



# ADULT DIVERSION FUNDING COMMITTEE

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



# ANNUAL LEGISLATIVE REPORT



**IMPLEMENTATION OF HB 13-1156,  
*Concerning the Creation of an Adult Diversion Program***



STATE FISCAL YEAR 2018 – 2019

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# ADULT DIVERSION FUNDING COMMITTEE

Thursday, January 30, 2020



## 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*

### Megan Ring

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

### Jalice Vigil

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

### Joe Thome, Director

*Division of Criminal Justice  
Department of Public Safety*

## COMMITTEE STAFF

### Kara Martin

*Court Services Division  
Colorado Judicial Branch*

Members of the General Assembly:

It is my pleasure to present the Adult Diversion Funding Committee's Annual Legislative Report. Consistent with the legislative intent set forth in House Bill 13-1156 and found in §18-1.3-101, C.R.S., the Committee is committed to administering state funds to best achieve the statutory goals of pretrial diversion: preventing criminal acts, restoring victims of crime, facilitating payment of restitution, and reducing the number of cases in the criminal justice system. The nine diversion programs profiled in this report demonstrate success in advancing these goals, while ensuring the accountability of program participants and providing the life-changing opportunity to avoid long-standing collateral consequences of criminal charges and convictions.

The quantitative data and sample narratives presented in this report reveal nine programs tailored to local community needs within the judicial districts that house them. Interest in diversion programs continues to grow, evidencing the success of existing programs and reflecting recognition, within Colorado and nationally, of the urgent need for innovative, victim-sensitive, effective, cost-saving criminal justice solutions. Adult diversion continues to present one such viable solution for individuals who do not pose serious safety risks to the community and who could benefit from potential interventions associated with diversion, such as mental health treatment, parenting education, educational opportunities and substance abuse treatment. While this report focuses on the nine existing programs funded through the Committee's distribution of grants, district attorneys in eleven judicial districts applied for grant funds in FY 20 and at least two additional districts are anticipated to compete for this funding in FY 21. This growing interest illustrates the need for and success of diversion programs in Colorado.

Nine locally-governed diversion programs diverted more than 1,500 individuals from the traditional justice system in FY 19, allowing courts and prosecutors to focus resources on more critical cases. Successful completion of diversion generally requires individuals to repair harm to victims of crime through the payment of restitution and to address factors that contributed to their criminal conduct, reducing the likelihood of further justice system involvement. The programs hold individuals accountable for their actions, while allowing them to recover from a mistake and remain – or become – productive community members.

As highlighted in this report, Colorado's diversion programs are near capacity, the existing general fund allocation vastly insufficient to meet program requests, and leaving no room for the funding of additional programs or the expansion of existing ones. The Committee hopes future budget requests will address the growing disparity between program needs and the existing allocation.

Please contact us if you have questions.

Sincerely,

Handwritten signature of Jim Bullock in black ink.

Jim Bullock  
Funding Committee Co-Chair

Handwritten signature of Megan Ring in black ink.

Megan Ring  
Funding Committee Co-Chair



In the past five 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. Striving to advance those criminal justice objectives, many elected district attorneys recognize the value of diversion and the high costs of traditional criminal justice approaches, and their associated collateral consequences, as evidenced by the almost tripling of applications for diversion program funding from four applications in FY 15 to eleven in FY 20.

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

- **Successful completion rates:** 79% of diversion participants successfully complete diversion programs, resulting in dismissal or non-filing of charges and avoidance of long-term collateral consequences of convictions.
- **Safety Rate:** Only 5% of participants committed a new offense during diversion, a period of up to two years, representing a 95% safety rate.
- **Treatment Assessment and Initiation:** Approximately 25% of diversion participants are referred for treatment assessment during diversion program intakes, and over 70% of them then initiate treatment, such as mental health or substance abuse treatment.
- **Enrollment Rate:** People want diversion. Approximately 93% of individuals referred to diversion programs statewide elect to enroll and subject themselves to the often onerous terms of diversion agreements, 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 dropped from 9% in FY 18 to 6% in FY 19.
- **Restitution Collection:** Diversion facilitates the collection of restitution, \$69,791.39 in FY 19 and \$99,244.39 in FY 18.
- **Number of Enrollments:** During each of the past two fiscal years, more than 1,500 individuals were enrolled annually statewide.

Two ongoing incentives for participation in the funded diversion program include 1) the flexibility afforded to local elected district attorneys in the design and implementation of programs in a manner sensitive to community safety, community priorities and available resources; and 2) the growing societal demand for less costly alternatives to incarceration and prosecution. Despite the increase in the number of operating programs, the increased number of participants served and the increase in funding requests - \$890,761.95 in FY 20 - the General Fund allocation remains \$400,000. The Funding Committee must decide to spread the existing allocation of \$400,000 even more thinly among existing programs, deny applications for new programs, and inhibit program expansion and scaling. Alternately, the Committee could rely on performance statistics and terminate programs serving a smaller number of individuals. The Funding Committee remains cautiously optimistic that the General Assembly will recognize the importance of supporting the growth of local programs and the funding of new programs by approving the pending FY 21 decision item request for \$450,000 in additional annual adult diversion program funding.

## STATUTORY REPORTING REQUIREMENTS

This report is being provided to the Colorado General Assembly Joint Budget Committee in compliance with HB 13-1156, which requires the Judicial Department to prepare a report that includes a summary of statistics and progress on programs supported by adult diversion funding. As charged by §13-3-115, C.R.S., the Adult Diversion Funding Committee is comprised of members from diverse criminal justice system stakeholders.

Pursuant to statute, the Adult Diversion Funding Committee has established funding guidelines and an application process for reviewing funding requests submitted by district attorneys or their designees (*see* Attachments I – III). The 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 grant funds.

Additional reporting requirements as outlined in §13-3-115, C.R.S., regarding program enrollment data, demographic data, participant outcomes, and funding expenses are detailed in the subsequent pages of this report. This report updates the FY 18 report but amending one-year FY 16 and FY 17 recidivism data presented in the FY 18 report, found in the program profiles that follow. For questions or clarification requests regarding information presented in this report, please contact the Adult Diversion Funding Grant Coordinator, Kara Martin, at [kara.martin@judicial.state.co.us](mailto:kara.martin@judicial.state.co.us) or (720) 625-5963.

### 2018 – 2019 ADULT DIVERSION FUNDING COMMITTEE

NAME	AGENCY REPRESENTING	EMAIL
<b>Bob Booth</b>	<i>Office of the Attorney General</i>	<a href="mailto:bob.booth@coag.gov">bob.booth@coag.gov</a>
<b>James Bullock</b>	<i>Colorado District Attorneys' Council</i> (Elected D.A. from the 16 <sup>th</sup> JD)	<a href="mailto:jbullock@da16co.gov">jbullock@da16co.gov</a>
<b>Mark Evans</b>	<i>Office of the Public Defender</i>	<a href="mailto:mark.evans@coloradodefenders.us">mark.evans@coloradodefenders.us</a>
<b>Thomas Harbaugh</b>	<i>Office of the State Court Administrator</i>	<a href="mailto:thomas.harbaugh@judicial.state.co.us">thomas.harbaugh@judicial.state.co.us</a>
<b>Joe Thome</b>	<i>Division of Criminal Justice, Department of Public Safety</i>	<a href="mailto:joe.thome@state.co.us">joe.thome@state.co.us</a>
Kyle Gustafson, <i>Grant Coordinator</i> (2018-2019) Kara Martin, <i>Grant Coordinator</i> , <a href="mailto:kara.martin@judicial.state.co.us">kara.martin@judicial.state.co.us</a> (2019-Present)		

During FY 20, State Public Defender Megan Ring replaced Mark Evans to represent the Office of the Public Defender. Similarly, Probation Analyst Jalice Vigil replaced Thomas Harbaugh to represent the Office of the State Court Administrator. Effective in December 2019, the Funding Committee named James Bullock and Megan Ring as Adult Diversion Funding Committee co-chairs.



# ADULT DIVERSION FUNDING PROGRAM TIMELINE

## PROGRAM BACKGROUND

HB 13-1156 created a new mechanism for diverting individuals accused of certain crimes, generally low-level offenses, away from the traditional criminal justice system. In addition to defining the legal parameters of pretrial diversion, it provided a source of funding for District Attorney Offices to institute or operate pretrial diversion programs. The bill also established the Adult Diversion Funding Committee (Funding Committee) to develop a process through which elected District Attorneys could request and obtain funding. The bill became law in August 2013.

The State Court Administrator's Office' started coordinating the Funding Committee's as of October 1, 2013. Soon thereafter, the Funding Committee released its first round of application materials. Since then, the Funding Committee has refined its funding guidelines, application process, and report forms. Funding Committee staff announces funding opportunities to the Colorado District Attorneys' Council. Elected District Attorneys and programs operating in partnership with them may apply for funds. A public web page houses information regarding adult diversion funding time frames and processes, training opportunities and quarterly coordinator conference calls.

Upon completion of HB 13-1156 planning in FY 14, District Attorneys in the following four judicial districts applied for funding: the 6<sup>th</sup> (Archuleta, La Plata and San Juan Counties), the 9<sup>th</sup> (Rio Blanco, Garfield and Pitkin Counties), the 15<sup>th</sup> (Cheyenne, Kiowa, Prowers and Baca Counties), and the 16<sup>th</sup> (Crowley, Otero and Bent Counties). These original four programs continue to receive funding, as of the writing of this report. In FY 17, six judicial districts received funding, including new programs in the 20<sup>th</sup> JD (Boulder County) and 21<sup>st</sup> JD (Mesa County). District Attorneys in these six judicial districts reapplied for FY 18 funding, as well as District Attorneys in three additional judicial districts, the 2<sup>nd</sup> JD (Denver County), the 4<sup>th</sup> JD (El Paso and Teller Counties), and the 22<sup>nd</sup> JD (Dolores and Montezuma Counties), for a total of nine funded programs. The nine programs funded in FY 19 include the 2<sup>nd</sup> JD, the 6<sup>th</sup> JD, the 7<sup>th</sup> JD (Delta County only), the 9<sup>th</sup> JD, the 15<sup>th</sup> JD, 16<sup>th</sup> JD, the 20<sup>th</sup> JD, the 21<sup>st</sup> JD, and the 22<sup>nd</sup> JD (Dolores and Montezuma Counties). The 12<sup>th</sup> JD (Alamosa, Conejos, Costilla, Mineral, Rio Grande and Saguache Counties) became the 10<sup>th</sup> funded program in FY 20. To date, two additional judicial districts have expressed interest in applying for funds in FY 21, which, if granted, would bring the number of funded programs to 12.

## PROGRAM STATUS

With one exception, all previously funded programs continue to operate with financial support from Adult Diversion grant and/or Correctional Treatment Board funding, as of December 31, 2019. The program in the 7<sup>th</sup> Judicial District became operational during FY 19, followed by a program launch in the 12<sup>th</sup> Judicial District in FY 20. With several programs operational for the three to five years required for new program development, according to implementation science, the Funding Committee is starting to see consistent results. The Committee has allocated \$25,000.00 of FY 20 Correctional Treatment Board funding for design of a program evaluation, that upon completion, would lead to 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.

FY 19 represented the fifth year of operation for the four programs launched during the initial program funding. Adult diversion programs continue to expand and adjust screening and assessment procedures, criteria for receiving clients, identification of the target population, data reporting, and day-to-day management of grant funds. As evident in the program profiles, many of the programs have reached or are closely approaching capacity to serve participants with the current funding limitations. Programs continue their efforts "to do more with less," committed to meeting the growing need for diversion resources within their communities. As shown in Tables 1 and 2, Correctional Treatment Board funding provides a much needed supplemental resource for individuals navigating substance-abuse and co-occurring disorders.



# FY 19 DIVERSION PROGRAM PROFILES

*Population & demographics compiled from publicly available data through the Colorado Department of Local Affairs –State Demography Office*

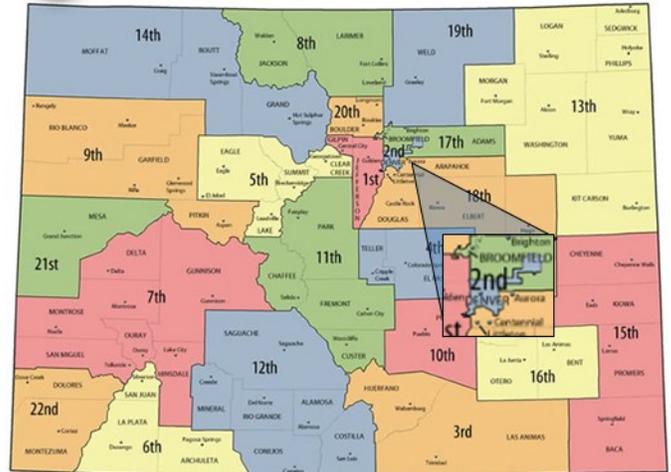
## 2<sup>ND</sup> JD – DENVER COUNTY

**ELECTED DISTRICT ATTORNEY:** *Beth McCann*

PROGRAM OVERVIEW				
Mailing Address	201 West Colfax Ave. 8th floor, Denver, CO 80202		Phone	(720) 913-9022
Type of Program	Existing Program		Year Started	2018
FY 19 Request	\$97,601	FY 19 Award	\$21,776	
Eligibility Criteria / Target Population	Young adults, 18-26 years old, potentially expanding to adults of all ages.			
Program Goals	Interrupt the revolving door of crime and incarceration for at least 50 young adults, ages 18-26, facing first time felony charges, with those needing treatment attending a minimum of 8 treatment sessions each			
Projected Enrollment	50	# of adults screened by diversion program in FY 19	127	
Successful Completion	82%	# of adults enrolled by diversion program in FY 19	61	
Participant Outcomes	Successful Terminations	18	Unsuccessful Terminations	4
FY 18 One-Year Post Program Recidivism Rate				NA
FY 17 One-Year Post Program Recidivism Rate				
FY 16 One-Year Post Program Recidivism Rate				
Supervision Fees	\$150	Fees Collected in FY 19	\$7,029	
Treatment Assessment	Diversion staff administers the SPIn (Service Planning Instrument) to screen participants and match them to treatment providers who complete assessments for treatment. through individualized to diversion candidates; Approximately 72% of participants were referred for treatment assessment.			
Partner Agencies	Mental Health Center of Denver, Second Chance Center, Forward Movement, MHBH, University of Colorado ARTS, and Denver Health.			



## COLORADO JUDICIAL DISTRICTS



EST. POPULATION (2018): 717,796

ACHIEVEMENTS AND CHALLENGES
<p><i>The number of adults screened by diversion grew from 22 in FY18 to 127 in FY 19, an almost six-fold increase. The number of adults enrolled grew from 10 in FY 18 to 61 in FY19, also a six-fold increase. The program saw its first successful terminations in FY 19.</i></p>
<p><i>The program is actively engaging in problem-solving to ensure long-term program effectiveness. First, efforts are underway to improve communication between providers and the DA office, ensuring timely exchange of information about participant treatment compliance, and enabling prompt resolution of participant non-compliance. Second, to overcome challenges associated with collection of restitution, two restitution technicians have been hired to work closely with victims to address reparation of harm and timely collection of restitution.</i></p>
<p><i>Receiving approximately 20% of its requested award limited the program's reach.</i></p>

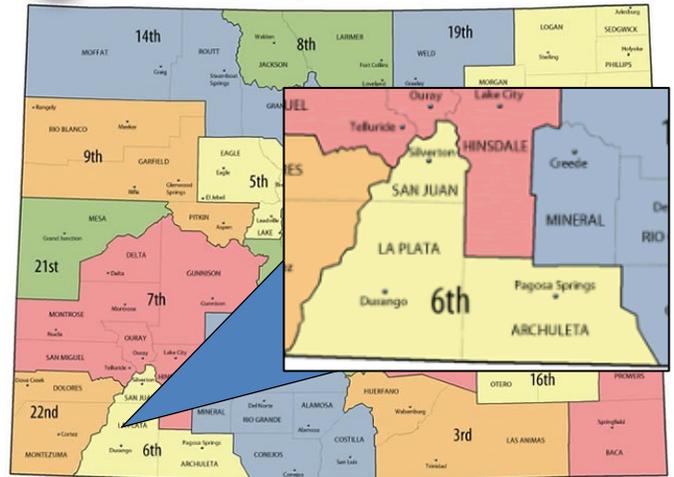


**6<sup>TH</sup> JD – ARCHULETA, LA PLATA AND  
SAN JUAN COUNTIES**



**COLORADO JUDICIAL DISTRICTS**

**ELECTED DISTRICT ATTORNEY:** *Christian Champagne*



EST. POPULATION (2018): 70,908

PROGRAM OVERVIEW			
Mailing Address	PO Box 3455 Durango, CO 81302	Phone	(970) 247-8850
Type of Program	Existing Program	Year Started	2015
FY 19 Request	\$106,134	FY 19 Award	\$61,744
Eligibility Criteria / Target Population	Low risk, first-time offenders charged with Driving Under Restraint, Criminal Mischief, Neighbor Disputes, Recurring Pet-Control offenses, expanding to accept Domestic Violence, Substance Use, Anger Management cases believed to have a low probability of recidivism. Restorative Justice emphasis-focused.		
Program Goals	Self-Sustainability, Recidivism Reduction, Support of Local Community and Agencies		
Projected Enrollment	250	# of adults screened by diversion program in FY 19	233
Successful Completion	69%	# of adults enrolled by diversion program in FY 19	222
Participant Outcomes	Successful Terminations	162	Unsuccessful Terminations 73
Supervision Fees	\$50 per month	Fees Collected in FY 19	\$200
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	The Diversion Coordinator and/or DA determine whether to make a treatment assessment referral during the diversion intake process, considering the nature of the offense. Treatment providers conduct the assessments, whether for substance abuse, mental health, domestic violence or other matters, and make treatment recommendations. Approximately 75% of participants were referred for treatment assessment in FY19.		
Partner Agencies	6th JD Probation, Colorado State Patrol, Axis Health System, Durango Adult Education Center, Adventfs eLearning, La Plata Family Center, Various Domestic Violence Providers, Restorative Justice Facilitators, Four Corners Resolution, Therapeutic Experiences, Preferred Counseling, Bright Sky Counseling, Peaceful Spirit Alcohol Treatment Center, The Recovery Center, Local Drug/Alcohol Testing Agencies		

**ACHIEVEMENTS AND CHALLENGES**

*In FY 19, the program screened 233 individuals for the program, compared to 254 in FY 18, a slight decrease of about 8%. In FY 19, 222 individuals enrolled, compared to 242 in FY 18. In FY 19, 162 successfully completed the program, compared to 136 in FY18, an increase of 19%.*

*The program experienced success in the area of domestic violence treatment and to a lesser extent, substance abuse treatment. Efforts continue to troubleshoot participant noncompliance and lack of motivation.*

*With an in-house restorative justice program, referrals for restorative justice have increased. The district held a restorative justice training in November 2018, expanding community and provider familiarity with and competency in restorative justice practices. The program continues to work with its partners to expand Adult Diversion and Restorative Justice programs through education and outreach.*

*The one-year post-program recidivism rate, which reflects the percentage of successful diversion program completers against whom new misdemeanor or felony charges were filed, continues to fall.*

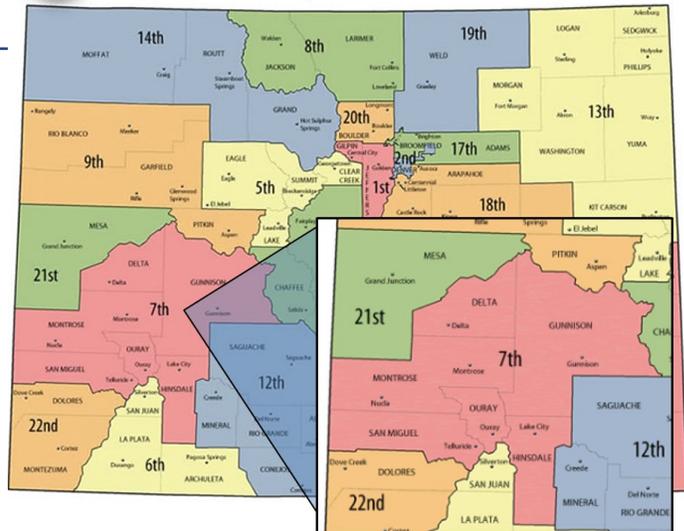
*Receiving less than 60% of its requested award limited the program's reach.*



**7<sup>TH</sup> JD – DELTA, GUNNISON, HINSDALE,  
MONTROSE, OURAY AND SAN MIGUEL COUNTIES**

**ELECTED DISTRICT ATTORNEY:** *Daniel Hotsenpiller*

**COLORADO JUDICIAL DISTRICTS**



EST. POPULATION (2018): 104,159

PROGRAM OVERVIEW				
Mailing Address	550 Columbia St., Suite 1 Delta, CO 81416	Phone	(970) 874-2080	
Type of Program	Existing Program	Year Started	2018	
FY 19 Request	\$50,175	FY 19 Award	\$24,544	
Eligibility Criteria / Target Population	<i>Adults alleged to have committed specific felony, misdemeanor or petty offense charges and young adults, aged 18-21, who are similarly situated as juveniles (e.g., live with parents, attend school, etc.), alleged to have committed marijuana possession and misdemeanor traffic offenses</i>			
Program Goals	<i>Divert first time, low-level adult offenders using assessments to identify appropriate referrals for all participants, with an 80% successful completion rate and one-year recidivism of less than 10%.</i>			
Projected Enrollment	35	# of adults screened by diversion program in FY 19	15	
Successful Completion	100%	# of adults enrolled by diversion program in FY 19	14	
Participant Outcomes	Successful Terminations	8	Unsuccessful Terminations	0
FY 18 One-Year Post Program Recidivism Rate			NA	
FY 17 One-Year Post Program Recidivism Rate				
FY 16 One-Year Post Program Recidivism Rate				
Supervision Fees	\$50/month	Fees Collected in FY 19	\$200	
Treatment Assessment	<i>The case manager completes the AUDIT-C, DAST-20 and/or Patient Stress Questionnaire to determine the need for further assessment and treatment recommendations. Approximately 36% of participants were referred for treatment assessment.</i>			
Partner Agencies	<i>Delta County Alternative Sentencing Department, Public Defenders Office, law enforcement agencies, Delta County Administration, Center for Mental Health Services, River Valley Family Health Center, Endeavor Counseling, and private practitioners Peggy Godin, CACIII, LPC, and Maria Call, LPC</i>			

**ACHIEVEMENTS AND CHALLENGES**

*During its inaugural year of implementation, the program operated in Delta County and screened 15 first time, low-level offenders for the program, with 14 of them enrolling. Of those, more than half successfully completed the program and none was unsuccessfully terminated.*

*Moving forward, the program is highly motivated to expand to the remaining five counties of the 7<sup>th</sup> JD, currently unserved by Adult Diversion, and will continue to advocate for funding to support this effort.*

*To address the transportation barrier, given the vast area of Delta County, cognitive-based offense-specific online classes are necessary, with a case manager coaching participants through their 8 to 10 weeks of online offense-specific learning.*

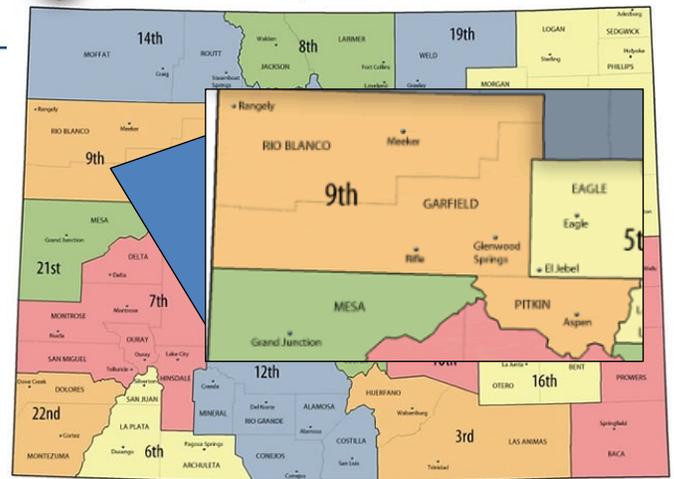
*With its impressive 100% successful completion rate, there is great enthusiasm to increase the number of participants served during the second year of program operations.*



**9<sup>TH</sup> JD – GARFIELD, PITKIN, AND  
RIO BLANCO COUNTIES**

**COLORADO JUDICIAL DISTRICTS**

**ELECTED DISTRICT ATTORNEY:** *Jefferson Cheney*



EST. POPULATION (2018): 84,002

PROGRAM OVERVIEW				
Mailing Address	109 8 <sup>th</sup> St., 308, Glenwood Springs, CO 81601	Phone	(970) 945-8635	
Type of Program	Existing Program	Year Started	2015	
FY 19 Request	\$41,905	FY 19 Award	\$37,000	
Eligibility Criteria / Target Population	Law enforcement and the Department of Human Services refer potential participants facing misdemeanor or low-level felony charges for consideration. Cases appropriate for restorative justice are also considered.			
Program Goals	Divert 100 – 125 cases from criminal justice system, identify treatment and rehabilitate offenders to reduce recidivism, and incorporate restorative justice.			
Projected Enrollment	100-125	# of adults screened by diversion program in FY 19	99	
Successful Completion	100%	# of adults enrolled by diversion program in FY 19	86	
Participant Outcomes	Successful Terminations	69	Unsuccessful Terminations	0
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	Fees Collected in FY 18	\$9,105	
Treatment Assessment	During the diversion intake process, the Diversion Coordinator determines whether assessment by treatment providers is appropriate, based on an in-person interview with the program participant and the nature of the offense, such as drug- or alcohol-related offenses, domestic violence, or other matters. Approximately 28% of participants were referred for treatment assessment.			
Partner Agencies	Alpine Springs Counseling, Mind Springs Health, YouthZone			

**ACHIEVEMENTS AND CHALLENGES**

In FY 19, the program screened 99 individuals for the program, compared to 77 in FY 18, a 29% increase. In FY 19, 86 individuals enrolled in the program, compared to 68 in FY 18, a 26% increase. In FY 19, 69 participants successfully completed the program, compared 48 in FY 18, an increase of 44%.

Restorative Justice has increasingly become a component of diversion agreements, including participation in a restorative justice panel. The program continues to work with community stakeholders to expand the Adult Diversion and Restorative Justice programs through public education, public relations and outreach.

The one-year post-program recidivism rate, which reflects the percentage of successful diversion program completers against whom new misdemeanor or felony charges were filed, returned to only 2%.

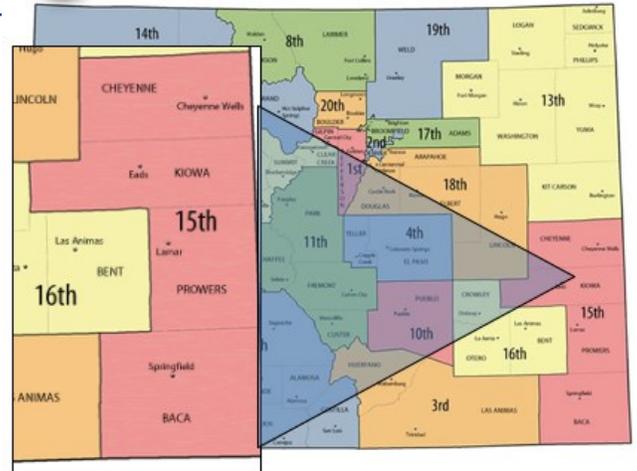
Receiving 88% of its requested award limited the program's reach, although the program nearly met its projected enrollment and demonstrated an impressive 100% rate of successful completions.



**15<sup>TH</sup> JD – BACA, CHEYENNE, KIOWA, AND  
PROWERS COUNTIES**

**ELECTED DISTRICT ATTORNEY:** *Joshua Vogel*

**COLORADO JUDICIAL DISTRICTS**



15<sup>TH</sup> JUDICIAL DISTRICT (2019) 10,002

PROGRAM OVERVIEW				
Mailing Address	110 E. Oak St. Lamar, CO 81052	Phone	(719) 336-7446	
Type of Program	Existing Program	Year Started	2015	
FY 19 Request	\$40,000	FY 19 Award	\$34,155	
Eligibility Criteria / Target Population	Generally, individuals without prior criminal history assessed as low-risk and non-violent who are accused of qualifying felony and/ or misdemeanor offenses			
Program Goals	Individualize behavior modification goals, ensure victim compensation, expand felony offenses eligible for diversion, increase the number of participants			
Projected Enrollment	50-55	# of adults screened by diversion program in FY 19	27	
Successful Completion	88%	# of adults enrolled by diversion program in FY 19	25	
Participant Outcomes	Successful Terminations	22	Unsuccessful Terminations	3
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	Fees Collected in FY 19	\$3,427	
Treatment Assessment	The determination of a treatment assessment referral will be based upon the nature of the offense, prior history or contacts relevant to the offense and relevant information obtained during the initial intake. Assessments will be provided by partnering providers Southeast Health Group, Crossroads, Cindy Vigil and Safe Care Colorado. Oversight for assessment and treatment is in place and encompasses a conversation with the clinician by the Diversion Program Manager after the initial assessment.			
Partner Agencies	Lamar Southeast Health Group, Crossroad Turning Points, SafeCare Colorado, Cindy Vigil (local provider), First Step Recovery			

**ACHIEVEMENTS AND CHALLENGES**

*In FY 19, the program screened 27 individuals for the program, compared to 32 in FY 18, a slight decline. In FY 19, 25 individuals enrolled in the program, compared to 28 in FY 18. In FY 19, 22 participants successfully completed the program, compared 25 in FY 18, likewise a slight decrease.*

*While the number of program participants did not increase, full restitution was recovered from all participants who successfully completed diversion. In addition, the program expanded eligible offenses to include identification theft, schedule II drug offenses, forgery, contributing to the delinquency of a minor, first degree trespass, robbery, wiretapping and fraud for felony diversion, all of which, absent diversion, would result in serious collateral consequences for the accused, if convicted.*

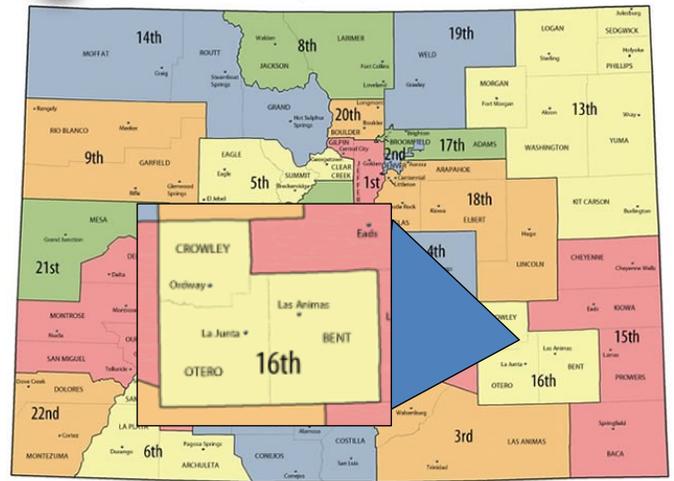
*The program strategy is to individualize the diversion program to focus on the individual, not just the offense, contributing to a high rate of successful completion.*

*Receiving 85% of its requested award limited the program's reach.*



ELECTED DISTRICT ATTORNEY: *Jim Bullock*

 COLORADO JUDICIAL DISTRICTS



EST. POPULATION (2018): 30,041

PROGRAM OVERVIEW			
Mailing Address	PO Box 928, La Junta, CO 81050	Phone	(719) 384-8786
Type of Program	Existing Program	Year Started	2014
FY 19 Request	\$73,000	FY 19 Award	\$71,000
Eligibility Criteria / Target Population	The Adult Diversion program is generally available to first time offenders accused of non-violent crimes. The target group are those individuals who have engaged in criminal activity and whose behavior may be subject to modification through education, therapy and active guidance toward a lawful lifestyle. Participation is an intensive program geared toward changing the criminal behavior that resulted in the commission of the underlying crime.		
Program Goals	Identification of treatment needs, participant achievement of GED or high school diploma, payment of restitution during term of diversion		
Projected Enrollment	50-75	# of adults screened by diversion program in FY 19	49
Successful Completion	79%	# of adults enrolled by diversion program in FY 19	38
Participant Outcomes	Successful Terminations	30	Unsuccessful Terminations
			8
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	Fees Collected in FY 19	Unknown
Treatment Assessment	Referrals are made to treatment providers based on the participant's identified criminogenic needs and the nature of the alleged crime. Treatment providers conduct assessments during the initial intake process.		
Partner Agencies	Southeast Health Group, Moving Forward Counseling Services		

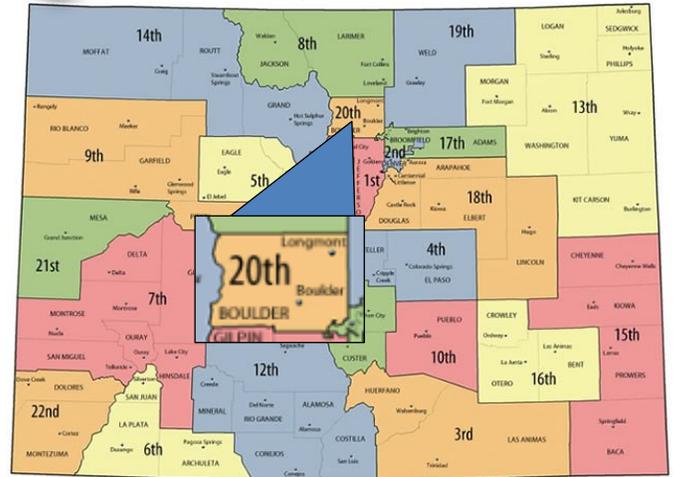
**ACHIEVEMENTS AND CHALLENGES**

In FY19, the program screened 49 individuals for the program, compared to 88 in FY 18. In FY 19, 38 individuals enrolled in the program, compared to 52 in FY 18. In FY 19, 30 participants successfully completed the program, compared to 27 in FY 18. The percentage of participants successfully completing the program improved from 56% in FY 18 to 79% in FY19, a substantial increase.

The program continues to troubleshoot its inadequate supply of treatment providers by working to streamline processes and improve efficiencies with existing providers. Lack of transportation presents a further challenge regarding access to treatment and treatment compliance.

ELECTED DISTRICT ATTORNEY: *Michael Dougherty*

PROGRAM OVERVIEW			
Mailing Address	1777 6 <sup>th</sup> Street, Boulder, CO 80302	Phone	(303) 441-4736
Type of Program	Existing Program	Year Started	2016
FY 19 Request	\$88,733	FY 19 Award	\$73,548
Eligibility Criteria / Target Population	<i>The program expanded from serving young adults, age 18-25, accused of first-time felony offenses to individuals of all ages. While prioritizing diversion of felonies, the program implemented an unsupervised diversion program for those accused of certain petty and misdemeanor offenses.</i>		
Program Goals	<i>Effective assessment-driven case planning and referral practices, defendant accountability, victim satisfaction, and criminogenic risk and recidivism reduction.</i>		
Projected Enrollment	200-250	# of adults screened by diversion program in FY 19	283
Successful Completion	90%	# of adults enrolled by diversion program in FY 19	269
Participant Outcomes	Successful Terminations	235	Unsuccessful Terminations 25
FY 18 One-Year Post Program Recidivism Rate			4%
FY 17 One-Year Post Program Recidivism Rate			0%
FY 16 One-Year Post Program Recidivism Rate			NA
Supervision Fees	\$50/month	Fees Collected in FY 19	\$14,010
Treatment Assessment	<i>The Diversion Coordinator administers the SPIn assessment to identify referral needs for mental health, substance abuse, education and other services. The program is exploring substance use, suicide, and mental health screening options and partnerships to assist with risk identification, assessment and community referrals.</i>		
Partner Agencies	<i>Boulder County IMPACT, Collegiate Recovery Center, Center for Change, Phoenix Multisport, Boulder Alcohol Education Center, Rangview Counseling, Mental Health Partners, Attention Homes, Bridge House, Workforce Boulder County, the Learning Source</i>		

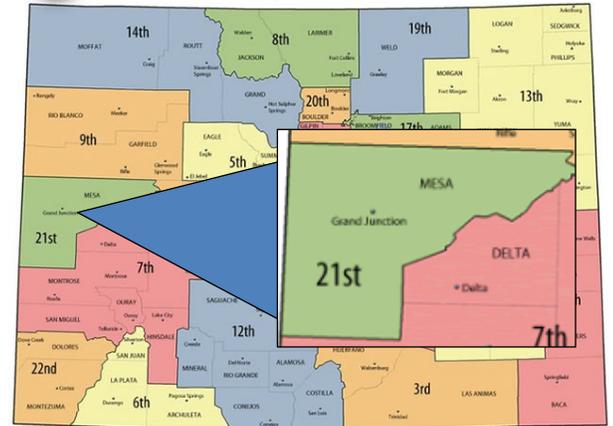


EST. POPULATION (2018): 325,480

ACHIEVEMENTS AND CHALLENGES
<i>The addition of an unsupervised diversion track and expansion of felony diversion to adults older than age 25 resulted in substantial program growth in FY 19. The program also began accepting felony drug possession charges to mitigate the ancillary consequences of felony conviction and to provide resources for prevention, education and treatment, focused on a harm reduction model, rather than abstinence.</i>
<i>In FY 19, the program screened 283 individuals for the program, compared to 249 in FY 18, an increase of 14%. In FY 19, 269 individuals enrolled in the program, compared to 228 in FY 18, an increase of 18%. In FY 19, 235 participants successfully completed the program, compared to 174 in FY 18, an increase of 35%. The success rate remains over 90%, one of the highest success rates of any program, despite receiving only 83% of its requested funding award.</i>



ELECTED DISTRICT ATTORNEY: *Daniel Rubinstein*



EST. POPULATION (2018): 153,629

PROGRAM OVERVIEW			
Mailing Address	636 South Ave. Grand Junction, CO 81502	Phone	(970) 244-3348
Type of Program	Existing Program	Year Started	2016
FY 19 Request	\$125,875	FY 19 Award	\$68,859
Eligibility Criteria / Target Population	The target population includes lower to medium risk defendants on the proxy risk assessment, including those with no prior arrests or lower level offenses, as well as individuals identified through Law Enforcement Assisted Diversion, in addition to direct referral from Animal Services. Felonies are increasingly being considered for Diversion.		
Program Goals	One goal is that at least 90% of participants will not have a new misdemeanor or felony court filing during the period of diversion. The second goal is to terminate at least 40% of participants early due to compliance.		
Projected Enrollment	750	# of adults screened by diversion program in FY 19	457
Successful Completion	69.4%	# of adults enrolled by diversion program in FY 19	457
Participant Outcomes	Successful Terminations	352	Unsuccessful Terminations 155
FY 18 One-Year Post Program Recidivism Rate			11%
FY 17 One-Year Post Program Recidivism Rate			11%
FY 16 One-Year Post Program Recidivism Rate			NA
Supervision Fees	\$45/month	Fees Collected in FY 19	\$18,649
Treatment Assessment	Mesa County CJSD will make determinations regarding treatment eligibility and needs by utilizing the Proxy risk assessment and the SSI universally. In felony cases or if the proxy is high risk, then the LSI may be used. Substance Screening assessments will be completed on defendants with drug charges. If the SSI is high, a full SOARS assessment will be conducted by CJSD staff. In house treatment providers in Summit View may also complete assessments. In FY19, less than 1% of participants were referred for a treatment assessment.		
Partner Agencies	Mesa County Criminal Justice Services Department		

**ACHIEVEMENTS AND CHALLENGES**

In FY 19, the program screened 457 individuals for the program, compared to 550 in FY 18. In FY 19, 457 individuals enrolled in the program, compared to 540 in FY 18.

Efforts are underway to implement the Law Enforcement Assisted Diversion program, with collaboration and support among the DA's office and Law Enforcement officials.

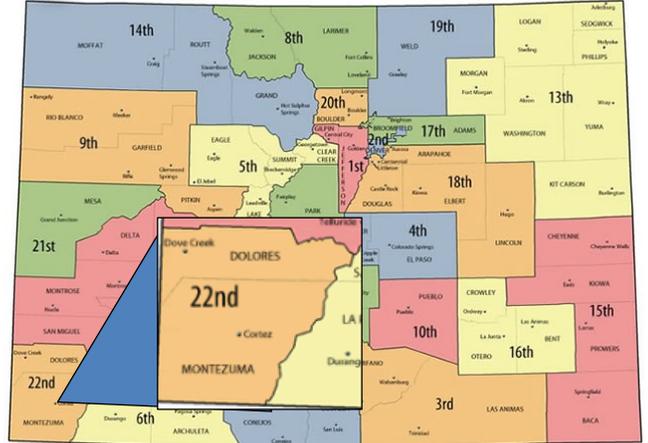
Program staff continue to troubleshoot participant no-shows for supervision intake appointments and failure to report during the period of diversion. To address participant nonpayment of supervision fees, program staff often waive the fees to keep cases out of the court system. Finally, staff continue to problem-solve how to best support homeless participants.

Receiving less than 55% of its requested award limited the program's reach.



ELECTED DISTRICT ATTORNEY: *Will Furse*

 COLORADO JUDICIAL DISTRICTS



EST. POPULATION (2018): 28,209

PROGRAM OVERVIEW			
Mailing Address	109 W. Main St., Suite 303 Cortez, CO 81321	Phone	(970) 565-3788
Type of Program	Existing Program	Year Started	2017
FY 19 Request	\$125,875	FY 19 Award	\$84,400
Eligibility Criteria / Target Population	Persons charged with drug, alcohol and traffic related crimes, including driving under restraint; 1st time DUI (with BAC no higher than .18); minor drug charges including possession and use; and low-level theft and criminal mischief		
Program Goals	Maintain a pretrial diversion program; Maintain community resources and restorative justice services to support the pretrial diversion program; Increase usage of pretrial diversion		
Projected Enrollment	360	#s# of adults screened by diversion program in FY 19	346
Successful Completion	87%	# of adults enrolled by diversion program in FY 19	346
Participant Outcomes	Successful Terminations	278	Unsuccessful Terminations
FY 18 One-Year Post Program Recidivism Rate			2%
FY 17 One-Year Post Program Recidivism Rate			NA
FY 16 One-Year Post Program Recidivism Rate			
Supervision Fees	\$50/month	Fees Collected in FY 19	\$36,358
Treatment Assessment	Individuals charged with drug or alcohol related offenses undergo substance abuse evaluations, resulting in treatment recommendations, and those charged with offenses involving domestic violence undergo domestic violence evaluation.		
Partner Agencies	The Recovery Center and Bright Sky Counseling		

ACHIEVEMENTS AND CHALLENGES
In FY19, the program screened 346 individuals for the program, compared to 429 in FY18. In FY19, 346 individuals enrolled in the program, compared to 409 in FY18.
Opportunities for problem-solving include the lack of providers for treatment, parenting classes, traffic school, anger management, public benefit enrollment assistance, day labor and similar services, in addition to limited options for transportation. Maintaining client contact, particularly when serving individuals without phone or internet access, poses an ongoing challenge.
Despite receiving only 67% of its requested award, the program managed to serve 96% of its projected enrollment while maintaining an 87% successful completion rate.

## ADULT DIVERSION GRANT FINANCIAL SUMMARY

By statute, HB 13-1156 provides \$400,000 in allocations from the General Fund for Adult Diversion. During FY 19, nine programs applied for funding in the amount of \$748,454.78. As with last year, the Funding Committee was unable to award the amounts requested, impeding the ability of local programs to fully implement program designs.

**Table 1, Adult Diversion FY 19 Expenses by Category**

Table 1, Adult Diversion FY 19 Expenses by Category								
	General Adult Diversion Funds					Correctional Treatment Funds		
JD	Personnel Expenses	Non-Personnel Expenses	Total Expenses	Adult Diversion Award	% of Adult Diversion Award Expended	CTCF Expenses	CTCF Award	% of CTCF Award Expended
2	\$0.00	\$0.00	\$0.00	\$0.00	100%	\$11,272.95	\$15,776.00	71%
6	\$32,549.00	\$6,473.66	\$39,022.66	\$43,744.00	89%	\$6,412.18	\$18,000.00	36%
7	\$5,503.28	\$105.00	\$5,608.28	\$24,544.00	23%	540.00	\$3,974.00	14%
9	\$27,244.24	\$1,245.92	\$28,490.16	\$32,000.00	89%	\$4,789.00	\$5,000.00	96%
15	\$25,000.00	\$9,154.56	\$34,154.56	\$34,154.56	100%	\$0.00	\$0.00	100%
16	\$70,977.86	\$0.00	\$70,977.86	\$71,000.00	100%	\$0.00	\$2,000.00	0%
20	\$29,878.77	\$41,363.43	\$71,242.20	\$72,298.00	99%	\$1,250.00	\$1,250.00	100%
21	\$65,733.44	\$126.00	\$65,859.44	\$68,859.44	100%	\$0.00	\$0.00	100%
22	\$53,400.00	\$0.00	\$53,400.00	\$53,400.00	100%	\$27,397.00	\$31,000.00	88%
T.	\$310,286.59	\$58,468.57	\$368,755.16	\$400,000.00	92%	\$51,661.13	\$77,000.00	67%

*Allocations from the Correctional Treatment Fund, §18-19-103, C.R.S., are a separate source of program funding than the diversion grant general fund.*

Programs receiving Adult Diversion Funding that were in their second or more year of operations (i.e., excluding only the 7<sup>th</sup> JD from consideration and the 2<sup>nd</sup> JD, which did not receive Adult Diversion funds), the funded programs expended 97% of their award amounts. During FY 19, diversion program spending continued to increase, consistent with the ongoing upward trend of program expenses incurred and paid with both Adult Diversion and Correctional Treatment Funds, as shown below in Table 2.

**Table 2, Expenses Incurred/Paid with Adult Diversion and Correctional Treatment Funds, 3 Year Comparison**

Fiscal Year	Expenses Incurred/Paid with Adult Diversion Funds	Expenses Incurred/Paid with Correctional Treatment Funds	Total Expenses Incurred/Paid
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

While programs estimate the cost of their operations with some reliability, the majority of expenditures are for personnel costs, limiting the available funds for participant services. Yet other program operational expenditures are relatively constant. To address the shortfall, many programs seek external funding sources to support unmet programmatic needs. Participant supervision fees are likewise helpful, yet insufficient, in supplementing inadequate funding. While programs do collect supervision fees from participants, most programs offer fee reduction or waiver based on financial need. During FY 19, the supervision fees collected were consistent with FY 18 collections, amounting to \$101,195.39 in FY 19, compared to \$101,385.95 in FY 18. Fiscal Year 19 supervision fees represent 24% of Adult Diversion and Correctional Treatment Fund expenditures for the nine programs.

As participation increase from one year to the next, with a nominal exception for FY 19, adult diversion grant requests follow a similar upward trend from one year to the next, increasing from \$240,060.00 in FY 15 to \$890,761.95 in FY 20, an increase of almost 400% over a period of only six years. Also notable is the increased number of diversion program grant applications, four in FY 15 and eleven in FY 20, an increase of almost 300%. During this same six years, the number of participants increased from 299 in FY 15 to 1,582 in FY 18, a slightly higher number than in FY 19, representing an increase of more than 500%. Due to new program applications each year and program expansion, it is not feasible to fund all necessary and requested program expenses.



Table 3, Growth in Adult Diversion Programming: Judicial District Participation, Funding Requests and Enrollment					
Fiscal Year	# Judicial Districts Requesting Award	Amount Requested	Amount Awarded	# Participants Enrolled	% Change in Participant Enrollment (from Prior Year)
FY 20	11	\$890,761.95	\$544,000.00	2,076 - 2,191 (Projected)	+ 40- 48% (Projected)
FY 19	9	\$748,454.78	\$477,000.00	1,518	- 5%
FY 18	9	\$694,653.16	\$477,000.00	1,592	+ 90%
FY 17	6	\$570,324.02	\$454,428.86	837	+ 67%
FY 16	5	\$277,923.46	\$277,923.46	502	+ 68%
FY 15	4	\$240,060.00	\$240,060.00	299	NA

During FY 19, the adult diversion grant funding requests exceeded the allocated amount permitted by statute for the fourth consecutive year. The Funding Committee encourages programs to base funding requests on anticipated program costs and collaborates with them to better understand anticipated program growth, resource needs and the expected outcomes that increased funding would produce.

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 10 of Colorado's 22 judicial districts, as of FY 20, financial limitations are the primary barrier to the development and expansion of access to critical services.

### FISCAL YEAR 2020 AWARD REQUESTS AND FINAL ALLOCATIONS

In FY 20, \$400,000 was allocated and awarded from the General Fund for Adult Diversion. Of this \$400,000 statutory allocation, 11 jurisdictions requested \$890,761.95 in grant funding, compared to the request for \$748,454.78 in FY 19, a 19% increase. Of the programs requesting funding for treatment, the Funding Committee made initial allocations from its allotment from the Correctional Treatment Board pursuant to §18-19-103, C.R.S. Based upon program spending, the Funding Committee worked with the programs to adjust Correctional Treatment allocations mid-year to ensure that awarded amounts best matched program needs and expenditure patterns for the rest of the fiscal year.

Nine programs received grant awards, including the newest jurisdiction, the 12<sup>th</sup> JD. The 2<sup>nd</sup> JD did not receive an adult diversion grant award but did receive an award of Correctional Treatment Funds, bringing to 10 the number of operational adult diversion programs. Of the programs requesting grant funding in FY 20, none received an allocation that met their operational needs. The programs are approaching maximum capacity for their funding allocations, as demonstrated in the distribution of expenses by fiscal year in the following section of this report.

Table 4, FY20 Adult Diversion and Correctional Treatment Fund Requests and Awards					
JD	Amount of Request	Adult Diversion Grant Award	% Reduction from Request	Correctional Treatment Award	Total Award
2	\$169,315.00	\$0.00	100%	\$20,000.00 + supplemental \$7,502.69	\$27,502.69
5	\$78,904.00	\$0.00	100%	\$0.00	\$0.00
6	\$62,416.00	\$36,816.00	41%	\$12,000.00 + supplemental \$7,582.69	\$56,398.69
7	\$29,893.36	\$21,375.36	28%	\$1,500.00	\$22,875.36
9	\$48,722.00	\$35,705.00	27%	\$4,500.00 + supplemental \$1,916.54	\$42,121.54
12	\$59,384.00	\$42,425.00	29%	\$0.00 + supplemental \$3,791.35	\$46,216.35
15	\$37,154.56	\$36,154.56	3%	\$0.00	\$36,154.56
16	\$73,000.00	\$67,000.00	8%	\$0.00	\$67,000.00
20	\$75,509.03	\$34,672.36	54%	\$37,000.00	\$71,672.36
21	\$122,464.00	\$72,451.72	41%	\$0.00	\$72,451.72
22	\$134,000.00	\$53,400.00	60%	\$25,000.00 + supplemental \$23,206.73	\$101,606.73
<b>Total</b>	<b>\$890,761.95</b>	<b>\$400,000.00</b>	<b>45%</b>	<b>\$144,000.00</b>	<b>\$544,000.00</b>



In FY 19, the diversion program continued to operate on a reimbursement basis. Allocated funds were expended by the end of the fiscal year. Moving forward, the Funding Committee will consider requests for pre-payment of expenses if requested, on a case-by-case basis.

Few programs receive supplemental funding from other sources to support program expansion, and any such funding tends to be minimal. Programs nonetheless continue to explore alternative funding opportunities that would enable them to serve a greater number of participants. Supervision fees paid by program participants provide limited funding in many communities, particularly the more rural, impoverished areas of Colorado. While supervision fees may provide some supplemental funding, they can only be expected to cover a limited number of program expenses.

The use of supervision fees by programs is most often designated to help offset or support costs participants may be required to pay by an external party or service provider in fulfilling the terms of their diversion agreement. This practice is employed to ensure that ability to pay is not a barrier to successful completion. Any fees that remain at the end of the year are retained by the program to further develop the scope of services it provides and to offset any remaining costs unsupported by the diversion grant. As programs grow and increase the impact of diversion on their communities, collection of supervision fees will be a critical component in ensuring ongoing and meaningful success.

### ADULT DIVERSION PROGRAM FUNDING REQUESTS AND DISTRIBUTION: YEAR-BY-YEAR

Since the beginning of implementation in FY 14, district attorneys have continued to apply for greater grant-funding though the availability of funds has remained static. As shown in Table 5, below, funding allocations have increasingly been distributed towards personnel costs to compensate critical staff who supervise the core diversion agreement conditions as outlined in §18-1.3-101, C.R.S. The need for monies to support other necessary services such as housing, education, and non-substance use behavioral health treatment, has exponentially grown as programs have nearly quintupled in the population served since FY 15. Removal of barriers to participant success in reducing known recidivism risk factors has required creative solutions working with community providers. Programs continue to experience systematic challenges to meet assessed participant needs. Table 5 shows the usage of grant awards over the last five fiscal year years.

Table 5, Percentage of Adult Diversion Program Expenditures by Category of Expense: A Five Year Profile						
Fiscal Year	Personnel	Training	Consultants	Operating Costs	Treatment	Other
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%

### AGGREGATE ADULT DIVERSION PARTICIPANT DATA

At the end of the fifth year of operation, adult diversion programs have demonstrated similar patterns of success. Overall, 79% 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 is consistent with the two prior years, FY 17 and FY 18. Of all participants exiting diversion, only 5% committed a new offense during the period of diversion, reflecting a 95% safety rate.



## FY 19 GRANT FUNDED ADULT DIVERSION PROGRAMS PARTICIPANT INFORMATION

**Table 6, Diversion Eligibility, Enrollment, Services and Success**

	FY 17	FY 18	FY 19
# who met eligibility criteria and were referred to adult diversion	985	1712	1636
# enrolled in adult diversion	837	1592	1518
# of participants who successfully completed adult diversion	509 (79%)	826 (78%)	1176 (79%)
# of participants under contract (e.g., pending) at end of FY	369	723	766
# of participants who did not successfully complete	134	228	313
non-compliant	97	148	213
terminated for a new offense	24 (4%)	47 (4%)	70 (5%)
voluntarily withdrew	11	31	7
Absconded	0	24	21
terminated for other reasons (including participant death)	2	2	2
# of participants referred for treatment assessment	178	380	381
# of participants who began treatment following assessment	172	301	280

The number of participants referred for treatment assessment has remained constant throughout FY 18 and FY 19, representing approximately 25% of all enrolled participants. Over 70% of those referred for assessment began treatment following the assessment. The length of diversion supervision agreement varies by jurisdiction, offense and individual participant. By statute, diversion supervision is not to exceed two years, unless unpaid restitution is the sole remaining condition, in which case the agreement can extend for one additional year. During FY 19, participants on average spent 197 days under supervision on diversion. At the end of FY 19, 766 individuals were enrolled in funded diversion programs, a 6% increase from FY 18. This data does not reflect other adult diversion programs in the state that are not funded by the Adult Diversion grant.

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.

Overall, non-compliance with the diversion agreement was the primary reason for termination from the diversion programs, accounting for 68% of terminations, while 22% of terminations occurred due to a new offense. Those charged with a new offense represent only 5% of all participants who entered the program during FY 19.

**Table 7, FY 19 Completion Rates by Judicial District**

	# Participants with Unsuccessful Completions	# Participants with Successful Completions	Percentage of Participants Completing Successfully
2 <sup>nd</sup> JD	4	20	83%
6 <sup>th</sup> JD	73	162	69%
7 <sup>th</sup> JD	2	8	80%
9 <sup>th</sup> JD	0	69	100%
15 <sup>th</sup> JD	2	22	92%
16 <sup>th</sup> JD	8	31	79%
20 <sup>th</sup> JD	25	235	90%
21 <sup>st</sup> JD	156	352	69%
22 <sup>nd</sup> JD	43	276	87%
Overall	313	1,175	79%

Established programs continue to grow, and new jurisdictions implement their models. The committee continues to discuss best practices, data collection and outcome and performance measures. The percentage of individuals referred to diversion who elect to enroll – 93% - rather than to enter a plea and serve their time or go to trial - suggests that diversion is an option frequently chosen when offered.

<b>Table 8, FY 19 Diversion Enrollment Rates by Judicial District</b>			
	<b># Individuals Referred for Diversion</b>	<b># Individuals Referred for Diversion Who Enroll</b>	<b>Enrollment Rate (% of Individuals Referred to Diversion Who Enroll)</b>
<b>2<sup>nd</sup> JD</b>	127	61	48%
<b>6<sup>th</sup> JD</b>	233	222	95%
<b>7<sup>th</sup> JD</b>	15	14	93%
<b>9<sup>th</sup> JD</b>	99	86	87%
<b>15<sup>th</sup> JD</b>	27	25	93%
<b>16<sup>th</sup> JD</b>	49	38	78%
<b>20<sup>th</sup> JD</b>	283	269	95%
<b>21<sup>st</sup> JD</b>	457	457	100%
<b>22<sup>nd</sup> JD</b>	346	346	100%
<b>Overall</b>	<b>1,636</b>	<b>1,518</b>	<b>93%</b>

## PARTICIPANT DEMOGRAPHICS

Demographic data is collected upon exit from the diversion program and therefore does not reflect those individuals currently participating in a diversion program. The Funding Committee continues to monitor program data, in comparison to local population demographics, with the desire to ensure equality of access to diversion by historically marginalized groups who were – and are – overrepresented in the criminal justice system and often underrepresented in prosecution alternatives. The Committee likewise reviews outcomes for these groups.

The successful completion rate by gender was the same for those identifying as male and those identifying as female, both groups successfully completing diversion at a rate of 79%, a similar success rate as the small number of individuals identifying in neither of the two categories. By age group, participants age 55 and older were most likely to successfully complete diversion, at 88% successfully completing. The age group least likely to successfully complete diversion was the 26 to 35 year old group, who completed diversion successfully 71% of the time. Those ages 18 to 25 and those age 36 to 55 successfully completed diversion 81% and 80% of the time, respectively.

The rate of successful completion of diversion by racial group ranges from 72% to 93%, although some racial groups exist in notably low numbers among diversion participants, such as Asian/Pacific Islander, Multi-Racial, and African American participants. For example, the only racial group found in all nine diversion programs is White/Caucasian, while there were no American Indian/Native American participants in four of the programs, no Asian/Pacific Islander participants in six of the programs, no African American participants in three of the programs, and no individuals identifying as multi-racial in eight of the nine programs. The rate of successful completion among participants identifying as Hispanic is 70%, compared to 81% of participants who do not identify as Hispanic.

Attention to under-representation of historically marginalized groups in the diversion programs, in light of historic overrepresentation in the traditional criminal justice system, will be a priority. Likewise, attention to successful completion rates by demographic group will help inform the need for program adjustments, culturally aware practices and training.

**Table 9, FY19 Adult Diversion  
Participant Demographics by Age and Gender**

JD	<18	18-25	26-40	41-60	61+	Total
<b>2</b>	<b>0</b>	<b>21</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>23</b>
Female	0	10	1	0	0	11
Male	0	11	1	0	0	12
<b>6</b>	<b>0</b>	<b>71</b>	<b>92</b>	<b>52</b>	<b>20</b>	<b>235</b>
Female	0	22	44	28	9	103
Male	0	49	48	24	11	132
<b>7</b>	<b>0</b>	<b>7</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>10</b>
Female	0	2	2	0	0	4
Male	0	5	0	1	0	6
<b>9</b>	<b>0</b>	<b>44</b>	<b>12</b>	<b>11</b>	<b>2</b>	<b>69</b>
Female	0	18	7	5	1	31
Male	0	26	5	6	1	38
<b>15</b>	<b>0</b>	<b>9</b>	<b>8</b>	<b>6</b>	<b>1</b>	<b>24</b>
Female	0	5	5	4	1	15
Male	0	4	3	2	0	9
<b>16</b>	<b>1</b>	<b>18</b>	<b>12</b>	<b>8</b>	<b>1</b>	<b>40</b>
Female	1	11	4	5	0	21
Male	0	7	8	3	1	19
<b>20</b>	<b>1</b>	<b>167</b>	<b>61</b>	<b>17</b>	<b>14</b>	<b>260</b>
Female	0	57	25	9	8	99
Male	1	106	36	8	6	157
Other	0	4	0	0	0	4
<b>21</b>	<b>0</b>	<b>173</b>	<b>198</b>	<b>110</b>	<b>27</b>	<b>508</b>
Female	0	64	102	48	14	228
Male	0	109	96	62	13	280
<b>22</b>	<b>0</b>	<b>86</b>	<b>113</b>	<b>87</b>	<b>30</b>	<b>316</b>
Female	0	45	40	41	12	138
Male	0	41	73	46	18	178
<b>Total</b>	<b>2</b>	<b>596</b>	<b>500</b>	<b>292</b>	<b>95</b>	<b>1485</b>

## FY 19 DIVERSION OFFENSE INFORMATION

The most frequent successful case type varied from jurisdiction to jurisdiction, largely depending on the frequency with which the offense type was diverted, often reflective of local diversion program priorities. For instance, traffic related matters were the most frequent case type enrolled in the 6<sup>th</sup> JD (careless driving), 16<sup>th</sup> JD (DUI), 21<sup>st</sup> JD (driving under restraint) and 22<sup>nd</sup> JD (speeding 1-4 over the limit). Matters involving drugs or alcohol were the most common case types diverted in the 2<sup>nd</sup> JD (possession), 7<sup>th</sup> JD (marijuana possession/consumption by person under 21 years of age), and 9<sup>th</sup> JD (alcohol possession by minor). Most frequently diverted in the 15<sup>th</sup> JD were misdemeanor assault offenses and in the 20<sup>th</sup> JD, lower level theft offenses. Statewide, 45 offenses involving domestic violence were diverted.

Diverted offenses include those involving controlled substances, such as possession and possession or consumption of alcohol or marijuana by minors, traffic related offenses, such as driving under restraint, careless driving, speeding, driving under the influence, and other offense categories, including assault, wildlife offenses, theft, and property-related offenses, such as criminal mischief. The level of offenses diverted ranges from traffic infractions to lower level felonies.

## RESTITUTION COLLECTION

Furthering the legislative intent that diversion serve as a mechanism for restoring victims of crime and facilitating the payment of restitution, 19% of all cases diverted statewide involved restitution. During FY 19, diversion programs statewide accepted 292 cases with restitution owed, compared to 239 cases in FY 18, an increase of 22 percent (22%). Restitution collections were highest in the 6<sup>th</sup>, 20<sup>th</sup>, 21<sup>st</sup> and 22<sup>nd</sup> JDs, which predictably are the jurisdictions with the highest number of restitution cases diverted. Restitution collected statewide amounted to \$69,791.39 in FY 19, compared to \$99,244.39 in FY 18. The average restitution owed among diverted cases involving restitution was \$239.01 in FY 19. The average time statewide from the date of offense to payment of restitution was 331 days.

Diversion programs are encouraged to increasingly consider diverting cases involving restitution, consistent with the legislative intent. The prospect of avoiding criminal convictions and dismissal of charges continues to serve as a strong incentive for the payment of restitution, benefitting victims and diversion participants alike.

## IMPACT OF ADULT DIVERSION IN THE COMMUNITY

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. This quantitative and qualitative program data suggest that Colorado's pretrial diversion programs operate successfully, serving diverse and varying populations from one district to the next. An illustrative sample of successful program outcomes follows.

A participant in the 2<sup>nd</sup> JD, arrested for possession of a controlled substance, became substance free and maintained sobriety throughout the diversion period, leading to successful program completion. He accomplished one of his adult diversion program goals, acquisition of his real estate license, through a referral to and funding by Servicios De La Raza. Following successful completion of Adult Diversion, he reported working several jobs, caring for his child and working on his new career in real estate. He expressed gratitude to Adult Diversion and Servicios De La Raza for helping him get his life back on track and achieve his

A participant in the 6<sup>th</sup> JD was arrested for child abuse-negligence-no injury for leaving her child in the vehicle while she returned an item at a store, not realizing the risk to the child. She completed a six-week parenting program that increased her parenting knowledge and skills. She successfully completed Adult Diversion, noting the value of the parenting program required as a condition of successful completion and the value of avoiding prosecution, which resulted in her employability and ability to support her child.

Another participant in the 6<sup>th</sup> JD entered the Adult Diversion program following an arrest for possession of a controlled substance. She reported two years of sobriety from alcohol, but an ongoing cocaine addiction and involvement in an unhealthy, co-dependent relationship. Initially unwilling to commit to making a change, reluctant to participate in drug and alcohol monitoring, she no-showed three times and tested positive for substance use several times. After three months of failing to participate in the program, encouragement from and engagement with Diversion Program staff led to her eventual completion of the intake process. She gradually became completely sober and fully compliant with the program, completing a nine-month outpatient treatment program without any further positive drug or alcohol tests. She successfully completed the program, and thereafter expressed that for the first time, she believed in herself and in her abilities to cope with life without the use of drugs, alcohol or another individual.

A third participant in the 6<sup>th</sup> JD, a single mother of three who worked two hotel housekeeping jobs, faced charges of driving under restraint. She struggled with the program, desperate for transportation to work and to transport her children to school and day care. After 11 months, she was able to save up to pay the fines and fees and for license reinstatement. She expressed gratitude for the opportunity to pay fines and fees over time and without a conviction. With her license reinstated, she is able to transport her children and herself legally and without concern.

A participant in the 7<sup>th</sup> JD was engaged in criminal behavior and disengaged from work, relationships and family. Through referrals for counseling and medication management and involvement of a peer mentor, he increased his



<p>engagement in pro-social activities and was accepted into Job Corp. He was flourishing in the program, which would result in employment, when he successfully completed Adult Diversion.</p>
<p>A second participant in the 7<sup>th</sup> JD could not have earned her cosmetology license without the Adult Diversion program, which allowed her to avoid the consequences of a felony conviction.</p>
<p>A third participant in the 7<sup>th</sup> JD, in an anonymous survey, faced four criminal charges. He reports that as a result of diversion, “my behavior has completely flipped around for the better ...I’m actually a productive member of society.”</p>
<p>A participant in the 9<sup>th</sup> JD, a young mother, was described as “so down, so saddened, so insecure, and hopeless, that she got involved with the court system as a result.” She struggled through the Adult Diversion program but persevered, successfully completing the program and obtaining her GED in the process. She obtained parenting classes, individual counseling and education. Upon completion of the program, she was a respected employee, holding down a full-time job, resolving family relationship challenges and “thriving as a mom.”</p>
<p>As part of its Adult Diversion Program, the 9<sup>th</sup> Judicial District successfully utilized Restorative Justice in several cases. The 9<sup>th</sup> JD also successfully engaged and diverted 29 young adults cited as minors in possession of alcohol at a large event, holding each accountable for their actions, saving valuable court time, and allowing them to avoid the consequences of criminal records as they begin their adult lives.</p>
<p>A participant in the 15<sup>th</sup> JD who completed the diversion program expressed that Adult Diversion assisted him in continuing a career path in public service, and was applying for security and law enforcement employment.</p>
<p>Another successful diversion participant from the 15<sup>th</sup> JD expressed that Adult Diversion allowed him to continue his path to citizenship without the complications that a conviction would have caused.</p>
<p>A young adult participant from the 16<sup>th</sup> JD who was charged with burglary and was a methamphetamine user took responsibility for his actions, completed drug and alcohol classes, and avoided relapse despite life stressors. While working full-time, he attended culinary school, where he was soon to graduate with much greater personal and professional opportunities than prior to his involvement in Adult Diversion.</p>
<p>A second participant from the 16<sup>th</sup> JD, who had unmet mental health needs at the time of her arrest for a felony, obtained counseling, treatment and access to medication. Employed, she reports that she “feels better daily” and appears to be on a path to a successful future.</p>
<p>A young participant in the 20<sup>th</sup> JD with a history of trauma, family challenges and substance use struggled with daily functioning and sobriety. She began regularly attending AA meetings and yoga. She obtained full-time employment, paid restitution, completed a restorative justice component to repair the harms she caused, completed community service with Meals-On-Wheels, increased her confidence, self-reliance and independence, and established supportive and meaningful community connections. Her risk of recidivism dropped from high to low and her protective factors increased from moderate to high.</p>
<p>Another young participant from the 20<sup>th</sup> JD, facing an illegal weapon and harassment charges, recognized the need to address her anger and to make changes in her social group. She had a significant trauma history and was at high risk for human trafficking. She completed the Empower Youth Program with the Adult Diversion Coordinator, to develop protective factors, to address human trafficking risk factors and to increase empathy. She assisted police and child welfare professionals regarding another family member involved in trafficking. She engaged with a multi-disciplinary team of professionals and community supports to overcome barriers, to gain independence, to engage in therapy, and to develop coping skills. She improved her grades and is close to graduating from high school. She has connected with a cosmetology school and plans to enroll following high school. Her risk to reoffend decreased. She completed a restorative justice program.</p>
<p>A participant from the 22<sup>nd</sup> JD, whose DUI charge was diverted, finished treatment and successfully completed diversion. Expressing thankfulness for Adult Diversion, he stated that he otherwise would have lost his job, resulting in devastating financial consequences.</p>

## ADULT DIVERSION PROGRAM FORECAST FOR FY 20

The number of participants served during FY 19, 1,518, was less than the 1,800 participants projected. However, the success rate of 79% was consistent with prior years, dating back to 2015. The percentage of participants receiving treatment referrals following the adult diversion intake was twenty-five percent (25%), an increase of three percent (3%) from FY 18. During the fiscal year, grant-funded programs yielded 1,488 total program exits, of which 1,175 were successful terminations.

The addition of a newly funded program in the 12<sup>th</sup> Judicial District, as well as anticipated growth from the maturing of other young programs, is expected to produce an increase in participants compared to FY 19 numbers. Furthermore, as a program evaluator designs a statewide plan for program evaluation in FY 20, to be implemented in FY 21, the programs are likely to receive valuable feedback and recommendations regarding best practices and implementation. It is anticipated that this will allow programs to refine their target populations and operating procedures, and enhance community partnerships.

With each year, the Funding Committee and diversion programs benefit from the increasing emphasis on alternatives to prosecution and growth of related programs, such as the Mental Health Diversion Program, BRIDGES behavioral health court liaisons, Law Enforcement Assisted Diversion, Co-responder Programs, Jail Based Behavioral Health Services, problem-solving courts, Medication Assisted Treatment and outpatient restoration programs, as well as implementation of Senate Bill 19-223. The increasing availability of services to address factors contributing to criminal conduct and the growing validation of alternative approaches, suggest an increased emphasis on programs such as Adult Diversion. This shift is evident in the number of new programs recently implemented and growing interest of non-participating judicial districts. Finally, legislative changes such as the reclassification of certain drug possession charges from felony to misdemeanor, effective in March of 2020, suggests that the number of diversion candidates is likely to increase in the current and future fiscal years.

The cost per diversion participant exit of \$284.38 in FY 19 represents a significant drop from FY 18, when the cost per exit was approximately \$400. This decreasing cost per exit stands in stark contrast to other criminal justice system programs, particularly the more traditional paths involving incarceration and prosecution.

Fiscal Year 20 quarterly reports indicate stable participation in diversion. The stable rate of successful completions and the strong safety rate – the rate of individuals who do not commit a new offense during the term of diversion – demonstrate that diversion works. The Funding Committee is dedicated to strengthening and growing diversion programs, should funding for such growth become available. Data does not entirely capture all achievements and outcomes furthered by diversion that flow from reparation of harmed victims and avoidance of collateral consequences associated with criminal charges and convictions.

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. Evidencing this commitment is the pending FY 21 decision item seeking approximately \$450,000 in additional annual funding to sustain the development of new programs and to support the growth of existing ones.



## ADDENDUM TO ANNUAL REPORT

- ATTACHMENT [ I ] – *Adult Diversion Funding Application for FY 19*
- ATTACHMENT [ II ] – *FY 19 Funding Application Guidelines*
- ATTACHMENT [ III ] – *Frequently Asked Questions*



ADULT DIVERSION FUNDING APPLICATION – FY '19

<b>COMPLETE AND RETURN APPLICATION BY FEBRUARY 23, 2018 to:</b> <a href="mailto:KYLE.GUSTAFSON@JUDICIAL.STATE.CO.US">KYLE.GUSTAFSON@JUDICIAL.STATE.CO.US</a>					
<b>SCAO use only:</b>	<b>Prior FY Award</b>	Awarded:	\$	Spent:	\$
	<b>Current FY Award</b>	Awarded:	\$	Spent:	\$
Score:		Grant		Deny	Amount: \$
Comments:					

<b>SECTION 1. APPLICANT INFORMATION</b>			
<b>Judicial District Information:</b> <i>Include the judicial district number, elected District Attorney name, and the counties served by the district.</i>			
<b>Primary Contact Name:</b>			
<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:</b> <i>How much funding are you requesting for FY 2019?</i>			<b>\$</b>

<b>SECTION 2. ADULT DIVERSION PROGRAM INFORMATION</b>			
<b>Program Status:</b> <i>Is this a new or existing program?</i>	<input type="checkbox"/> <b>New</b>	<input type="checkbox"/> <b>Existing</b>	<b>Year Started</b>
<b>Target Population:</b> <i>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.</i>			
<b>Partner Organizations:</b> <i>If applicable, identify any partnering organizations. Include name, point of contact, phone, e-mail, and mailing address. Partner organizations are defined as organizations expected to provide services, supervision, or support in executing the adult diversion agreement with defendants.</i>			
<b>Partner Organization's Roles and Responsibilities:</b> <i>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.</i>			
<b>** 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. **</b>			



<b>SECTION 3. ADULT DIVERSION PROGRAM NARRATIVE</b>
<b>PART A – NEED FOR ADULT DIVERSION</b>
<i>Help the Committee understand the need for adult diversion funding in your district.</i>
<b>PART B – DESCRIPTION OF ADULT DIVERSION PROGRAM</b>
<b>B (1). Description of Adult Diversion Program:</b> Describe the adult diversion program you have implemented or are looking to create.
<i>** 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.</i>
<b>B (2). Accountability and Victim Restoration:</b> How will your program prevent the commission of additional criminal acts, facilitate the ability to pay restitution, and/or restore victims of crime?
<b>B (3). Program Planning:</b> What is your implementation plan? What training or resources will be needed for staff?
<b>B (4). Program Outcomes:</b> 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.
<b>PART C – ELIGIBILITY CRITERIA AND SUPERVISION PLAN</b>
<b>C (1). Eligibility Criteria:</b> What are the eligibility criteria for defendants to participate in adult diversion?



<b>C (2). Screening Process:</b> <i>How are defendants selected for adult diversion?</i>
<b>C (3). Supervision Plan:</b> <i>Describe the nature of supervision of defendants. How will you determine their successful completion of the program?</i>
<b>PART D – TREATMENT PLAN INFORMATION</b>
<b>D (1). Description of Treatment Referral Plan:</b> <i>What process will be employed to determine if a treatment assessment referral is necessary?</i>
<b>D (2). Description of Treatment Outcomes:</b> <i>How will the program track a client's successful participation in treatment and evaluate the effectiveness of treatment options in the community?</i>
<b>D (3). Description of Treatment Assessment Process:</b> <i>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?</i>
<b>D (4). Treatment Need:</b> <i>What is the anticipated number of people who may need treatment, if possible to estimate?</i>



PART E – GOALS, OBJECTIVES, OUTCOMES AND TIMEFRAMES		
<i>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.</i>		
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:
<b>Program Evaluation:</b> <i>How will data required by the statute be collected and reported? Who will be responsible for this?</i>		



**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: please specify			

*\*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 \$
<b>Total Cost for Adult Div. Program</b>	\$	

**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: \_\_\_\_\_



**ADULT DIVERSION FUNDING GUIDELINES – FY '19****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 '19 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 1, 2017.
- Application deadline: February 23, 2018.
- Approximate date for grant award notices: March 12, 2018.
- Awards are effective July 1, 2018 through June 30, 2019.

**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 23, 2018**.

**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, 2019 and reported by July 10, 2019.*
- In FY '19, 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 '19 reporting deadlines will be as follows: Q1 will be due October 10, 2018; Q2 will be due January 10, 2019; Q3 will be due April 10, 2019; Q4 will be due July 10, 2019.
- 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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**ADULT DIVERSION FREQUENTLY ASKED QUESTIONS – FY '19**

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**Q:** *If a DA's office applies for funding for a new Adult Diversion program but has an existing Adult Diversion program, does the existing program have to comply with the statutory language too?*

**A:** These funds can only be used for Adult Diversion programs that meet the requirements of the legislative act and enacted statute (HB 13-1156; C.R.S. § 18-1.3-101). Programs operating outside of this funding do not currently need to comply. Reporting will need to reflect the distinction between programs funded by these dollars and any additional Adult Diversion programs in the judicial district.

**Q:** *Would this be considered a grant funded program therefore the employee(s) would technically not employed directly by the DA's office?*

**A:** This would be considered grant funding. How the DA chooses to employ or contract for services is at their discretion. Funding is not guaranteed.

**Q:** *Would the employee(s) hired to manage the program only be able to perform duties specifically pertaining to the grant?*

**A:** If you clearly document in reports how the contractor/employee's time is spent on this Adult Diversion program that time could be paid for by the grant. If they had other duties outside of adult diversion that time would not be paid for by the grant. But it does not matter if they are working only a percentage of their time on Adult Diversion. These funds could cover the percentage that is dedicated to this Adult Diversion funded program.

**Q:** *Will training be required if funded?*

**A:** Online orientation training will be required for reporting procedure and funding distribution for FY 19, likely to take place prior to the start of the next fiscal year. Topic specific training may be offered to support grantees. Attendance at the yearly Colorado Collaborative Justice Conference may also be made available through the Correctional Treatment Board. Any additional questions or training requests may be directed to the grant coordinator from the grantee.

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## ADULT DIVERSION FREQUENTLY ASKED QUESTIONS – FY '19

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- Q:** *Can the application for funding be done by an organization outside of the DA's office to help cover the costs of supervision, or does the application for funding have to be filled out by the District Attorney's office?*
- A:** It does not matter to the committee who completes the application. However, it must be approved and submitted by the DA.
- Q:** *Can we charge a fee for Adult Diversion?*
- A:** Yes, the statute allows Adult Diversion fees up to \$50 per month. Collected supervision fees are to be used towards the operation of an Adult Diversion program and should be kept in an account separately from awarded grant funds.
- Q:** *Can we use grant funds for treatment?*
- A:** Yes, the use of Adult Diversion funds for treatment is encouraged. Currently, there are additional funds available from the Correctional Treatment Board specifically for treatment of Adult Diversion participants. See: "FUNDING GUIDELINES – CORRECTIONAL TREATMENT BOARD (FY 19)."
- Q:** *Can we receive technical assistance with the application?*
- A:** Yes, please contact the Adult Diversion Coordinator, Kyle Gustafson, with any questions about the funding process, application materials, or for any additional information related to adult diversion. Feel free to reach him either by email at [kyle.gustafson@judicial.state.co.us](mailto:kyle.gustafson@judicial.state.co.us) or by phone (720) 625-5966.
- Q:** *Are we required to provide an annual report in addition to the quarterly summaries?*
- A:** Yes, the funding committee uses information compiled within the year-end reports from the program for purposes of drafting their annual report to the legislature pursuant to C.R.S. § 13-3-115 and is a contractual part of the funding agreement.