

ADULT DIVERSION ANNUAL LEGISLATIVE REPORT

ON THE IMPLEMENTATION OF HB 13-1156

FISCAL YEAR 2016



ADULT DIVERSION FUNDING COMMITTEE
OFFICE OF THE STATE COURT ADMINISTRATOR
COLORADO STATE JUDICIAL DEPARTMENT

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STATUTORY REPORTING REQUIREMENTS

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

2016 – 2017 ADULT DIVERSION FUNDING COMMITTEE

NAME	AGENCY REPRESENTING	EMAIL
James Bullock	<i>Colorado District Attorney's Council (Elected D.A. from the 16th JD)</i>	jbullock@da16co.gov
Susan Colling	<i>State Court Administrator's Office</i>	susan.colling@judicial.state.co.us
Mark Evans	<i>Public Defender's Office</i>	mark.evans@coloradodefenders.us
Jeanne Smith	<i>Division of Criminal Justice in Department of Public Safety</i>	jeanne.smith@state.co.us
Scott Turner	<i>Attorney General's Office</i>	scott.turner@coag.gov
Kyle Gustafson, <i>Grant Coordinator</i> : kyle.gustafson@judicial.state.co.us		

Pursuant to statute, the Adult Diversion Funding Committee has established funding guidelines and an application process for reviewing funding requests submitted by a district attorney (*see* Attachments I – III). Funding requests are reviewed on an annual basis by the committee. Throughout the year, the committee meets bi-monthly to discuss program progress, review participant data, and other business items related to the administration of the 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. For additional information or clarification requests, please contact the Adult Diversion Funding Grant Coordinator Kyle Gustafson at kyle.gustafson@judicial.state.co.us or by phone at (720) 625-5000.



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 Attorneys' Offices to institute or operate pretrial diversion programs. It also established the Adult Diversion Funding Committee to develop a process by which elected District Attorneys could request funding. The bill became law in August 2013.

The State Court Administrator's Office filled the Adult Diversion Funding Committee's 0.5 FTE staff position as of October 1, 2013. The Adult Diversion Funding Committee was in place by the end of October 2013. The first funding application materials were released in January 2014. Since then, the committee has continued to develop the funding guidelines, application process, and report forms for this grant. The addendum to this report provides additional information on the application process for fiscal year (FY) 2017. Adult Diversion funding application materials have also been given to the Colorado District Attorneys' Council with an announcement on behalf of the Adult Diversion Funding Committee. The application, guidelines, and answers to frequently asked questions are also posted on the Judicial Branch's website. All elected District Attorneys may apply if interested. A public web page for information regarding adult diversion funding has been developed as a resource for diversion programs, in addition to training opportunities and quarterly coordinator conference calls.

Following the planning and implementation of HB 13-1156 conducted in FY 14, four District Attorneys' Offices from the 6th, 9th, 15th and 16th Judicial Districts requested funding. Each of the four originally funded judicial districts reapplied and received funding for FY 17 in addition to two new programs. Currently funded jurisdictions and counties include: 6th – La Plata, Archuleta and San Juan; 9th – Rio Blanco, Garfield and Pitkin; 15th – Cheyenne, Kiowa, Prowers and Baca; 16th – Crowley, Otero and Bent; 20th – Boulder; 21st – Mesa.

CURRENT PROGRAM STATUS

All of the four previously funded programs continue to remain fully operational as of December 31, 2016. The two newest programs in the 20th and 21st have begun to implement their program model and offer diversion agreements to participants. As the development of a new program can take approximately 3-5 years to complete according to implementation science, the Adult Diversion Funding Committee understands that some grantees will need time to further develop their programs and has continued to support the ongoing evolution of the diversion model.

FY 16 represented the second year of operation for programs funded by the adult diversion grant. During this period, current adult diversion programs began to expand and adjust their screening and assessment procedures, criteria for receiving clients, participant data reporting, and day-to-day management of grant funds. Each of the funded jurisdictions saw considerable growth in program capacity and have continued their use of available resources to provide better services for their adult diversion target populations; additionally Correctional Treatment Board funding for substance-abuse and co-occurring disorders has started to be used in FY 17.

The Adult Diversion Funding Committee continues to encourage interested District Attorneys to apply for funding during the remainder of this fiscal year. Several new jurisdictions have expressed an interest in applying for grant funding in the upcoming year. As of December 2, 2016, application materials for FY 18 funding have been posted on the website. All six of the currently funded District Attorney's Offices intend to reapply for funding. The deadline for applications is February 16, 2017.



CURRENT DIVERSION PROGRAM PROFILES

6TH JD – ARCHULETA, LA PLATA AND SAN JUAN COUNTIES

ELECTED DISTRICT ATTORNEY:

Todd Risberg

EST. POPULATION (2015): 67,996

PROGRAM OVERVIEW					
Mailing Address	PO Box 3455, Durango, CO 81302		Phone:	(970) 247-8850	
Type of Program	Existing Program	FY 17 Request	\$43,370	FY 17 Award	\$34,370
Eligibility Criteria / Target Population	<i>Low risk, first-time offenders charged with Driving Under Restraint, Criminal Mischief, Neighbor Disputes, Recurring Pet-Control offenses, expanding to accept Domestic Violence cases believed to have a low probability of recidivism.</i>				
Program Goals	<i>Sustainability, Recidivism Reduction, Gain Support of Local Community and Agencies</i>				
Projected Enrollment	400	# of adults screened by diversion program in FY 16		439	
Successful Completion	83.7%	# of adults enrolled by diversion program in FY 16		361	
Participant Outcomes	Successful Terminations	273	Unsuccessful Terminations	53	
Supervision Fees	<i>Varies by offense, supervision need, and income</i>		Fees Collected in FY 16	\$13,620	
Treatment Assessment	<i>Offenders without significant criminal history involving substance abuse may be referred to a treatment provider for assessment and treatment or may be required to complete an education component.</i>				
Partner Agencies	<i>6th JD Probation, Colorado State Patrol, Axis Health, Preferred Counseling, Mobile Jo Testing, Bright Sky Counseling, The Recovery Center, Local Mediators, Certified Equine Specialist Therapy</i>				

9TH JD – GARFIELD, PITKIN, AND RIO BLANCO COUNTIES

ELECTED DISTRICT ATTORNEY:

Sherry Caloia

EST. POPULATION (2015): 82,386

PROGRAM OVERVIEW					
Mailing Address	109 8 th St., # 308, Glenwood Springs, CO 81601		Phone:	(970) 945-8635	
Type of Program	Existing Program	FY 17 Request	\$32,909.92	FY 17 Award	\$25,409.92
Eligibility Criteria / Target Population	<i>Young adults (18-20) with pending charges related to Minor in Possession of alcohol or marijuana, adult defendants who have misdemeanor charges such as: harassment, disorderly conduct, trespass, menacing and theft. Lower level felony charges may also be considered.</i>				
Program Goals	<i>Divert 80 -120 cases from criminal justice system, rehabilitate offenders, and reduce recidivism.</i>				
Projected Enrollment	120	# of adults screened by diversion program in FY 16		115	
Successful Completion	94.7%	# of adults enrolled by diversion program in FY 16		81	
Participant Outcomes	Successful Terminations	91	Unsuccessful Terminations	5	
Supervision Fees	<i>\$50 a month per participant, for 3 -6 months</i>		Fees Collected in FY 16	\$13,895	



Treatment Assessment	<i>If a defendant is referred who has prior substance related convictions or the current charge includes alcohol and or controlled substances the defendant may be referred for further treatment evaluation.</i>
Partner Agencies	<i>Alpine Springs Counseling, Community Counseling, Mind Springs Health</i>

15TH JD – BACA, CHEYENNE, KIOWA, AND PROWERS COUNTIES

ELECTED DISTRICT ATTORNEY: Jennifer Swanson

EST. POPULATION (2015): 18,726

PROGRAM OVERVIEW					
Mailing Address	110 E. Oak Street, Lamar, CO 81052		Phone:	(719) 336-7446	
Type of Program	Existing Program	FY 17 Request	\$59,154.56	FY 17 Award	\$44,156.56
Eligibility Criteria / Target Population	<i>Low risk, first-time offenders with felony or misdemeanor charges, including: burglary (non-residential), burglary tools possession, drug possession including obtained by fraud and forged prescriptions, forgery, fraud, impersonation, trespass, mischief, tampering, theft, domestic violence, and other charges as considered in exceptional circumstances.</i>				
Program Goals	<i>Identify treatment issues present, facilitate restitution, maximize successful completion and participation</i>				
Projected Enrollment	20	# of adults screened by diversion program in FY 16		18	
Successful Completion	94.4%	# of adults enrolled by diversion program in FY 16		17	
Participant Outcomes	Successful Terminations	13	Unsuccessful Terminations	1	
Supervision Fees	Varies based upon income and indigency		Fees Collected in FY 16	\$1,630	
Treatment Assessment	<i>All proposed participants will be referred to Southeast Health Group or Crossroads for mental and substance abuse evaluations.</i>				
Partner Agencies	<i>Southeast Health Group, Crossroad Turning Points, Cindy Vigil (local provider)</i>				

16TH JD – BENT, CROWLEY AND OTERO COUNTIES

ELECTED DISTRICT ATTORNEY: Jim Bullock

EST. POPULATION (2015): 29,668

PROGRAM OVERVIEW					
Mailing Address	PO Box 928, La Junta, CO 81050		Phone:	(719) 384-8786	
Type of Program	Existing Program	FY 17 Request	\$99,317.38	FY 17 Award	\$99,317.38
Eligibility Criteria / Target Population	<i>First time offenders, low-risk, non-violent offenders with charges including but not limited to: burglary (non-residential), burglary tools possession, drug possession including obtaining by fraud or forged prescription, forgery, fraud, impersonation, trespass, mischief, tampering, theft and other charges as considered in exceptional circumstances.</i>				
Program Goals	<i>Identify treatment issues present, basic education for all participants, full restitution by end of diversion</i>				
Projected Enrollment	75	# of adults screened by diversion program in FY 16		78	



Successful Completion	52.5%*	# of adults enrolled by diversion program in FY 16	43	
Participant Outcomes	Successful Terminations	42	Unsuccessful Terminations	38
Supervision Fees	\$50 per month or \$600 annually per participant		Fees Collected in FY 16	\$27,605
Treatment Assessment	All participants will be referred for a complete medical, mental, and substance abuse assessment. Any recommendation for treatment will be set out in the treatment plan reviewed by program specialist.			
Partner Agencies	Otero Junior College, Local Treatment Providers			

20TH JD – BOULDER COUNTY

ELECTED DISTRICT ATTORNEY: Stan Garnett

EST. POPULATION (2015): 319,177

PROGRAM OVERVIEW					
Mailing Address	1777 6 th Street, Boulder, CO 80302		Phone:	(303) 441-4736	
Type of Program	New Program	FY 17 Request	\$200,002	FY 17 Award	\$85,175
Eligibility Criteria / Target Population	Young adults between the ages of 18-25, first-time felony or class 1 misdemeanors that are most at risk for ancillary consequences.				
Program Goals	Develop program, assessment, and referral practices, reduce risk and prevent recidivism.				
Projected Enrollment	45 - 80	# of adults screened by diversion program in FY 16	N/A		
Successful Completion	N/A	# of adults enrolled by diversion program in FY 16	N/A		
Participant Outcomes	Successful Terminations	N/A	Unsuccessful Terminations	N/A	
Supervision Fees	\$50 per month, dependent upon ability to pay		Fees Collected in FY 16	N/A	
Treatment Assessment	All participants will be assessed using the SPI instrument to identify referral needs for mental health, substance abuse, education and other services.				
Partner Agencies	Boulder County IMPACT, Center for Change, Phoenix Multisport, Mental Health Partners, Attention Homes, Bridge House, Workforce Boulder County, the Learning Source				

* The successful completion percentage for this district is anticipated to be higher than reported. A component that tracked individuals who did not meet program criteria after referral was adjusted for the FY 17 reporting process which likely attributed to this outcome.



ELECTED DISTRICT ATTORNEY: Daniel Rubinstein

EST. POPULATION (2015): 149,249

PROGRAM OVERVIEW					
Mailing Address	125 N Spruce St., Grand Junction, CO 81502		Phone:	(970) 244-1730	
Type of Program	New Program	FY 17 Request	\$140,570.16	FY 17 Award	\$96,000
Eligibility Criteria / Target Population	Lower to medium risk defendants on the proxy risk assessment (locally normed in Mesa County) including defendants with no prior arrests and lower level criminal charges consistent with the Mesa County Sentencing Guide.				
Program Goals	Supervision matched by risk level for appropriate accountability, monitoring and criminogenic response				
Projected Enrollment	300	# of adults screened by diversion program in FY 16		N/A	
Successful Completion	N/A	# of adults enrolled by diversion program in FY 16		N/A	
Participant Outcomes	Successful Terminations	N/A	Unsuccessful Terminations	N/A	
Supervision Fees	\$40/month for 6 mos., if defendant able to pay		Fees Collected in FY 16	N/A	
Treatment Assessment	Proxy risk assessment and SSI for all defendants, a follow up LSI may be completed or an SOAR. If treatment needs identified, referrals will be made to appropriate in-house or outside providers.				
Partner Agencies	Mesa County Criminal Justice Services Department				

* Population and demographics estimates used in this report compiled from publically available data through the Colorado Department of Local Affairs –State Demography Office



ADULT DIVERSION GRANT FINANCIAL SUMMARY

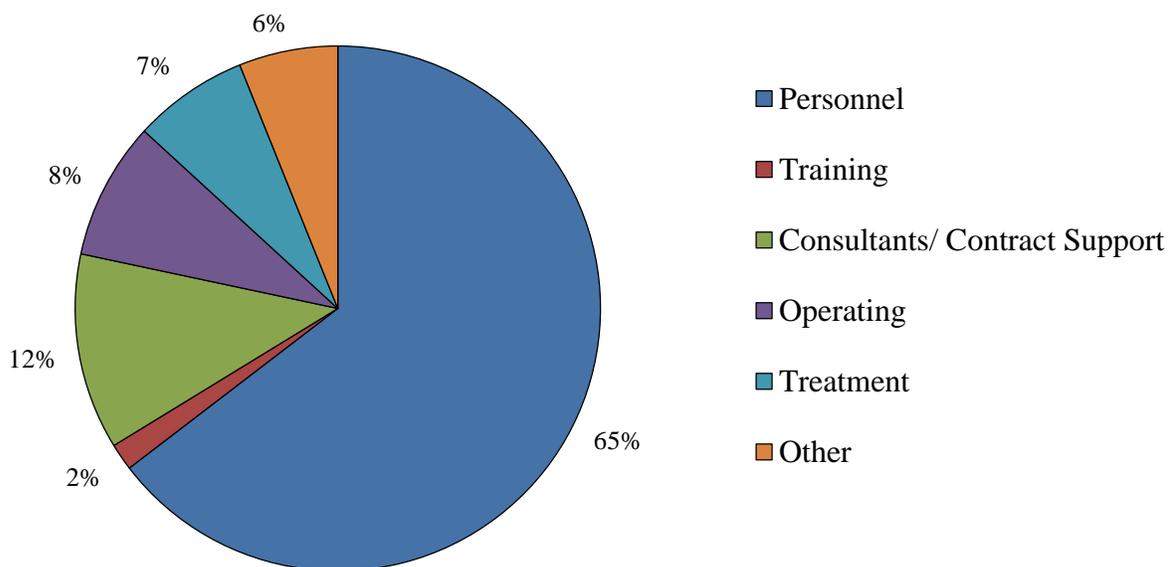
By statute, HB 13-1156 provides \$400,000 in allocations from the General Fund for Adult Diversion. During FY 16, four programs initially applied for funding in the amount of \$244,193.46. All programs received full-funding for their requests. During this fiscal year, diversion programs spent \$61,952.05 more than the prior fiscal year cycle, an increase of 43%. As represented in the last column below which calculates the amount spent of the grant funding award for the fiscal year, the percentage of the FY 16 allocation award spent by program is on average 75% of their awarded amount which is 15% more than FY 15.

ADULT DIVERSION FY 16 EXPENSES BY PROGRAM									
<i>JD</i>	<i>Personnel</i>	<i>Training</i>	<i>Consulting</i>	<i>Operating</i>	<i>Treatment</i>	<i>Other</i>	<i>Total</i>	<i>Award</i>	<i>%</i>
6	\$21,200.00	\$405.16	\$0.00	\$1,133.99	\$9,155.00	\$181.15	\$32,075.30	\$80,170.00	40%
9	\$19,536.71	\$0.00	\$0.00	\$311.59	\$1,738.00	\$40.21	\$21,626.51	\$21,418.90	101%
15	\$25,000.00	\$0.00	\$5,000.00	\$10,000.00	\$2,150.00	\$9,154.56	\$51,304.56	\$69,154.56	74%
16	\$66,782.88	\$0.00	\$0.00	\$3,504.79	\$1,520.00	\$3,114.38	\$74,922.05	\$73,450.00	102%
20	\$0.00	\$3,000.00	\$19,800.00	\$2,431.71	\$0.00	\$0.00	\$25,231.71	\$27,730.00	91%
T.	\$132,519.59	\$3,405.16	\$24,800.00	\$17,382.08	\$14,563.00	\$12,490.30	\$205,160.13	\$271,923.46	75%

The excess in spending from the 9th jurisdiction was covered through supervision fees collected by the program. For the 16th JD, an amended funding request was submitted to provide additional funding for a mandatory increase in benefits for the program coordinator by the county. In FY 16 Q4, as unallocated general funds remained available, the 20th JD applied for and received monies to work with a consultant specializing in implementation science to develop and plan their model. Consultation was completed prior to the end of FY 16 with the program set to begin operation.

As programs grow more able to estimate the cost of their operations, their ability to use their award funding to provide services for their participants also improves. Though the majority of program expenses are attributable to personnel costs, other categories of program operational expenditures maintain a similar distribution from prior fiscal years. For the past fiscal year, supervision fees collected statewide amounted to \$56,750.36 and would cover, as an estimate, less than 30% of all expenditures for programs during that same year.

ADULT DIVERSION FY 16 EXPENDITURES BY CATEGORY

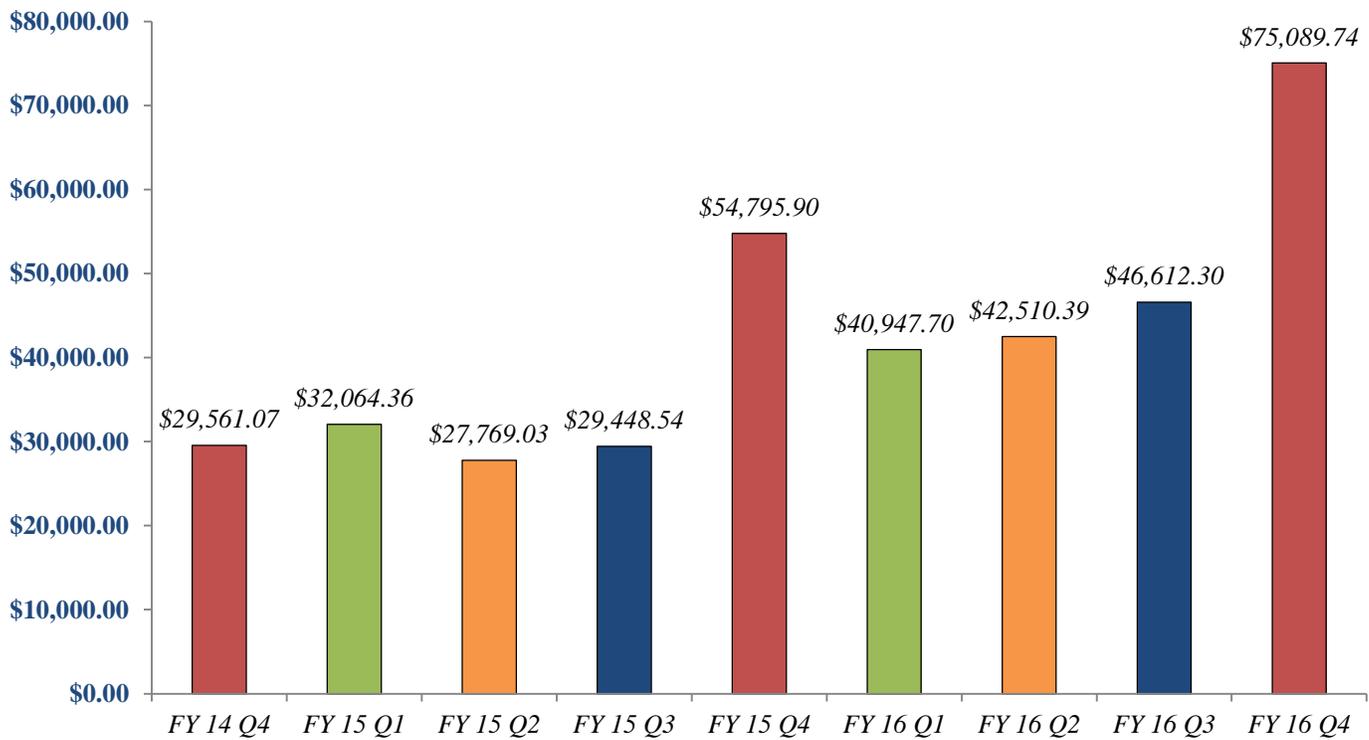


During FY 16, the adult diversion grant funding requests continued to be lower than the allocated amount permitted by statute. The Adult Diversion Funding Committee anticipated that more funding would be distributed in FY 17 as the current adult diversion programs grew and new programs were implemented. This was confirmed by the amount of funding requests and allocations made for that fiscal year. Similarly, expenditures among the funded programs which had been relatively low have been increasing gradually over time. Evidence of growth in program expenditures can be seen in FY 16 fiscal trends and quarter one spending for the current fiscal year.

At the end of FY 17 Q1, diversion programs had expensed nearly \$70,000 in funding which represents a 70% increase from the prior year, largely attributable to the implementation of two new programs. In becoming more efficient in their spending, it is forecasted that programs will use at least 80% of their funding awards or approximately \$290,000 by the end of the June 2017.

As a result of the distribution of expenses by quarter below, the Adult Diversion Funding Committee continues to encourage programs to develop funding requests reflective of anticipated, actual program costs in order to enhance the committee’s ability to award effectively. It is anticipated that the funding utilized by the grant programs will continue to grow as the population served through diversion expands and more services are required.

ADULT DIVERSION EXPENDITURES BY QUARTER



The committee continues to expect an increase in interest from other judicial districts as awareness of the availability of the grant funding grows and the successes of existing programs are communicated throughout the state. The need for treatment providers and other community-based resources to expand the impact of diversion programming continues to grow in a similar fashion as well. Current programs looking to further develop services provided will likely require additional funding for effective service delivery. Few jurisdictions are able to obtain outside funding at the time of this report. Programs continue to work to balance sustainable growth while developing diversion within their jurisdictions.



FISCAL YEAR 2017 AWARD REQUESTS AND ALLOCATIONS

In FY 17, \$400,000 was allocated from the General Fund for Adult Diversion.

Of the statutory allocation for FY 17, six jurisdictions requested \$570,324.02 in grant funding. A total of \$384,428.86 was awarded by the funding committee. All programs that applied for funding received a grant award; the two newest jurisdictions (20th and 21st) are fully operational as of the date of this report. Of the programs requesting funding for treatment, allocations were made by the funding committee from its allotment of monies from the Correctional Treatment Board pursuant to § 18-19-103, C.R.S. Subsequent treatment funding not covered by this source was re-budgeted by the programs as needed from the general fund grant amount awarded to them prior to award acceptance. The committee expects the use of treatment funding to grow in a manner similar to the use of the general fund allocation, as programs continue to expand and develop the target population for diversion.

Of the programs requesting funding in FY 17, all programs received a final allocation of an award that met their operational needs for the year in full. Adult Diversion funding breakdown by Judicial District for FY 17:

JUDICIAL DISTRICT	FY 17 REQUEST	FY 17 GRANT AWARD	% OF REQUEST REDUCTION	FY 17 CORRECTIONAL TREATMENT ALLOCATION	TOTAL FY 17 AWARD
6 th	\$43,370.00	\$34,370.00	20.75%	\$30,361.45	\$64,731.45
9 th	\$32,909.92	\$25,409.92	22.79%	\$6,325.30	\$31,735.22
15 th	\$59,154.56	\$44,156.56	25.35%	\$8,433.73	\$52,590.29
16 th	\$99,317.38	\$99,317.38	0.00%	\$0.00	\$99,317.38
20 th	\$200,002.00	\$85,175.00	57.41%	\$2,108.43	\$87,283.43
21 st	\$135,570.16	\$96,000.00	29.19%	\$22,771.08	\$118,771.08
Tot.	\$570,324.02	\$384,428.86	32.59%	\$70,000.00	\$454,428.86

In FY 17, the funding committee changed from a pre-pay grant model to a reimbursement method. As such, any FY 16 grant amounts paid in advance were expended by the end of the fiscal year. No FY 16 unexpended funds remained as a carryover into FY 17. The funding committee will consider pre-payment of anticipated costs in the future, should a new program or situation for a current program require advance funding.



HISTORICAL PROGRAM FUNDING SUMMARY

For State Fiscal Year 15 and 14, four district attorneys applied for grant-funding. The funds were distributed and expensed as outlined in the following chart.

FY 15	<i>Award</i>	<i>Personnel</i>	<i>Training</i>	<i>Contract Support</i>	<i>Operating</i>	<i>Treatment</i>	<i>Other</i>	<i>Total</i>
<i>6th JD – La Plata</i>	\$70,000.00	\$1,670.00	\$0.00	\$0.00	\$20.00	\$0.00	\$0.00	\$1,690.00
<i>9th JD - Garfield</i>	\$29,460.00	\$20,009.45	\$0.00	\$0.00	\$73.51	\$675.00	\$36.94	\$20,794.90
<i>15th JD – Lamar</i>	\$75,000.00	\$20,925.71	\$0.00	\$20,000	\$0.00	\$1,180.00	\$0.00	\$42,105.71
<i>16th JD – La Junta</i>	\$65,600.00	\$62,106.93	\$1,129.39	\$0.00	\$13,811.35	\$648.00	\$921.80	\$78,617.47
TOTAL	\$240,060.00	\$104,712.09	\$1,129.39	\$20,000	\$13,904.86	\$2,503.00	\$958.74	\$143,208.08
FY 14								
<i>6th JD – La Plata</i>	\$20,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<i>9th JD - Garfield</i>	\$13,350.00	\$6,169.94	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$6,169.94
<i>15th JD – Lamar</i>	\$55,000.00	\$15,155.21	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$15,155.21
<i>16th JD – La Junta</i>	\$56,000.00	\$8,235.92	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$8,235.92
TOTAL	\$144,350.00	\$29,561.07	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$29,561.07

FY 2014 grantees were given the full grant amount following award notification to start the implementation process for their programs. A total of \$29,561.07 was expended between April and June of 2014. Funded programs did not expend as much as anticipated because they were still in the process of developing their programs and hiring staff.

FY 2015 grant amounts were offset by the amount of the remaining FY 2014 unexpended funds before any additional funds were dispersed. The 6th JD had difficulty hiring staff and consequently was not able to spend as much as anticipated. The amount overspent by the 16th JD is attributed to expenses incurred in consulting fees from work their office conducted for the 15th JD in providing technical assistance and support in developing and sustaining the program in Lamar, CO.

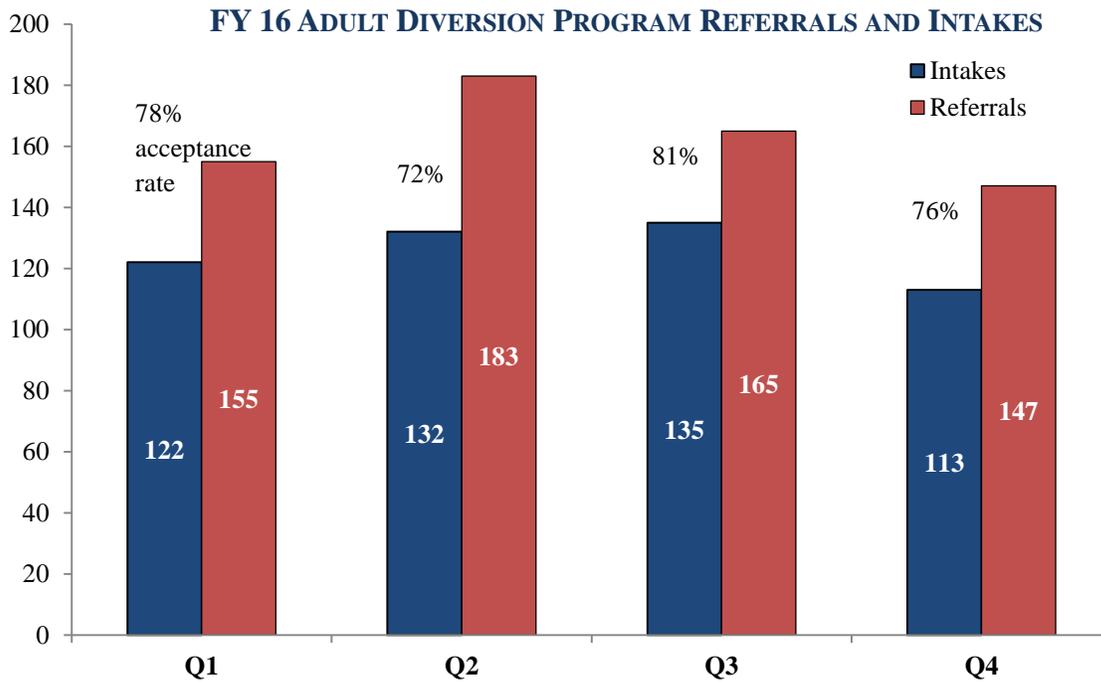
AGGREGATE ADULT DIVERSION PARTICIPANT DATA

At the end of a second year of operation, adult diversion programs are continuing to produce a data baseline for future trend analysis. The committee is redeveloping their process for collecting participant data that is more comprehensive and will generate data that can better inform best practices, evaluate program effectiveness, and establish future funding priorities. Additionally, the committee continues to engage in discussions regarding identifying additional information that may be of use in determining the effectiveness of adult diversion programming throughout the state. The new reporting mechanism has also helped each respective D.A.'s office by streamlining data collection and reporting to help inform program decision-making practices.

FY 16 PARTICIPANT INFORMATION FOR GRANT FUNDED ADULT DIVERSION PROGRAM[†] (FOR THE REPORTING PERIOD OF JULY 1, 2015 THROUGH JUNE 30, 2016)

- Number of people who met criteria and were referred for consideration (screened): **650**
- Number of people who were enrolled in the program (agreed to participate): **502**
- Number of program participants that have completed successfully: **419**
- Number of program participants under contract pending completion: **142**
- Number of participants who did not successfully complete the program: **96**
 - 55 were non-compliant, 12 were terminated on account of a new offense, 8 voluntarily withdrew, and 26 did not complete diversion for other reasons such as non-response from defense counsel, absconding, and failure to disclose substantial criminal history.

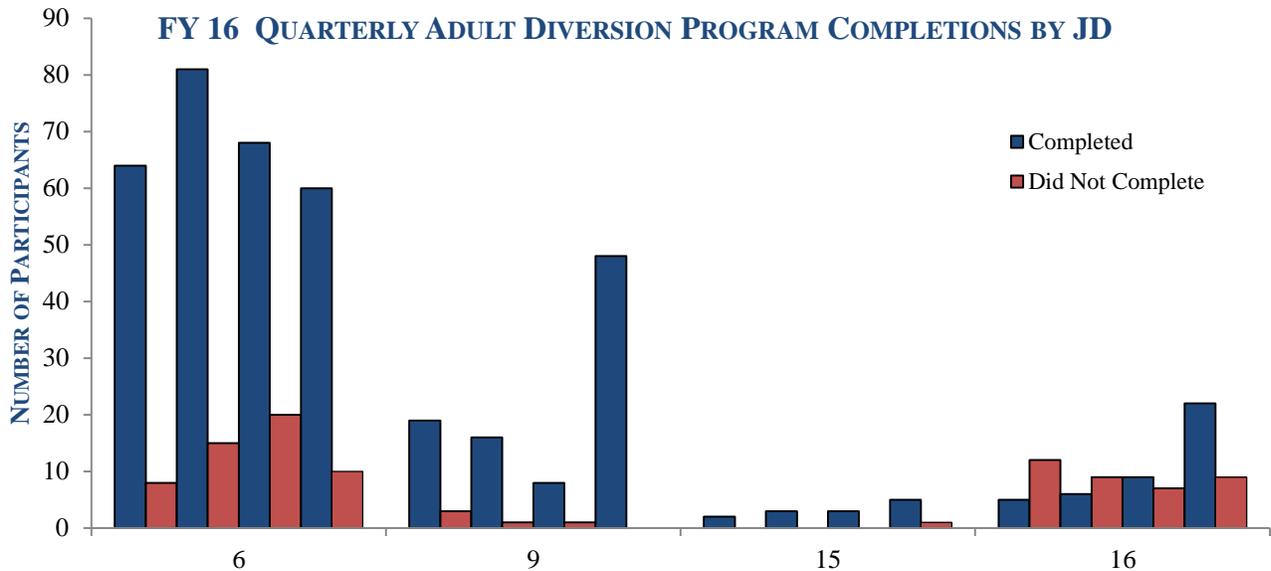
During FY 16, participants on average spent 157 days in a diversion program. By offense level, participants charged with a felony spent approximately 295 days under supervision compared with 218 days for misdemeanors and 94 days for traffic or other classes of offense. The length of a diversion supervision agreement, however, varies by individualized agreement for each jurisdiction and participant. By statute, diversion supervision is not to exceed two years, unless unpaid restitution is the sole remaining condition (at which time the agreement can be extended for another year).



[†] Program exits include participants from the prior fiscal year who may have not completed their period of supervision before the conclusion of that reporting period. Additionally, some duplicative reporting for defendants with multiple cases exists in this report.

When compared with the prior fiscal year, the amount of participants screened following a referral to diversion programming increased 60% or about 250 screenings. Program intakes (defendants who agreed to participate in diversion after referral to and evaluation by the program coordinator) show an increase of 67% in FY 16 as measured against FY 15. Overall, the admission rate of participants into diversion programs remains relatively unchanged from 73% in FY 15 to 77% for the current reporting period.

At the end of FY 17 Q1, 306 people were actively supervised statewide by adult diversion programs funded by this grant. This number does not reflect other adult diversion programs in the state that are not part of this grant, which the committee does not have data for, nor is it tasked with collecting. During the FY 16 reporting cycle, adult diversion programs reporting the following outcomes for the participants supervised:



As the statute allows for local discretion in diversion model implementation, the committee cautions against the comparison of success rates between programs as the population served by each jurisdiction varies significantly. Overall, participants who were terminated from diversion programs were largely due to non-compliance with the diversion agreement (57% of terminations). Only 8 participants chose to voluntarily withdraw from diversion programming to proceed forward with traditional prosecution. Lastly, 2.3% of participants supervised by diversion programs were charged with a new offense during the course of supervision.

PARTICIPANT DEMOGRAPHICS

Demographic data continues to be collected when a participant has successfully completed a pretrial diversion agreement or has been terminated unsuccessfully. Therefore, the demographic data below does not represent individuals who are currently in a diversion program; the data reporting mechanism for the grant continues to evolve to capture information about active participants, however. In juxtaposing the demographic distribution by percentage within program (Pro.) and within the total population (Pop.) of the jurisdiction served by the program, the following information is available for comparison:

JD	AFRICAN AMERICAN		ASIAN/PACIFIC ISLANDER		CAUCASIAN		HISPANIC/LATINO		NATIVE AM.	
	PRO.	POP.	PRO.	POP.	PRO.	POP.	PRO.	POP.	PRO.	POP.
6	0%	1%	1%	1%	75%	80%	13%	14%	10%	5%
9	0%	1%	0%	1%	97%	73%	3%	24%	0%	1%
15	0%	1%	0%	<1%	64%	71%	29%	27%	7%	1%
16	2%	4%	0%	1%	51%	55%	47%	39%	0%	1%

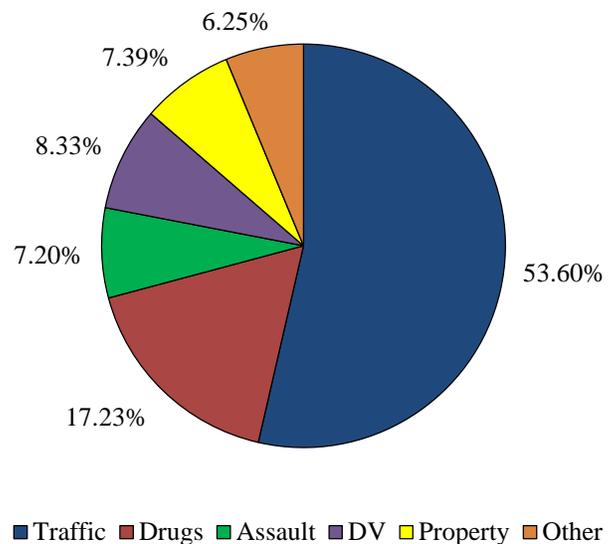


The committee recognizes that the distribution of race is disproportionate towards several minority categories and will continue to monitor program data to further analyze how the diversion population mirrors local jurisdiction demographics of pretrial populations in rural areas to avoid potential overrepresentation issues or equal access to diversion opportunities by historically-disadvantaged groups, such as African Americans, Hispanic/Latinos, or Native Americans. For FY 17, the committee has also revised its reporting format to allow for more effective data reporting on participant race and ethnicity.

ADULT DIVERSION PARTICIPANT DEMOGRAPHICS BY AGE AND GENDER						
JD	GENDER	<18	18-25	26-35	36+	TOTAL
6	Female	2	56	29	40	127
	Male	6	80	44	69	199
9	Female	0	28	9	5	42
	Male	1	32	11	10	54
15	Female	0	3	2	0	5
	Male	0	4	2	3	9
16	Female	0	14	7	9	30
	Male	0	28	13	21	62
TOTAL		9	245	117	157	

OFFENSE INFORMATION

As the chart to the right indicates, the breakdown of offenses participants were charged with are primarily traffic-related offenses. This distribution is influenced by the volume of Driving Under Restraint, Speeding, and Careless Driving offenses in the 6th JD. Statewide, traffic offenses included a variety of other types of charges. Examples of other offenses diversion programs accepted are cases with allegations of 3rd Degree Assault, Criminal Mischief, Harassment, Underage Possession of Alcohol or Marijuana, and Violations of Protection Orders. Overall during FY 16, diversion programs supervised 26 Felonies, 238 Misdemeanors, 196 Traffic cases, and 68 Unclassified charges.



RESTITUTION COLLECTION

During the past fiscal year, statewide, diversion programs accepted 25 cases with restitution owing. Participants ordered to pay restitution successfully completed their diversion agreements 73% of the time. The total amount of restitution collection facilitated through diversion programming was \$11,273.53 out of \$11,967.03 owed or a collection rate of 94%.

The types of offenses charged that had restitution owing ranged from Trespassing and Identity Theft to Driving Under the Influence and Assault. Participants were in diversion programs for an average of 263 days. 56% of the cases involving restitution were charged misdemeanor offenses, 24% felonies, and the remaining 20% were unclassified charges. Each jurisdiction’s program has been able to accept cases with restitution owing.



ADULT DIVERSION PARTICIPANT NARRATIVES

During the fiscal year reporting cycle, the Adult Diversion Funding Committee requests participant narratives from the grant programs each quarter to help demonstrate the qualitative benefit these programs are providing to their jurisdictions. As evidenced by coupling the quantitative program data with these narratives, Colorado's pretrial diversion programs continue to operate successfully and serve a diverse population that varies between districts. What follows is a sampling of some of the successful outcomes these programs are seeing.

❖ IN THE 6TH JD, THE DIVERSION COORDINATOR reports how a young woman was charged with Assault 3 as a result of a fight with her fiancé. She moved out of the house because they couldn't reconcile and the program referred her for a mental health evaluation due to previous issues found in her past. She received 12 counseling sessions which identified a number of treatment issues to be addressed. She successfully completed the counseling and diversion requirements and continues to voluntarily attend counseling on her own as she sees the benefits of individual therapy on an ongoing basis and not just for understanding what caused the fight or the assault charge.

Another successful participant in the 6th JD diversion program was a young woman who was charged with Child Abuse as result of possessing THC in her car while her young children were also in the vehicle unbuckled. After being referred to parenting classes, the participant successfully completed the parenting classes and, upon completion, called the diversion coordinator. The coordinator remembers how, "Upon completion [she] called me and tearfully thanked me for the opportunity of diversion and stated that she now realized how much danger she placed her children in by not only having drugs around her kids but also by not having them buckled in the car."

❖ EACH YEAR, THE OFFICE OF THE DISTRICT ATTORNEY FOR THE 9TH JD receives an influx of cases resulting from the X-Games. Through diversion, the office continues to be able to handle the prosecutorial burden caused by a large community event in a manner that suits the jurisdiction while holding participants, some of whom reside out of state, accountable for their behaviors.

Additionally, their diversion coordinator highlighted another recent program success wherein a 48 year-old male had an incident where he had too much to drink while camping and started a fight with his family members. When the coordinator met with him, he was clearly distraught and openly ashamed of his behavior. He had no criminal history. He stated he never thought he had an issue with alcohol until he couldn't have it anymore. This participant was very open to the diversion program and found a counselor who was a good fit for him which allowed him to walk away a changed and sober man. He was helped to find answers on how to live happily without alcohol and made some dramatic behavior changes, as his family informed the diversion coordinator. He completed all his addiction counseling, continues on a healthy path, and has learned to ask for help when struggling.

❖ FOR THE 15TH JD, DIVERSION ALLOWED A PARTICIPANT to continue working at a local health facility after completing the diversion program. The participant expressed how potentially losing that job may have ended up contributing to other self-destructive behaviors or decisions. Their diversion coordinator also recounts how working with a client to modify a treatment plan through a more personalized approach allowed one participant to keep a new job which losing would not have allowed for her to pay treatment costs, possibly ending up with her back in the criminal justice system as a result. Another current client for this jurisdiction has aspirations of entering into the military that would be inhibited by a felony drug conviction. That diversion agreement is likely to terminate early upon completion of treatment in the next few weeks, allowing the participant to continue to pursue their goal of service in the military.



❖ SUCCESSES SIMILAR TO THESE JURISDICTIONS WERE ALSO SHARED by participants in the 16th JD’s Adult Diversion Program. Additionally, the 16th JD utilized diversion to address a significant, local community need: bullying. Through diversion, the District Attorney was able to tailor a community-based program and accountability plan that helped repair some of the harm done by the incident. The case primarily involved 6 students and 4 adults, one student graduated last year, and the 5 remaining graduated this year. The students graduating this year maintained a 3.5 GPA or above, played several sports, graduated with honors, with both their high school diploma and associate degrees, and obtained scholarships to attend college.

One of the participants obtained a full scholarship (which included all tuition, books and travel expenses) to finish his Bachelor’s degree. The diversion coordinator reports how over the last year the participants endured criticism, threats, and hostility from their classmates and community. During the course of supervision, two of the students’ classmates were diagnosed with cancer and their track coach was killed in a motor vehicle accident just before the end of their football season.

Not one time did any of these individuals give up or retaliate. The coordinator describes how, “Our meetings were difficult and emotional. Some were angry, confused, hurt, sad, and had never dealt with such devastation. They remained optimistic, focused and determined to complete this process. The adults reluctantly embraced the Diversion Program. The adults took this incident as an opportunity for change and growth. At times it was hard for them, because they thought they did the right thing, and after several conversations, they lead by example.”

On two occasions the District Attorney, Jim Bullock, accompanied the diversion coordinator to the meetings to answer any questions from the participants and parents. New programs that dealt with bullying and diversity were implemented in the district, starting at the elementary level and continued up through the high school level. The school administration encouraged parent participation and also started Rachel’s Challenge Program, a positive communication program.

The diversion coordinator explains, “The goal was for students to look outside of themselves and appreciate what others have already sacrificed for their freedom. I attended every sporting event that each client participated in on the weekends, we met on a monthly basis, we worked on their school resumes during our meetings, and college applications and I was very proud to attend their graduation. I got to know their parents, grandparents, and siblings. I was committed and welcomed any questions to help them through this process.”

Narratives such as these continue to highlight the valuable work being done by diversion coordinators and District Attorneys’ offices in using diversion as a prosecutorial method designed to allow for individuals to demonstrate accountability for their behavior and facilitate their ability to begin repairing the harm done to the community, whether it is through restitution or another form of response. The Adult Diversion Funding Committee works to develop its data collection process for grant-funded programs to help further showcase the successes of these programs (as well as their impact upon the participants served) in working to reduce the number of cases in the criminal justice system while preventing the commission of additional criminal acts.

ADULT DIVERSION PROGRAM FORECAST FOR FY 17

Over the course of FY 16, adult diversion programs not only expanded the population they served by 67% but they also saw statewide a 3% increase in successful completion rate from FY 15 to 81%. 75% of participants entering a diversion program received a referral for a correctional treatment assessment. The rate of participant completion has remained relatively consistent during FY 16, averaging about 129 program exits per quarter compared with 41 per quarter during FY 15, all of which occurred prior to the implementation of two new grant-funded programs in FY 17. As programs have increased their caseloads, the types of cases selected for diversion has also evolved.

Jurisdictions continue to develop case selection criteria and policies and procedures for DA staff, and to improve their internal databases to help manage the administration of their diversion programs. One jurisdiction created an online payment portal to help facilitate participants' diversion associated payments, such as supervision fees. Programming for domestic violence treatment, general education degrees, substance abuse, as well as the ability to offer opportunities for useful public service, also continue to be expanded throughout these jurisdictions as diversion programs grow.

Statewide, 281 people agreed to participate and enroll in diversion programs during FY 17 Q1. Based upon aggregate data trends from FY 15 and FY 16, we predict that diversion programs can be expected to exceed serving 1000 people during FY 17. If FY 16 expenditure patterns hold true for FY 17, programs may be able to significantly reduce the average grant funds spent per defendant even further from the \$398 per participant completion in FY 16, a savings of \$50 per participant from FY 15. Similarly, program staff are working to maximize available resources as the numbers of referrals for correctional treatment assessment also grew substantially. With the ongoing growth of diversion programming in Colorado, the committee will continue to work to facilitate the ability of jurisdictions to sustain their growth patterns while maintaining a high level of service delivery for participants.

As Colorado's adult pretrial diversion has completed its first full year of operation for grant-funded programs following the initial planning seen during FY 14 and FY 15, diversion coordinators have successfully used their abilities to evolve and expand the scope of program influence within their jurisdictions, as evidenced in the overall program growth and access to resources. While the growth that these jurisdictions are experiencing may not have yet resulted in corresponding increases in program costs, it is anticipated that there will be further need for diversion funding as programs close the gap between monies expended and the spending authority limits and also as new programs seek initial funding. As time passes, the correlation between successful diversion programs and recidivism reduction may be more evident. Throughout the duration of the diversion fund being active, statewide, diversion programs have consistently exceeded the 75% threshold for successful completions. Most importantly, this rate reflects 419 lives that avoided long-term collateral consequences associated with criminal charges and convictions.

For more information regarding the statewide grant-funded adult diversion program, please feel free to contact the coordinator, Kyle Gustafson, at: kyle.gustafson@judicial.state.co.us or (720) 625-5000.



ADDENDUM TO ANNUAL REPORT

ATTACHMENT [I] – *Adult Diversion Funding Application for FY 17*

ATTACHMENT [II] – *FY 17 Funding Application Guidelines*

ATTACHMENT [III] – *Frequently Asked Questions*



ATTACHMENT I – FY 17 ADULT DIVERSION FUNDING APPLICATION

COMPLETE AND RETURN APPLICATION BY FEBRUARY 5, 2016 to:

kyle.gustafson@judicial.state.co.us

SCAO use only:	Score:	Recommendation:	Award Amount:\$
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Section 1. Applicant Information

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

Primary Contact Name:

Email:	Office Phone:	Alt. Phone:	
Mailing Address:	City:	CO	Zip:
Amount Requested: <i>How much funding are you requesting for FY 2017?</i>			\$

Section 2. Adult Diversion Program Information

Program Status: *Is this a new or existing program?*

Target Population: *Describe the program's target group of defendants, and how many defendants you anticipate will be served.*

Partner Organizations: *If applicable, identify any partnering organizations. Include name, point of contact, phone, e-mail, and mailing address. These are organizations expected to provide services or supervision as a part of the adult diversion agreement with the defendant.*

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

Please include with the application a letter of commitment from each partner organization clearly stating their understanding of their role in the District Attorney's adult diversion program.



Section 3. Adult Diversion Program Narrative

A. Need for Adult Diversion Program: *Help us understand the need for adult diversion funding in your district. Limit your response to a half page.*

B. Description of Adult Diversion Program: *Describe the adult diversion program. What is the implementation plan? What training will be needed for staff? How will you know if your adult diversion program is successful? (Note: all state-funded adult diversion programs must provide a copy of the adopted policies and guidelines delineating eligibility criteria for case acceptance which must be submitted with the final report in June/July.) Limit your response to one page.*

C. If funding is for an existing adult diversion program please answer the following: *What are the eligibility criteria for defendants to participate in adult diversion? How are defendants selected for adult diversion? Describe the nature of supervision of defendants. How do you determine their success? Limit your response to one page.*

D. Description of Treatment Assessment Plan: *What process will be employed to determine if a treatment assessment referral is necessary? Who will provide assessment? How will successful treatment be determined? 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? What is the anticipated number of people who may need treatment, if possible to estimate? Limit your response to one page.*

E. Goals, Objectives, Outcomes and Timeframes: *Please briefly note the program's overarching goals. Use the form below and add goal/objective/outcome/timeframe sections as needed. The objectives are relative stepping stones with measurable outcomes and timeframes.*

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:
F. Program Evaluation: <i>How will data required by the statute be collected and reported? Who will be responsible for this? Limit your response to a half page.</i>		

Section 4. Adult Diversion Budget

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

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:			
Treatment:			
Other: please specify			

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

Total Anticipated Defendant Fees:	\$	Match or In Kind support:	\$
Total Amount Requested:	\$	Total Cost for Adult Diversion Program:	\$

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 or complete a formal 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, thereby 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. Alternatively, a diversion agreement may be filed with a court, thus allowing the defendant to be ordered to the supervision of the probation department. If the 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 appointed the Adult Diversion Funding Committee coordinated by Kyle Gustafson.

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.
- The FY’17 Adult Diversion Fund has approximately \$390,000 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 but not required at this time.

Timelines:

- Request for proposals announced: December 17th, 2015.
- Application deadline: February 5th, 2016.
- Approximate date for grant award notices: March 1st, 2016.
- Awards are effective July 1st, 2016 through June 30, 2017.

[‡] There is no universally accepted definition of diversion. The definition here is drawn from the National Association of Pretrial Services Agencies, *Performance Standards and Goals for Pretrial Diversion/Intervention*, standard 1.1 (2008), as well as a draft of the ABA Diversion Standards (publication pending).

Instructions for submissions:

Complete the application and submit electronically as a PDF document to kyle.gustafson@judicial.state.co.us. All requests for adult diversion funding should be received by 5:00 p.m. on **February 5th, 2016**.

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.
- Illustration 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.

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, 2017 and reported by July 15, 2017.*
- In FY 17, data reporting and program expense reimbursements will be done on a quarterly basis.
- Data summaries and receipts will be due by the 10th day of the month following the quarter or month's end. The FY 17 reporting deadline will be as follows: Q1 materials will be due October 11, 2016; Q2 will be due January 10, 2017; Q3 will be due April 10, 2017; Q4 will be due July 10, 2016.
- Quarterly reporting will include Intake/Exit Forms for participants who have exited the program and basic program information.
- Quarterly reporting will include receipts for expended funds to be reviewed by SCAO.
- 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 data and provide status reports on the following by the 10th day of October, January, April, and July:

- The number of people screened and the number of people who met criteria for adult diversion.
- The number of people enrolled in adult diversion.
- Demographic information on those enrolled (age, gender, ethnicity, judicial district, county of residence).
- Participant status within adult diversion (intake, under agreement, complete, did not complete and reason they did not complete, if did not complete, what was next step).

Provide financial updates including:

- Funds requested.



- Funds received.
- Funds expended and on what (receipts must be available upon request).

Annual reporting will include all quarterly reporting details, and:

- 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 year following termination of the diversion agreement.
- 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 may apply and request funds to operate an adult diversion program consistent with section 18-1.3-101, C.R.S. These may be 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 only reason the diversion is not complete and the reason was inability to pay and the defendant has the future ability to pay. In this event the diversion may be extended as much as one 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 is committed during the diversion agreement time frame.
- 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 to meet their 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 the probation department supervises the defendant.

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.

For more information and questions please contact Kyle Gustafson at (720) 625-5966 or kyle.gustafson@judicial.state.co.us

ATTACHMENT III – FREQUENTLY ASKED QUESTIONS (FY 17)



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 statute (HB13-1156). 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. However, as long as you are running a program compliant with the statute and keeping up with reporting and funding from the general fund still exists, you would be a good candidate for continuation funding.

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 17, likely to take place in April. Topic specific training may be offered to support grantees. Questions are answered by direct contact between the coordinator (Kyle Gustafson, kyle.gustafson@judicial.state.co.us) and the grantee.

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.

Q: *Can we use 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.

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 or by phone (720) 625-5966.

