chance) between the means of different groups. A *t*-test will compare two groups; ANOVA (analysis of variance) will compare three or more groups. Parametric tests such as *t*-test and ANOVA require a normal distribution of the subjects within the groups (e.g., a bell curve) unless samples are sufficiently large (it is generally recommended that each group have at least 30 participants for this type of analysis). If the population is not normally distributed, or the groups are too small, nonparametric tests can be run. However, these tests are less robust than their parametric counterparts (Nishishiba, Jones, & Kraner, 2014; Rovai, Baker, & Ponton, 2014).

- H<sub>2</sub>: The MHDP group has lower incidence of re-arrest compared to the non-diversion group.
- H<sub>3</sub>: the diversion group (ADP & MHDP combined) has lower incidence of re-arrest compared to the non-diversion group.

*Hypothesis C – frequency (number) of re-arrest*

- H<sub>0</sub>: No difference in frequency of re-arrest exists between the ADP, MHDP, and non-diversion groups.
- H<sub>1</sub>: The ADP group has lower frequency of re-arrest compared to the non-diversion group.
- H<sub>2</sub>: The MHDP group has lower frequency of re-arrest compared to the non-diversion group.
- H<sub>3</sub>: the diversion group (ADP & MHDP combined) has lower frequency of re-arrest compared to the non-diversion group.

*Hypothesis C: DV = re-arrest frequency (number)*

*Hypotheses B & C: Independent Variable (IV) = group (ADP, MHDP, and / or non-diversion)*

- 3. Were fewer jail days recorded by the diversion groups during the 12 months following arrest for the instant offense when compared to a non-diversion group? Jail days may include time in jail for instant offense, time in jail as a sanction for non-compliance, and time in jail for re-arrest for new offense.

Statistical analysis for a means comparison as described for Hypotheses B & C above.

*Hypothesis D – number of days incarcerated*

- H<sub>0</sub>: No difference in number of days incarcerated exists between the ADP, MHDP, and non-diversion group.
- H<sub>1</sub>: The ADP group has fewer days of incarceration compared to the non-diversion group.

DV = total days in jail  
 IV = group (ADP, MHDP, and / or non-diversion)

H<sub>2</sub>: The MHDP group has fewer days of incarceration compared to the non-diversion group.

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4. Do diversion participants pay restitution at the same rate (amount and completion) as non-diversion individuals?

Statistical analysis for a means comparison as described for Hypotheses B & C above.

*Hypothesis E – amount of restitution paid*

H<sub>0</sub>: No difference in amount of paid restitution exists between the ADP, MHDP, and non-diversion group.

H<sub>1</sub>: The ADP group paid higher amounts of restitution compared to the non-diversion group.

H<sub>2</sub>: The MHDP group paid higher amounts of restitution compared to the non-diversion group.

*Hypothesis E: DV = total amount of restitution paid*

*Hypothesis F – restitution completion measured by percent of restitution paid.*

H<sub>0</sub>: No difference in percent completion of paid restitution exists between the ADP, MHDP, and non-diversion group.

H<sub>1</sub>: The ADP group completed a higher percentage of restitution payment compared to the non-diversion group.

H<sub>2</sub>: The MHDP group completed a higher percentage of restitution payment compared to the non-diversion group.

*Hypothesis F: DV = percent of ordered restitution paid*

IV = group (ADP, MHDP, non-diversion)

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### *Data Elements*

The following data elements are necessary to complete the outcome evaluation portion of this study.

- Person level data that can be matched on a key identifier (e.g., ML number)
- Demographics – minimum of age, sex, and race, but also some indication of crime history if available
- Case filings including offense and filing dates
- Convictions including dates
- Arrest and release dates
- Program termination or sentence completion for non-diversion cases – successful / unsuccessful and outcome if unsuccessful
- Restitution ordered
- Restitution paid

### *Regression Analysis*

If any of the means tests described above demonstrate a significant difference between groups, and if evaluation resources allow it, the next step will be to conduct a regression analysis, regressing each of the ADP and MHDP on the dependent variables (DV) for which there was a significant difference (i.e., arrest incidence and frequency, days in jail, restitution amounts and completion). Regressions test whether there is any correlation between the group and the DV. For example, if a person participates in a diversion program, does that correlate to an increase or decrease in the likelihood that they will recidivate?

The exact type of regression analysis will depend on the types of variables being analyzed, for example, dichotomous (arrest vs. no arrest), or continuous (e.g., days in jail). Logistic regression will test for correlations between IVs and categorical DVs and linear regression will test for correlations between independent variables (IV) and continuous DVs. The number of IVs that are used in the model will also determine exactly which type of regression analysis is appropriate. Finally, if a regression is run on just two variables (as in bivariate regression), the program group (IV) on outcome (DV), one can introduce controls such as criminal history, age, sex, and race if those variables are available. This will add strength to the model. Note that for the regression analysis, a minimum of 60 participants per group is recommended (Rovai, Baker, & Ponton, 2014).

## **CONCLUSION**

Should the designed study be conducted, the SCAO can anticipate the following products as a result:

1. Site specific logic models; summary of site strengths and suggestions for areas of improvement,
2. Preliminary information related to intended program outcomes,
3. Recommendations for further data collection, study, and / or best practices (including program components, processes, and target populations).

While a number of known evaluation limitations exist in the study design, this study should serve as a first step toward improved practices and further evaluation. With this in mind, even outcome evaluation results that demonstrate no significant differences or correlations can still be valuable. Specifically, these results may still be able to inform future data collection efforts (i.e., what to collect and what not to collect) and study methodologies. Finally, a certain amount of evaluation flexibility is suggested, in order to balance any resource constraints (e.g., funding, stakeholder time, etc.) with program priorities.

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## APPENDIX A - INTERVIEW PROTOCOL

*The following is a sample letter that can be used to reach out to the ADP and MHDP sites to request participation in the interview process.*

To Whom It May Concern:

The State Court Administrator's Office (SCAO) will be conducting an evaluation study of both the Adult Diversion Program (ADP) and the Mental Health Diversion Program (MHDP). This evaluation will encompass both process and outcome measures. The process evaluation portion of the study will assess how implementation sites have designed and implemented diversion programs that align with the corresponding statutorily defined goals and requirements for ADP and MHDP. To that end, the SCAO is requesting your program's participation in an interview designed to collect information that can answer the following questions, related to these statutorily defined goals:

- Collateral Consequences: How are sites working to meet the goal of reducing conviction (thereby reducing the collateral consequences that result)? To what extent are they meeting this goal? This question gets at target population and screening / acceptance protocols.
- Case Reduction: How are sites working to meet the goal of improving criminal justice system efficiencies (including reducing cases in the criminal justice system)? To what extent are they meeting this goal? This also incorporates target population and acceptance protocols as well as case management strategies.
- Restoring Victims: How do programs work to restore victims of crime?
- Restitution: How do programs facilitate the collection of restitution?
- Reduce Recidivism: How did programs work to decrease recidivism?
- Accountability: How do programs ensure that participants are accountable to the program requirements?
- MHDP only: To what extent does each program adhere to or deviate from the CCJJ diversion model? For programs that made modifications, what was the goal or desired outcome for each modification? To what extent did the modifications help programs attain their goals?

In preparation for the interview, we will review your site's program materials to answer as many questions as possible on the attached Interview Questionnaire with the intention of expediting the interview and minimizing demands on program representatives. We attach the questionnaire to assist you in selecting the program representative(s) most suitable for the interview, which will be conducted orally. The program representative(s) need not complete the attached questionnaire in writing or prior to the interview. **Please provide the name and contact information for the person(s) from your diversion program(s) best equipped to answer questions about:**

- Program environment, such as jurisdiction population, size of prosecutor's office, and case volume;
- Program goals;

- Target population;
- Eligibility determination, including how the process works and who is involved;
- Use of risk need assessment in your program, including what your assessment process measures and how the results are used;
- Program mandates including length of time intervention requirements;
- Legal consequences (both positive and negative) for successful completion or failure and how participants are informed of these consequences;
- Supervision requirements;
- Program oversight, including qualifications and training of any administrative staff;
- Partnerships with community and stakeholder agencies;
- Overall program strengths and weaknesses; and
- Program data management.

This interview can be scheduled during a time that works for you and should take no less than [insert time frame] to complete. Your participation is voluntary. If you are willing to participate, please contact [name of evaluator] at [phone number] or [email] to schedule an interview.

Thank you,  
[name of SCAO contact]

PRETRIAL DIVERSION SITE INTERVIEW QUESTIONNAIRE<sup>3</sup>

Name of Program: \_\_\_\_\_

Check One:

- Mental Health Diversion Program (MHDP)
- Adult Diversion Program (ADP)
- Both MHDP & ADP

District: \_\_\_\_\_ Year Started: \_\_\_\_\_

Your Name: \_\_\_\_\_

Your Position: \_\_\_\_\_

Your Agency: \_\_\_\_\_

E-mail: \_\_\_\_\_

Today's Date: \_\_\_\_\_

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*Please answer the questions in this interview candidly and to the best of your knowledge. Your responses will be invaluable in producing a basic understanding of your program's policies and procedures.*

**NOTE:** *Highlighted questions may be answered via document review in advance of the interview. Confirm the accuracy and adequacy of any responses that are provided prior to or during the interview(s).*

**I. PROGRAM ENVIRONMENT**

1. Can you offer a general description of the jurisdiction you represent, including the degree to which it is urban, suburban, or rural; population size if you know; major racial/ethnic groups; and general socioeconomic attributes of the population?
2. Describe the structure of the prosecutor's office: About how many attorneys work in the office? What other kinds of staff work in the office, and about how many of them are there?
3. About how many felony and misdemeanor cases does your office prosecute every year?  
\_\_\_\_\_ (# felony cases/year)

<sup>3</sup> Protocol developed by Center for Court Innovation, 2018. Adapted and used with permission.

\_\_\_\_\_ (# misdemeanor cases/year)

4. Do you have an annual statistical report or any document you could share indicating the breakdown of cases your office prosecutes by charge and/or disposition outcome? If yes, can we have a copy?
- Yes (Attached/Provided)
  - No

## II. PROGRAM GOALS

5. What are the main goals of the pretrial diversion program? What do you hope it accomplishes?
6. Here is a list of goals that might or might not be important to you. Please candidly rank the importance of each one. (Probe: Rehabilitate defendants by treating their underlying problems; reduce recidivism; use resources more efficiently; reduce collateral consequences of conviction; have the defendants gain insight into the harm their behavior caused; involve victims in prosecutorial decisions; involve community in prosecutorial decisions.)
7. If you prioritize several goals, are some more realistic or achievable than others? Which ones?

## III. TARGET POPULATION

8. Does pretrial diversion participation take place pre-filing or post-filing? (For participation to take place pre-filing, a court case must not yet exist.)
- Pre-filing
  - Post-filing
  - Mixed (either one)
9. Why do you use a [pre-filing, post-filing, mixed] model?
10. If you use a mixed model (some cases pre-filing and some post-filing), what determines whether a defendant participates pre-filing or post-filing?
11. Which charge severity is eligible? Check all that apply.
- Felony
  - Misdemeanor
  - Other/Specify: \_\_\_\_\_
12. Why did you choose to focus on [misdemeanor/felony/both/other] charge severity?
13. Is there any restriction on diversion eligibility related to criminal history (e.g., first-time only)? Please clarify any such restriction, indicating whether it is based on prior arrests or convictions. Also, please indicate the rationale for any such restriction.

14. Is the program only available to defendants facing specific types of charges (e.g., drug, marijuana, property, prostitution, or some other type)? If so, please specify which charges and indicate why the program has that particular focus.
15. Besides what has already been implied and offenses that are excluded by statute, are any other charges expressly excluded? Please specify which charges are excluded and why.
16. Regardless of your formal criteria, please list the most common charges seen in practice.
17. Does your program have any clinical or other non-legal eligibility criteria (e.g., drug problem, homeless, mental illness etc.)? If so, please explain exactly what problem threshold must be met (e.g., if a drug problem is necessary, how severe a problem will make someone eligible).
18. Conversely, based on their problems or social situation, are there any types of defendants who are excluded (e.g., those with a certain type or severity of mental illness)? If so, please specify.

#### IV. ELIGIBILITY DETERMINATION

19. Who reviews cases for eligibility, and how do the cases reach that individual?
20. Who is involved in the decision of whether a defendant can participate in the pretrial diversion program? *Please check all that apply.*
  - Judge
  - Police/law enforcement
  - Probation
  - Public defender
  - Prosecutor
  - Other: \_\_\_\_\_
21. For each entity indicated in the previous question, please explain their involvement and how the final decision is made?
22. What points of entry are available (e.g., direct referral from jail, after a finding of competency or following restoration, at first appearance or advisement of rights)?
23. About how often do eligible defendants refuse to participate? *Probe for availability of data on percentage of eligible defendants who refuse to participate.*
  - Never or rarely
  - Sometimes (from roughly a few to one-quarter of eligible cases)
  - Often (from roughly one-quarter to one-half of eligible cases)
  - Very often (roughly half or more of eligible cases)

24. What do you think is the most common reason why defendants refuse to participate?

- Program participation is too long and intensive
- Better legal outcome is likely by not participating
- Unmotivated to enter treatment or participation in diversion services
- Other: \_\_\_\_\_

Please elaborate on why defendants might refuse to participate (as needed):

#### V. RISK NEED ASSESSMENT

25. Do you perform a risk need assessment of any kind (e.g., SPIn or LSI-R) with program participants (regardless of its length or content)?

- Yes
- No

*If "Yes" to previous question, please answer the lettered questions that follow:*

- a. What instrument or instruments are used?
- b. Who is assessed?
  - All defendants whose cases reach the prosecutor's office
  - Defendants who meet the diversion program's legal eligibility criteria
  - Defendants who actually become diversion program participants
  - Other: \_\_\_\_\_
- c. Please elaborate on who is assessed and when the assessment takes place (as needed)?
- d. About how long does the assessment take to administer (# minutes)?
- e. What issues does the assessment cover? *If you are unsure, do not check at this time.*
  - Risk of re-offense
  - Flight risk (risk of not showing-up at court dates or program sessions)
  - Demographic information
  - Drug use and addiction
  - Criminal history
  - Anti-social personality
  - Anti-social peer relationships
  - Criminal thinking (pro-criminal beliefs or attitudes; negative views towards the law)
  - Current employment status and employment history
  - Current educational/vocational enrollment and educational/vocational history
  - Family relationships
  - Anti-social tendencies among family members (criminal or drug-using behavior)
  - Leisure activities
  - Neighborhood conditions
  - Past experiences of trauma and/or symptoms of post-traumatic stress

- Depression and/or bipolar disorder
- Other mental health issues
- Readiness to Change
- Other: Please specify: \_\_\_\_\_

f. Does your assessment produce a summary score for the following? *Check all that apply.*

- Risk of re-offense
- Level of substance (drug or alcohol) addiction
- Criminal thinking or negative attitudes towards the law
- Trauma or post-traumatic stress symptoms
- Other mental health disorders (Which ones? \_\_\_\_\_)
- Employment problems and needs

g. To the extent that you assess for risk of re-offense or generate a summary risk score or classification, which risk level do you seek to enroll in your diversion program?

- N/A (risk assessment not performed)
- Low risk
- Medium risk
- High risk

h. Please elaborate on how do you use the assessment and/or its summary scores? Specifically, indicate the extent to which it is used to determine eligibility, service planning, case management, intensity of monitoring, or anything else.

i. Can you attach or provide a copy of all screening or assessment tools you use?

- Yes (Attached/Provided)
- No

26. Let's pause for a moment. We've discussed who's eligible and how they're screened and assessed. What do you see as the strengths and weaknesses of your current approach? What do you wish could change? What are the barriers to making those changes?

## VI. PROGRAM MANDATES

27. Is program length standardized for all participants?

- Yes, what is the length? \_\_\_\_\_
- No, what is the average length? \_\_\_\_\_

28. Are any program requirements standardized for all participants (e.g., community service)?

- Yes, which one(s)? \_\_\_\_\_
- No

29. For program requirements that vary by case, please review how you determine the level and type of services for each defendant.

30. Are there any services or program innovations you would like to implement but can't because of gaps in available community resources or other reasons?

31. Does the diversion program ever involve any of the following? *(Please check all that apply.)*

- Motivational Enhancement Therapy / Motivational Interviewing
- Drug treatment
- Mental health treatment
- Restorative justice program: what services and who is involved? \_\_\_\_\_

\_\_\_\_\_

Treatment for young adults: What services and ages? \_\_\_\_\_

Treatment for women: What services? \_\_\_\_\_

- Treatment for criminal thinking patterns: If yes, which model?
- Thinking for a Change (T4C)
  - Moral Reconciliation Therapy (MRT)
  - Reasoning and Rehabilitation (R&R)
  - Other: Name: \_\_\_\_\_

- Treatment for trauma: If yes, which model?
- Trauma-Focused Cognitive Behavioral Therapy (TF-CBT)
  - Seeking Safety
  - Other: Name: \_\_\_\_\_

- Housing assistance
- Vocational, employment, or educational services: Which? \_\_\_\_\_

Other/Specify: \_\_\_\_\_

None of the above

32. Regardless of services or programs participants receive, does the program involve a cognitive-behavioral approach (i.e., efforts to identify and restructure thoughts and decision-making patterns that contribute to the defendant's problems)? If you're not sure, that okay.

- Yes
- No
- Unsure

If yes, please elaborate on how these approaches are used: \_\_\_\_\_

\_\_\_\_\_

33. Regardless of whatever services or programs participants receive, does the program involve an educational approach (imparting information)?

- Yes
- No
- Unsure

If yes, please elaborate on how these approaches are incorporated: \_\_\_\_\_

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34. In the event that services are delivered outside the prosecutor's office, is information about participant attendance and compliance communicated back to the prosecutor's office?

- Yes
- No
- Unsure

35. If yes, how is that information communicated back and who is it communicated to?

36. Does the prosecutor communicate such information to any other agency (e.g., court, probation, etc.)?

## VII. LEGAL LEVERAGE

37. At the time that defendants become pretrial diversion participants:

a. Do they sign a contract?

- Yes
- No

b. Do they receive a handbook or other written information about the program?

- Yes
- No

c. Do they receive written information about what will happen to their criminal case if they either (a) complete program requirements or (b) are noncompliant?

- Yes
- No

d. Can you provide a copy of all written documents given to participants when they enroll?

- Yes (Attached/Provided)
- No

e. Please elaborate on exactly what participants are told about their responsibilities; consequences of compliance and noncompliance; and where, when, and to whom to

report when they first enroll in the program; and about who provides this information to the participants (e.g., assistant district attorney, other prosecutorial staff, or others) and where the information is provided (e.g., in court, program office, complaint room, etc.)?

- f. Are participants told at enrollment exactly what legal outcome will result if they complete all requirements? *Please answer “no” if participant is merely told what may happen or is told of one or more possible outcomes. Please answer “no” if there is any doubt.*

Yes

No

- g. Are participants told at enrollment exactly what legal outcome will result if they fail out?

Yes

No

38. For program participants who complete all requirements, what happens to the case?

*Please check all that apply in at least some cases.*

Case never filed with the court

Case dismissed by the court

Case reaches the court and is closed but without dismissal of the charges

Please elaborate on what happens to the court case and, if it varies from case-to-case, why it might vary in this way?

39. Is the case sealed, expunged, or otherwise eliminated from the record of the participant?

Yes

No

Please elaborate on case sealing status / process and any potential collateral consequences of the arrest that may still pertain:

40. For program participants who fail to complete the program, what happens to the case?

*Please check all that apply in at least some cases.*

Case filed with the court

Case hearings/adjudication process continues

Case immediately convicted and sentenced

Please elaborate on what happens to the court case and, if it varies from case-to-case, why it might vary in this way?

41. What do you think is the primary reason for why participants sometimes fail? What data exists to document reasons for failure?

42. As a practical matter, what kind of disposition and sentence is typically imposed on cases where the participant failed to complete the diversion program?

### VIII. SUPERVISION

43. Must participants appear in court regularly during their program participation?

- Yes
- No
- Sometimes (depends on the case)

If yes, please elaborate on how frequently, for what purpose, and how court supervision works?

44. Are participants drug-tested during their program participation?

- Yes
- No
- Sometimes (depends on the case)

If yes, please elaborate on how frequently, where, and why?

45. Must participants meet with a case manager during program participation?

- Yes
- No
- Sometimes (depends on the case)

If yes, please elaborate on how frequently, for what purpose, and how case management works?

46. Must participants pay any restitution owed before completion?

- Yes
- No
- Sometimes (depends on the case)

If yes, please elaborate on how this works?

47. For participants who are noncompliant with program rules, are they ever given a "second chance" to be compliant?

- Yes
- No

If yes, please elaborate on what kind of behavior is considered noncompliant, how many chances participants might receive, whether or how interim sanctions are used in response to noncompliance, and what participants are handed or told about sanctioning policies?

### IX. PROGRAM OVERSIGHT

48. Please describe the program's staff and organizational structure. (Probe for roles, part-time, full-time).

49. If there is a diversion coordinator, what professional educational credentials does the coordinator possess (e.g., JD, MSW, etc.)? Are these credentials required for the position?
50. Please indicate whether the coordinator has attended trainings covering each of the following topics by checking the appropriate boxes. (Many of these topics may be irrelevant to the specific diversion program model at your site, but please check-off anyway.)
- Pharmacology of addiction
  - Mental health disorders
  - Risk-needs-responsivity principles
  - Trauma assessment and/or trauma-informed therapy
  - Treatment for any special populations (e.g., young adults or women with children)
  - Restorative justice
51. Please indicate whether or how the coordinator or other program staff use outside research or evidence and/or data collected at the program to shape or revise its design.
52. Please indicate how program/service delivery staff are hired and by whom.
53. What do you believe are the most important training needs (if any) for diversion program staff?

#### **X. PARTNERSHIPS**

54. Please discuss what, if any, role is played by each of the following stakeholders in the development of diversion program policies, everyday operations, enrollment decisions, and program completion/failure/legal outcome decisions: (a) defense bar, (b) court players, (c) law enforcement, (d) probation, (e) community-based partners, or (f) other stakeholders (name?). *Please verify that each of the aforementioned stakeholders were covered and, for each, that each of the aforementioned types of involvement were covered.*
55. If community-based service providers are involved, please note how many providers you use and circumstances under which you use each one (if not covered above).
56. What other diversion efforts exist in your jurisdiction (e.g., pre-trial services, LEAD or co-responder program, problem solving courts)?
57. In order to maximize resources and avoid service duplication, how does coordination with other programs take place (e.g., JBBS and MHDP programs)?

#### **XI. OVERALL PROGRAM STRENGTHS AND WEAKNESSES**

58. What would you say are the greatest strengths and weaknesses of the program?

59. What have been some of the most important barriers you've faced at different times in the program's planning and operational history?
60. How does your community view the program (if you know)?
61. What would you like to change about the program?
62. Specifically, how do you feel about the volume of cases enrolled in the program? Too few, too many, or just right? Would you want any changes related to volume? How implement them?

## XII. PROGRAM DATA AND RESULTS

63. On average, about how many days or weeks pass between an arrest and program entry?  
 \_\_\_\_\_ (#) Days / Weeks (*circle time unit that applies*)
64. On average, about how many days or weeks pass between program entry and actually having a first appointment or session that involves delivering of program services or content?  
 \_\_\_\_\_ (#) Days / Weeks (*circle time unit that applies*)
65. In practice, about how long does the average program completer spend as a participant in the program (considering extra accumulated time due to missed appointments or other reasons)?  
 \_\_\_\_\_ (#) Days / Weeks / Months (*circle time unit that applies*)
66. Does the program have an official policies and procedural manual?  
 No  
 Yes
67. If yes to the previous question, can you please provide a copy of the manual?  
 Yes/Attached  
 No
68. Do you routinely seek feedback from program participants? (*Please check all that apply.*)  
 No  
 Yes, through surveys that participants fill-out  
 Yes, through focus groups or discussions in which participants are invited to offer feedback  
 Yes, through other means: \_\_\_\_\_
69. Please elaborate on how feedback is obtained from participants and how it has been used?

70. Does the program maintain a database tracking participant characteristics and performance?

- No
- Yes, simple spreadsheet (Excel, Lotus, etc.)
- Yes, Access database
- Yes, Relational database
- Yes, other: \_\_\_\_\_

71. Please elaborate on data collection and tracking tools and policies: what is tracked, how, by whom, and how is the information used?

72. How satisfied are you with data collection and performance monitoring protocols?

73. We would like to ask about some specific types of information: For each, please indicate whether data is kept in an electronic database (e.g., Excel, Access, etc.).

- Assessment information
- Services to which participants were assigned
- Program completion or non-completion/failure status
- Program start date and end date
- Attendance for each assigned day of treatment/services
- Final legal outcome and sentence (if applicable) of the participant's criminal case

Please elaborate on how you store the information checked just above: \_\_\_\_\_  
\_\_\_\_\_

74. Do you create regular (e.g., annual) performance reports of any kind? If yes, may we have a copy of your most recent report?

- Yes
- No

75. Would you be willing to share case-level data on program participants in an impact study?

- Yes
- No

Additional Comments:

## ADULT DIVERSION FUNDING APPLICATION – FY '20

**COMPLETE AND RETURN APPLICATION BY FEBRUARY 22, 2019 to:**  
[KYLE.GUSTAFSON@JUDICIAL.STATE.CO.US](mailto:KYLE.GUSTAFSON@JUDICIAL.STATE.CO.US)

<b>SCAO use only:</b>	<b>Prior FY Award</b>	Awarded:	\$	Spent:	\$
	<b>Current FY Award</b>	Awarded:	\$	Spent:	\$
Score:		Grant		Deny	Amount:
Comments:					

**SECTION 1. APPLICANT INFORMATION**

**Judicial District Information:** *Include the judicial district number, elected District Attorney name, and the counties served by the district.*

**Primary Contact Name:**

<b>Email:</b>	<b>Office Phone:</b>	<b>Alt. Phone:</b>	
<b>Mailing Address:</b>	<b>City:</b>	<b>CO</b>	<b>Zip:</b>
<b>Amount Requested: How much funding are you requesting for FY 2020?</b>			<b>\$</b>

**SECTION 2. ADULT DIVERSION PROGRAM INFORMATION**

**Program Status:** *Is this a new or existing program?*    *New*    *Existing*    *Year Started*

**Target Population:** *Describe the program's target population of defendants and identify how many defendants you anticipate will be served this year. If able, please explain how that population was chosen and the calculation of anticipated program volume or target caseload was reached.*

**Partner Organizations:** *If applicable, identify any partnering organizations. Include name, point of contact, phone, email, and mailing address. Partner organizations are defined as organizations expected to provide services, supervision, or support in executing the adult diversion agreement with defendants.*

**Partner Organization's Roles and Responsibilities:** *Please describe any collaborative efforts, partnerships, or contract support that will be part of this program. Include what service(s) partners will provide and their respective qualifications for providing that service for the diversion program.*

**\*\* If this is a first-time request for funding or if you have had a change in partnership, please include with the application a letter of commitment from each partner organization clearly stating their understanding of their role in the District Attorney's adult diversion program. \*\***

**SECTION 3. ADULT DIVERSION PROGRAM NARRATIVE**

**PART A – NEED FOR ADULT DIVERSION**

*Help the Committee understand the need for adult diversion funding in your district.*

**PART B – DESCRIPTION OF ADULT DIVERSION PROGRAM**

**B (1). Description of Adult Diversion Program:** *Describe the adult diversion program you have implemented or are looking to create.*

**\*\* Programs must provide a copy of the adopted policies, procedures, and/or guidelines delineating eligibility criteria for case acceptance in their final year-end reporting in July/August.**

**B (2). Accountability and Victim Restoration:** *How will your program prevent the commission of additional criminal acts, facilitate the ability to pay restitution, and/or restore victims of crime?*

**B (3). Program Planning:** *What is your implementation plan? What training or resources will be needed for staff?*

**B (4). Program Outcomes:** *How will you know if your adult diversion program is successful? Please describe what outcomes you will measure in determining the effectiveness of your program.*

**PART C – ELIGIBILITY CRITERIA AND SUPERVISION PLAN**

**C (1). Eligibility Criteria:** *What are the eligibility criteria for defendants to participate in adult diversion?*

**C (2). Screening Process:** *How are defendants selected for adult diversion?*

**C (3). Supervision Plan:** *Describe the nature of supervision of defendants. How will you determine their successful completion of the program?*

**PART D – TREATMENT PLAN INFORMATION**

**D (1). Description of Treatment Referral Plan:** *What process will be employed to determine if a treatment assessment referral is necessary?*

**D (2). Description of Treatment Outcomes:** *How will the program track a client's successful participation in treatment and evaluate the effectiveness of treatment options in the community?*

**D (3). Description of Treatment Assessment Process:** *Who will provide assessment? If the treatment provider and assessment agency are the same, what oversight will be in place to ensure people are not over assessed into treatment?*

**D (4). Treatment Need:** *What is the anticipated number of people who may need treatment, if possible to estimate?*

**PART E – GOALS, OBJECTIVES, OUTCOMES AND TIMEFRAMES**

*Please briefly note the program's overarching goals. Complete the form below in full and add goal/objective/outcome/timeframe sections as needed. Each objective should be relative to the corresponding program goal and include measurable outcomes and timeframes for how the program will address this goal during the active funding year cycle.*

Program Goal:

Objective:	Objective:	Objective:
------------	------------	------------

Outcomes:	Outcomes:	Outcomes:
-----------	-----------	-----------

Timeframe:	Timeframe:	Timeframe:
------------	------------	------------

Program Goal:

Objective:	Objective:	Objective:
------------	------------	------------

Outcomes:	Outcomes:	Outcomes:
-----------	-----------	-----------

Timeframe:	Timeframe:	Timeframe:
------------	------------	------------

Program Goal:

Objective:	Objective:	Objective:
------------	------------	------------

Outcomes:	Outcomes:	Outcomes:
-----------	-----------	-----------

Timeframe:	Timeframe:	Timeframe:
------------	------------	------------

**Program Evaluation:** *How will data required by the statute be collected and reported? Who will be responsible for this?*

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**SECTION 4. ADULT DIVERSION BUDGET**

**Budget Narrative:** *Explain program needs relative to anticipated expenses. What fees, if any, will be charged to the defendant? What is the anticipated cost per defendant and relative formula for this estimate?*

**Instructions for Table:** *Please estimate the total dollar amount of expenses that will be funded from this grant and the total dollar amount that will be supported by other sources. Example: if you anticipate an in-kind or match support from your current budget to cover partial personnel costs in the amount of \$20,000 but you anticipate the total personnel need to be \$50,000, the funded by grant column should indicate \$30,000. Please divide your projected expenses as outlined by category in the table below.*

Expenses Category	Funded by Grant*	Funded by Other Sources	Total
Personnel:			
Training:			
Consultants/Contract Support:			
Operating:			
Correctional Treatment:		*see C.R.S. 18-19-103 *	
Non-Correctional Treatment:			
Other: <i>please specify</i>			

*\*Quarterly fiscal reporting will only track expenses related to grant monies distributed, not outside funding.*

# of Defendants to be supervised (est.)	Avg. Monthly Supervision Fee	Total Anticipated Defendant Fees
Match or In Kind Support:	\$	Grant-Funding Requested \$
Total Cost for Adult Div. Program	\$	

**SIGNATURE**

*I have reviewed the information contained in this request and certify that is true and correct to the best of my knowledge.*

District Attorney printed name: \_\_\_\_\_

District Attorney signature: \_\_\_\_\_

Date: \_\_\_\_\_

**BACKGROUND:**

The Colorado Commission on Criminal and Juvenile Justice supported the passage of HB 13-1156, which replaced deferred prosecution with adult diversion. (C.R.S. 18-1.3-101)

Diversion is a voluntary alternative to criminal adjudication that allows a person accused of a crime to fulfill a set of conditions as defined by an agreement with a District Attorney which may include completing a program designed to address, treat, or remedy issues related to or raised by the allegation. Upon successful completion of the conditions or program, the charges against the defendant are dismissed or not filed.

Diversion is intended to operate simply and flexibly. District Attorneys can agree to divert a defendant at any point before plea or trial, including before charges are filed. They can preserve their ability to reinstate prosecution by requiring a signed “statement of facts” upon which the allegation is based. The terms of a diversion agreement can restore victims and require defendants to address the antecedents to their criminal behavior, with the intent of reducing the likelihood of future criminal behavior. Compliance with the agreement can be monitored and enforced by any approved entity, including, but not limited to: diversion programs run by District Attorneys’ offices; law enforcement agencies; and pretrial service organizations. For defendants to be ordered to the supervision of the probation department, a diversion agreement must be filed with a court. If the diversion agreement is successfully completed, the defendant is returned to the same legal status as if the offense had never occurred.

Upon passage of the adult diversion bill, HB 13-1156, the State Court Administrator’s Office formed the Adult Diversion Funding Committee.

The statutory goals of adult diversion include:

- Preventing defendants from committing additional criminal acts.
- Restoring victims of crime.
- Facilitating defendants’ ability to pay restitution to victims of crime.
- Reducing the number of cases within the criminal justice system.

**OVERVIEW:**

- There will be an application process for both existing and new adult diversion programs as funding is available. Priority consideration will be given to those requests that are submitted during the initial reporting cycle. Late requests will be considered in order received, should funds remain.
- The FY '20 Adult Diversion Fund has approximately \$400,000 available. Additional funding for treatment needs is available to funded programs via the Correctional Treatment Fund. This money will fund multiple requests that demonstrate they will meet the legislative goals and intents of diversion, as well as the reporting requirements.
- The use of documented best practices is encouraged.

**TIMELINES:**

- Request for proposals announced: December 3, 2018.
- Application deadline: February 22, 2019.
- Approximate date for grant award notices: March 8, 2019.
- Awards are effective July 1, 2019 through June 30, 2020.

**INSTRUCTIONS FOR SUBMISSIONS:**

All supporting materials and a completed funding application request must be submitted electronically as a PDF document to the grant coordinator, Kyle Gustafson, via email: [kyle.gustafson@judicial.state.co.us](mailto:kyle.gustafson@judicial.state.co.us). All requests for adult diversion funding are to be received by end of business on **February 22, 2019**.

**FUNDING CRITERIA:**

In making funding decisions, the following criteria will be taken into consideration:

- The local need for adult diversion with the target population including the projected number of adult diversion participants (18 years or older).
- Explanation of how the proposed pre-plea/pre-trial adult diversion service will meet the statutory goals.
- Demonstration of how the District Attorney's office will comply with reporting requirements.
- Plan for adult diversion program management including budget management, data collection, and reporting.
- Priority will be given to program needs including but not limited to: start-up costs for new programs, personnel, operating, training, and contract support for program needs.

**PERMISSIBLE USES OF FUNDING:**

In submitting an application for grant funding, programs that receive an award allocation may budget for the following expenses:

- **Personnel:** Applicable expenses relevant to the salaries, wages, and benefits for employing full-time, part-time, or contractual diversion program staff or attorneys.
- **Training:** Expenses associated with the training and development of diversion program staff or attorneys regarding best practices in case management, assessment, or professional skill development that are intended to improve the ability of the diversion program to effectively provide services to its participants; additionally, expenses incurred by staff/attorneys regarding outreach to educate, inform, or promote the diversion program locally may be included.
- **Consultants/Contracts support:** Expenses used to help improve the quality of services delivered by or provided for the benefit of the diversion program and its participants by a non-employee that can be directly tied to a program or statutory goal for diversion participant and/or program outcomes.
- **Operating:** Expenses attributable to the day-to-day business processes of a diversion program (e.g. office supplies, monitoring services, software licenses, etc.) or other relevant expenses specifically incurred or expensed by a diversion program from being housed in the Office of the District Attorney or another agency approved by the Office of the District Attorney.
- **Treatment (non- C.R.S. § 18-19-103):** Program expenses directed towards providing needed social or human support services, cognitive behavioral therapy, or other services performed by a licensed, certified, or accredited provider that are designed towards reducing a participant's recidivism or criminogenic risk(s) which have been identified as a result of: a professional assessment, evaluation, or screen; the nature of the crime charged and circumstances surrounding the offense; or due to a special circumstance or characteristic of the participant which made them appropriate for diversion.
- **Other:** Any remaining expenses not outlined by another expense category that are necessary for the operation of an adult diversion program.

**FUNDING AND REPORTING CYCLE:**

- All District Attorney's offices receiving adult diversion funding will be required to maintain a contract with the State Court Administrator's Office (SCAO) and to adhere to the SCAO policies and procedures related to data collection, reporting, and billing.
- The state operates on a July 1 – June 30 fiscal year.
- *All awarded funds must be expended by June 30, 2020 and reported by July 10, 2020.*
- In FY '20, data reporting and program expense reimbursements will be done on a quarterly basis.
- Participant data and fiscal reports will be due by the 10<sup>th</sup> day of the month following the quarter or month's end. The FY '20 reporting deadlines will be as follows: Q1 will be due October 10, 2019; Q2 will be due January 10, 2020; Q3 will be due April 10, 2020; Q4 will be due July 10, 2020.
- Quarterly reporting will include Intake/Exit Forms for participants who have exited the program and basic program information.
- Quarterly reporting will include documentation of expended funds to be reviewed by SCAO. Receipts for all program expenses must be kept for audit purposes or expense verification.
- Funds will be distributed quarterly to District Attorney's offices following approval of quarterly expenses.
- A year-end report will require more extensive reporting, evaluation and final financial reports.
- There are no guarantees that there will be funding in subsequent years.

**PROGRAM EVALUATION:**

Award recipients will be required to report as defined below to SCAO. Incomplete reporting will affect funding.

**AWARD RECIPIENT REQUIREMENTS:**

Award recipients must collect participant data and provide status reports on the following by the 10<sup>th</sup> day of October, January, April, and July, including but not limited to:

- The number of people screened and the number of people who met criteria for adult diversion.
- The number of people enrolled in adult diversion.
- The number of people that declined to participate or were rejected by the DA.
- Demographic information on those enrolled (age, gender, ethnicity, judicial district, county of residence).
- Case supervision data (treatment assessment, restitution owed, charging details).
- Participant status within adult diversion (intake, under agreement, complete, did not complete and reason they did not complete, if did not complete, what was the reason).

Provide financial updates including:

- Funds requested
- Funds expended by category (receipts must be available upon request).
- Supervision fees collected

Annual reporting will include all quarterly reporting details, in addition to but not limited to:

- Recidivism data for all participants, including those who successfully completed diversion and those who did not.
  - Pre-Discharge Recidivism: A filing for a new felony or misdemeanor offense that occurred prior to discharge from diversion. This could also affect the completion rates if defendants are referred back for prosecution due to re-offense.
  - Post-Discharge Recidivism: A filing for a new felony or misdemeanor offense that occurred within one, three, and five years following termination of the diversion agreement as well as re-offense information as requested by the committee.
- Aggregate data on outcomes, restitution, and other diversion agreement data.
- A copy of adopted adult diversion policies and guidelines for eligibility in the Judicial District's program.

**PROGRAM GUIDELINES:**

Elected District Attorneys that apply and request funds to operate an adult diversion program must be compliant with section 18-1.3-101, C.R.S. Funding may be for existing or new adult diversion programs. Funded programs will involve pre-plea or pre-trial diversion targeting adults 18 years and older.

All funded adult diversion programs must adopt and submit policies and guidelines delineating eligibility criteria for their program. In determining eligibility the District Attorney shall consider:

- The nature of the crime and the circumstances surrounding it.
- Any special circumstances or characteristics of the defendant.
- Whether diversion is consistent with the defendant's rehabilitation and reintegration.
- Whether the public interest will be best served by diverting the individual from prosecution.

Adult diversion may operate internally at a District Attorney's office or in conjunction with outside agencies or programs approved by the District Attorney, including those that provide restorative justice services. The supervising agency shall provide the supervision necessary to facilitate rehabilitation and support completion of the diversion agreements.

Supervising agencies will hold defendants accountable to agreements. Victims shall have the right to be informed of the decision to enter an adult diversion agreement. The intent of diversion is to reduce collateral consequences to defendants and to repair harm to victims.

The diversion period may not extend beyond two years, unless payment of restitution is the sole remaining condition of diversion due to an inability to pay and the defendant may have the future ability to pay. In this event, the diversion may be extended for no more than one additional year.

Cases involving domestic violence or sexual offenses require special consideration:

- Charges must be filed before a defendant can be eligible for diversion.
- Defendants must have had the opportunity to consult with counsel, and have completed a domestic violence treatment evaluation or sex-offender specific evaluation.
- Defendants accused of the following offenses are not eligible for diversion in state-funded programs: sexual assault, sex assault on a child, any sexual offense committed against an at-risk adult or juvenile, any sexual offense with a deadly weapon, enticement of a child, sexual

exploitation of a child, procurement of a child for exploitation, sexual assault on a child by a person in a position of trust, or any child prostitution offense.

Diversion agreements shall include:

- Signature by the defendant, the defendant's attorney if represented, and the District Attorney.
- A written waiver of the right to a speedy trial for the period of diversion.
- A condition that no other criminal offense be committed during the period of diversion.
- A statement clarifying that if the defendant completes the agreement and the obligations therein, the court shall order all criminal charges filed against the defendant relative to this case dismissed with prejudice.

Diversion agreements may also include:

- Individually designed agreement items based on the defendant's strengths, risks, needs, and abilities, as well as the victim's needs for repair.
- Assessment of criminogenic needs and subsequent treatment planning for services to meet the participant's individually assessed needs.
- A designated supervisor or supervisory agency with contact information.

A defendant shall not be required to enter any plea to criminal charges as a condition of pre-trial diversion. No information obtained during the diversion process, other than a statement of fact completed by the defendant, may be used as evidence in criminal proceedings on the referred crime or facts alleged relative to the adult diversion case.

If the District Attorney offers diversion in lieu of further criminal proceedings and the defendant agrees to all of the terms of the agreement, the agreement may either be filed with the court or held by the parties. A court filing is only required if probation supervises the defendant or the court assists with the collection of restitution.

When a diversion agreement is entered the court shall stay further proceedings. When the diversion agreement is completed successfully all charges, if filed, will be dismissed. At any point after a diversion agreement is completed a defendant may petition the court to seal all records pertaining to the relative offense. Sealing is mandatory, upon request by the defendant, following successful completion of a diversion agreement.

In the event the defendant violates the terms of a diversion agreement, the supervising entity must provide written notice to the defendant, the District Attorney, and the court. The District Attorney may then proceed with the prosecution as allowed by law.

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**For more information and questions please contact Kyle Gustafson at (720) 625-5000 or [kyle.gustafson@judicial.state.co.us](mailto:kyle.gustafson@judicial.state.co.us)**

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