



# Adult Diversion Program Annual Legislative Report Fiscal Year 2021



## Colorado Judicial Department

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# EXECUTIVE SUMMARY

Over the past 7 years, prosecutor-led pretrial adult diversion programs, pursuant to HB 13-1156, have become fundamental to operations of the criminal legal system in Colorado, offering an alternative to the traditional path of arrest, plea or trial, and sentencing. Applications for adult diversion funding have increased from 4 in FY15 to 14 in FY21. Diversion programs have gradually spread across the state, serving the legislative intent of crime prevention, reparation of harm to victims, including the payment of restitution, and reduction of the volume of criminal court cases. Other benefits of diversion include cost savings for jails, prosecutors, and courts, preservation of prosecutorial resources for cases that are inappropriate for diversion, preservation of competency evaluation and restoration services for cases that cannot be diverted, rehabilitation of individuals involved in or at risk of becoming involved in the criminal legal system, including those struggling with mental health or substance abuse treatment needs or other basic needs, and avoidance of consequences of conviction that jeopardize stable housing, employment, medical or mental health care, and family structure. Diversion balances individual accountability and community safety with providing rehabilitation and assistance for those who break the law.

The following outcome measures highlight FY21 successes of the adult diversion model:

- **Growth in Number of Programs:** 4 sites in FY15, 12 in FY21;
- **Participant Enrollments:** Increased from 299 in FY15 to 1,592 in FY18, and 1,273 in FY21;
- **Successful Completion Rates:** 89% of participants successfully completed diversion, resulting case dismissal or non-filing of charges and avoidance of collateral consequences of conviction;
- **Safety Rate<sup>1</sup>:** Only 2% of participants committed a new offense during diversion, a period of up to two years, representing a 98% safety rate;
- **Treatment Assessment and Initiation:** One-third of the 1,273 diversion participants were referred for treatment assessment. Seventy-eight percent (77%) of them, 322 people, enrolled in treatment for mental health, substance use, or other needs;
- **1-Year Recidivism Rate:** Only 7% of individuals successfully completing diversion in FY20 had new misdemeanor or felony charges filed against them in the year following their exit from diversion;
- **Restitution Collection:** In FY21, diversion participants paid \$191,720.75 in restitution. Eighty percent (80%) of participants who exited the diversion program in FY21, whether successfully or unsuccessfully, had fully paid their restitution obligations at the time of exit.

The General Assembly appropriated \$400,000 annually for program operations from the first year of program funding, FY15, when it supported programs in 4 judicial districts, to FY20, when it supported programs in 10 districts. Budget cuts reduced this appropriation by 75%, to \$100,000, in FY21 and FY22, spread among 12 and 10 program sites respectively. The funding reduction limited allocations to existing programs and inhibited expansion to new ones.

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<sup>1</sup> The safety rate is defined as the percentage of diversion participants who are not charged with a new misdemeanor or felony offense while participating in diversion, represented by the number of participants terminated due to commission of a new offense during the period of diversion divided by the total number of participants enrolled in diversion.

# STATUTORY REPORTING REQUIREMENT

House Bill 13-1156 created a mechanism for diverting individuals accused of statutorily eligible offenses away from traditional criminal legal system involvement. The bill, enacted in August 2013 and found in §18-1.3-101, C.R.S., defined the parameters of pretrial adult diversion and provided a mechanism to fund program operations. The Colorado Judicial Branch webpage, <https://www.courts.state.co.us/Administration/Unit.cfm?Unit=adultdiv>, houses program information, including past annual legislative reports.

House Bill 13-1156 also established the Adult Diversion Funding Committee (Funding Committee). Funding Committee composition and duties, such as development of a funding application process, are set forth in §13-3-115, C.R.S. The Funding Committee invites annual applications from elected district attorneys and programs operating in partnership with them. Since October of 2013, the State Court Administrator's Office has coordinated the Funding Committee's work, assisting with application materials and processes, funding guidelines, and report forms. The Funding Committee reviews funding requests annually and meets bimonthly to discuss program progress, review participant data, and manage the administration of program funds. Attachments I and II include application materials and funding guidelines. Table 1 identifies FY21 Funding Committee members.

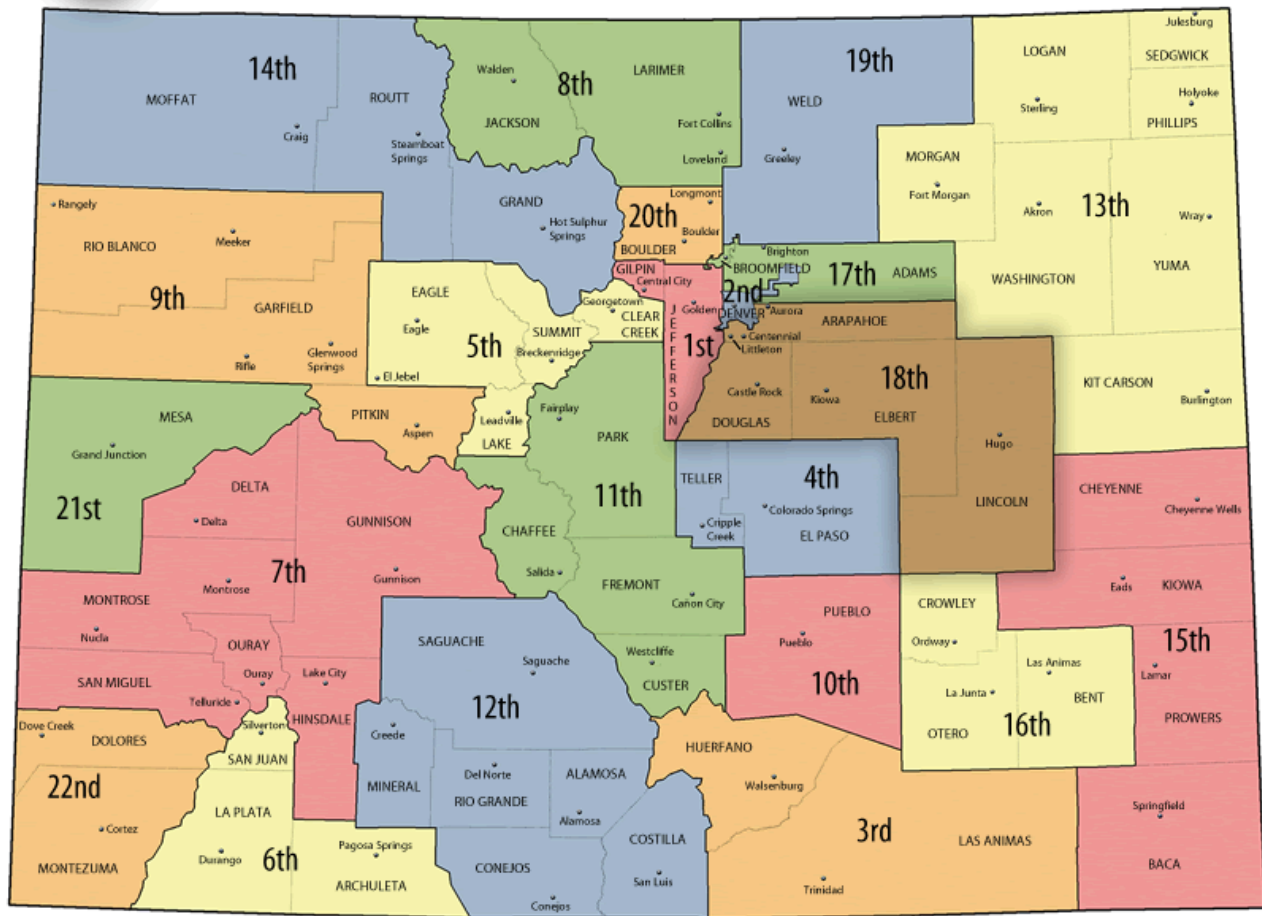
Table 1, FY21 Adult Diversion Funding Committee Members		
Name	Agency Representing	Email
Bob Booth	Office of the Attorney General	bob.booth@coag.gov
James Bullock <sup>2</sup> Michael Allen	Colorado District Attorneys' Council	jbullock@da16co.gov michaelallen@elpasoco.com
Megan Ring	Office of the Public Defender	megan.ring@coloradodefenders.us
Sarah Hofstetter	Office of the State Court Administrator	sarah.hofstetter@judicial.state.co.us
Joe Thome	Division of Criminal Justice Department of Public Safety	joe.thome@state.co.us

## Program Sites

The original adult diversion funding recipients are the 6th (Archuleta, La Plata and San Juan Counties), 9th (Rio Blanco, Garfield and Pitkin Counties), 15th (Cheyenne, Kiowa, Prowers and Baca Counties), and 16th (Crowley, Otero and Bent Counties) Judicial Districts. The number of funded programs increased to 6 in FY17, with the addition of the 20th (Boulder County) and 21st (Mesa County) Judicial Districts, and to 9 in FY18, with the addition of the 2nd (Denver County), 4th (El Paso and Teller Counties), and 22nd (Dolores and Montezuma Counties) Judicial Districts. In FY19, the 7th Judicial District received funding to operate in Delta County, maintaining the number of funded programs at 9. The number of programs increased to 10 in FY20, adding a program in the 12th Judicial District (Alamosa, Conejos, Costilla, Mineral, Rio Grande and Saguache Counties), and to 12 in FY21, adding programs in the 5th (Clear Creek, Eagle, Lake and Summit Counties) and 14th (Grant, Moffat and Routt Counties) Judicial Districts. The number of programs funded in FY22 fell to 10, as the 9th Judicial District did not apply for funding and the 6th Judicial District obtained alternative county-based funding to support its program operations.

<sup>2</sup> Committee Member Jim Bullock served through December of 2020, followed by appointment of Michael Allen in his place.

## Colorado Judicial Districts



During FY20, the Funding Committee procured a program evaluation design to address program improvement, best practices, and performance and outcome measure recommendations. Lack of funding prevented execution of the evaluation design.

FY21 represented the seventh year of operation for ongoing programs launched following passage of the enabling legislation and initial round of program funding. Despite the upward trend in the number of funding applications and cumulative funding requests over the years, the pandemic interrupted service of participants, causing a decline in the number of participants and a reduction of funding by 75%, from \$400,000 to \$100,000 during FY20 and FY21. The programs adjusted their screening and assessment procedures, eligibility criteria, target population, array of services and interventions, and mode of providing supervision and access to services. Correctional Treatment Board funding remains consistent in the amount of \$169,000 annually as a supplemental resource for substance-abuse and co-occurring disorder treatment and related expenses.

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

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

# PROGRAM AND PARTICIPANT DATA

## Funding: Allocations and Expenditures

From passage of HB 13-1156 through FY20, the Adult Diversion Program received \$400,000 in General Funds for allocation among programs. The appropriation declined by 75% to \$100,000 during FY20 and FY21, due to the state budget crisis. During FY21, 14 programs applied for funding in the total amount of \$852,620.18, in addition to requests for Correctional Treatment Funds of \$179,785, and mental health funding requests of \$405,595, a total request of \$1,438,000.18. The Funding Committee was unable to award the amounts requested, impeding the ability of local programs to fully implement program designs. Programs continued to operate on a reimbursement basis with allocated funds expended by the end of the fiscal year. Table 2 shows the number of applicant programs, the amount of funding requests and awards, and participant enrollment since program inception.

Table 2, Overview of Adult Diversion Programs: Funding Requests, Awards and Participant Enrollment						
Fiscal Year	# Applicants for Adult Diversion Funding	# Adult Diversion Programs Awarded Funding	Adult Diversion Funding <sup>3</sup> Requested	Adult Diversion Funds Awarded	# Participants Enrolled	% Change in Participant Enrollment (from Prior Year)
FY22	11	9 <sup>4</sup>	\$852,620.18	\$100,000.00	Unknown	Unknown
FY21	14	11 <sup>5</sup>	\$1,137,954.00	\$100,000.00	1,275	+ 1%
FY20	11	9	\$890,761.95	\$400,000.00	1,259	-17%
FY19	9	9	\$748,454.78	\$400,000.00	1,518	-5 %
FY18	9	9	\$694,653.16	\$400,000.00	1,592	+ 90%
FY17	6	6	\$570,324.02	\$400,000.00	837	+ 67%
FY16	5	5	\$277,923.46	\$277,923.46	502	+ 68%
FY15	4	4	\$240,060.00	\$240,060.00	299	NA

Adult Diversion funding requests grew from \$240,060 in FY15 to \$1,137,954 in FY21, the sixth consecutive year in which grant requests exceeded available funds. With funded programs operational in 12 of Colorado's 22 judicial districts as of FY21, a lack of funding is the primary barrier to program expansion and access. As shown in Table 2, the pandemic-related budget cuts in FY21 and FY22 heightened the disparity between grant requests and awards.

Among the various funding needs, compensation of personnel to administer local diversion programs is most critical. As shown in Table 3, personnel compensation is the primary expense for operating diversion programs. Generally, district attorney offices administer the program through program coordinators, deputy district attorneys, or other staff who oversee day-to-day program operations, reporting and billing. In some sites, district attorneys delegate these tasks to pretrial organizations.

<sup>3</sup> These amounts exclude Correctional Treatment Fund requests of \$179,785 and mental health funding requests of \$405,595.

<sup>4</sup> Ten programs initially received awards, excluding the 2<sup>nd</sup> Judicial District, which only received a Correctional Treatment award. One program declined the Adult Diversion award, which was insufficient to support program operations, leaving 9 programs receiving Adult Diversion funding.

<sup>5</sup> The 2<sup>nd</sup> Judicial District, which received Correctional Treatment funds but not Adult Diversion funds, is therefore excluded from this count in FY20, FY21, and FY22.



Table 3, Overall Adult Diversion Program Expenditures<sup>6</sup> by Category

Fiscal Year	Personnel	Training	Consultants	Operating Costs	Non-Correctional Treatment	Other
FY21	94%	0%	0%	2%	0%	4%
FY20	91%	<1%	3%	3%	1%	2%
FY19	82%	8%	0%	7%	1%	3%
FY18	84%	1%	0%	4%	12%	0%
FY17	85%	2%	1%	8%	1%	3%
FY16	65%	2%	12%	8%	7%	6%
FY15	73%	1%	14%	10%	2%	1%

When Adult Diversion funding declined by 75%, \$100,000 was divided by the 12 programs operating in FY21. Programs continued to prioritize compensation of personnel, as shown in Table 4, with their limited funding. Because the funding covered only a fraction of staff compensation, staff in many locations were limited in time available to support diversion programming. Nonetheless, all of the programs continued to operate.

Table 4, Adult Diversion FY 21 Expenses by Category and Program

JD	Adult Diversion Funds					Correctional Treatment Funds		
	Expense Categories			Adult Diversion		CTF Expenses	CTF Award	% of Award Expended
	Personnel	Non-Personnel	Combined	Award	% of Award Expended			
2	NA	NA	NA	0.00	NA	6,396.34	52,556.00	12%
5	5,975.00	0.00	5,975.00	5,975.00	100%	NA	0.00	NA
6	7,920.00	0.00	7,920.00	7,920.00	100%	8,182.17	24,047.00	34%
7	4,120.00	280.00	4,400.00	4,620.00	95%	11,657.00	18,751.00	62%
9	7,680.00	0.00	7,680.00	7,680.00	100%	2,660.00	5,000.00	53%
12	9,120.00	0.00	9,120.00	9,120.00	100%	0.00	3,000.00	0%
14	9,475.00	0.00	9,475.00	9,475.00	100%	3,913.75	20,183.00	19%
15	7,780.00	0.00	7,780.00	7,780.00	100%	NA	0.00	NA
16	14,380.00	0.00	14,380.00	14,380.00	100%	0.00	2,000.00	0%
20	0.00	5,997.71	5,997.71	6,000.00	100%	29,642.23	30,000.00	99%
21	15,580.00	0.00	15,580.00	15,580.00	100%	NA	0.00	NA
22	11,470.00	0.00	11,470.00	11,470.00	100%	16,387.00	23,463.00	70%
<b>Total</b>	<b>\$93,500.00</b>	<b>\$6,277.71</b>	<b>\$99,777.71</b>	<b>\$100,000.00</b>	<b>100%</b>	<b>\$78,838.49</b>	<b>\$169,000.00</b>	<b>47%</b>

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

Financial support for other programming needs often remains unmet. Programs express the need to assist participants with basic needs - food, housing, medical or mental health care, transportation, and cell phones to support their stability and successful completion of diversion. Many programs seek external funding to address this shortfall. Participant supervision fees, shown in each of the program profiles, are a critical but inadequate source of supplemental funding. With diversion programs primarily located in more rural, impoverished Colorado communities, program participants often struggle to meet all but minimal payment requirements. These fees offset or support payment of external service providers to fulfill diversion agreement requirements. Unexpended fees contribute to future participant programming or offset funding shortfalls. Most programs offer fee reduction or waiver based on financial need, limiting the amounts collected.

<sup>6</sup> Expenditures are rounded to the nearest percentage.

Funding for substance use disorder and co-occurring treatment from the Correctional Treatment Board, pursuant to §18-19-103, C.R.S., also supplements Adult Diversion funding. In FY21, the Funding Committee allocated Correctional Treatment Funds and midway through the fiscal year, re-evaluated those allocations based on fund utilization and need. The Committee worked with the programs to adjust their allocations to ensure that awarded amounts best matched program needs and expenditure patterns for the remainder of the fiscal year. The Committee will do the same in February 2022. Table 5 shows a 5-year history of Adult Diversion and Correction Treatment Fund expenditure. The reduced expenditure in FY21 is due to reduced General Fund appropriation of \$100,000 in Adult Diversion Funds, rather than \$400,000.

Fiscal Year	Expenses Incurred/Paid with Adult Diversion Funds	Expenses Incurred/Paid with Correctional Treatment Funds	Total Expenses Incurred/Paid
FY21	\$99,777.71	\$78,838.49	\$178,616.20
FY20	\$378,460.57	\$83,982.66	\$462,443.23
FY19	\$368,755.16	\$51,661.13	\$420,416.29
FY18	\$365,850.12	\$47,864.37	\$413,714.49
FY17	\$308,684.86	\$5,480.16	\$314,165.02

## Diversion Participants

At the end of the seventh year of overall program implementation, adult diversion programs demonstrate similar patterns of success. As shown in Table 6, the number of individuals screened for diversion has been relatively stable, while the number of successful completers has increased to a high of 89% in FY21, resulting in the dismissal or non-filing of charges and avoidance of long-term collateral consequences of convictions. Of all participants exiting diversion, only 2% committed a new misdemeanor or felony offense during the period of diversion, reflecting a 98% safety rate<sup>7</sup>.

	FY17	FY18	FY19	FY20	FY21
# People Screened for Adult Diversion	985	1712	1636	1,580	1,599
# People Enrolled in Adult Diversion	837	1592	1518	1,259	1,273
# People Who Successfully Completed Adult Diversion	509 (79%)	826 (78%)	1176 (79%)	1,080 (85%)	1,029 (89%)
# People under Diversion Agreements at Fiscal Year End	369	723	766	752	917
# People Who Did Not Successfully Complete Diversion	134	228	313	188	126
<b>Reason for Termination from Diversion</b>					
Did not Comply with Diversion Agreement	97	148	213	136	97
Committed New Offense during Diversion	24	47	70	30	29
Voluntarily Withdrew from Diversion	11	31	7	6	0
Absconded	0	24	21	16	0
Other Reason (e.g., death)	2	2	2	0	0
# Participants Referred for Treatment Assessment	178	380	381	410	420
# Participants Who Began Treatment after Assessment	172	301	280	318	322

<sup>7</sup> The safety rate is defined as the percentage of diversion participants who are not charged with a new misdemeanor or felony offense while participating in diversion, represented by the number of participants terminated due to commission of a new offense during the period of diversion divided by the total number of participants enrolled in diversion.



The majority of participants terminated from diversion did not commit new offenses as the reason for program termination, but instead failed to comply with a diversion requirement. Those requirements vary from program to program and often from participant to participant, dependent on the type of offense and participant's criminogenic needs. Noncompliance may occur from lack of contact with the diversion coordinator, failure to pay restitution, or failure to comply with another diversion requirement, such as completion of a class regarding theft or alcohol use or failure to obtain a substance abuse evaluation, for instance. Table 7 shows completion rates by judicial district. Eight of the 12 sites have successful completion rates of 90% or higher. Although the number of successful participants decreased by approximately 5% in FY21, the rate of successful completion increased by 4% despite the reduction in program funding and other pandemic-related operational challenges.

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

Judicial District	# of Participants Who Did Not Successfully Complete Diversion		# of Participants Who Successfully Completed Diversion		% of Participants Who Successfully Completed Diversion	
	FY20	FY21	FY20	FY21	FY20	FY21
2	3	3	29	76	91%	96%
5	NA	5	NA	41	NA	89%
6	51	51	156	158	75%	76%
7	2	0	15	18	88%	100%
9	2	0	88	30	98%	100%
12	12	3	74	43	86%	94%
14	NA	1	NA	0	NA	0% <sup>8</sup>
15	8	1	11	22	58%	96%
16	13	6	32	42	71%	88%
20	29	19	291	216	91%	92%
21	61	11	213	123	78%	92%
22	7	26	171	259	96%	91%
<b>Overall</b>	<b>188</b>	<b>126</b>	<b>1,080</b>	<b>1029</b>	<b>85%</b>	<b>89%</b>

<sup>8</sup> The Adult Diversion program became operational in FY21. The first successful completions are anticipated in FY22 and FY23, depending on the up to two-year statutorily permissible period of diversion.

## Recidivism

For purposes of this report, the recidivism rate is defined as the number of former adult diversion participants, whether successful or unsuccessful in completing the diversion program, with misdemeanor or felony charges filed within 1 year after program exit, divided by the total number of participants exiting the diversion program. Among individuals successfully completing diversion, only 7% were charged with a new misdemeanor or felony within one year of exit, compared with 28% of individuals terminated from diversion due to noncompliance with their diversion agreements or due to commission of a new offense. Table 8 shows 1-year recidivism rates by judicial district for successful and unsuccessful participants exiting diversion.

**Table 8, One-Year Recidivism among Participants Exiting Diversion in FY20**

Judicial District	Participants Successfully Completing Diversion	Participants Unsuccessfully Completing Diversion (Terminated)	Total Exits from Diversion	Recidivism among Successful Participants <sup>9</sup> (Recidivism Rate)	Recidivism among Terminated Participants <sup>10</sup> (Recidivism Rate)	Recidivism among all Participants Exiting Diversion <sup>11</sup> (Recidivism Rate)
2	30	2	32	5 (17%)	1 (50%)	6 (19%)
6	156	52	208	11 (7%)	11 (21%)	22 (11%)
7	16	2	18	2 (13%)	0 (0%)	2 (11%)
9	88	1	89	5 (6%)	0 (0%)	5 (6%)
12	79	14	93	4 (5%)	7 (50%)	11 (12%)
15	13	8	21	4 (31%)	2 (25%)	6 (29%)
16	32	13	45	1 (3%)	4 (31%)	5 (11%)
20	291	34	325	17 (2%)	6 (18%)	23 (7%)
21	213	61	274	21 (10%)	22 (36%)	43 (16%)
22	29	2	31	1 (3%)	0 (0%)	1 (3%)
<b>Total</b>	<b>947</b>	<b>189</b>	<b>1136</b>	<b>71 (7%)</b>	<b>53 (28%)</b>	<b>124 (11%)</b>

The value of recidivism information depends in large part on the sample size. Particularly for newer or smaller programs, commission of an offense by 1 or a few individuals can disproportionately skew the statistics. Caution is encouraged in drawing conclusions particularly regarding new and small programs.

<sup>9</sup> The recidivism rate among successful participants is calculated as the number of successful participants divided by the number of successful participants charged with a new misdemeanor or felony within one year of exiting diversion.

<sup>10</sup> The recidivism rate among unsuccessful participants is calculated by the number of participants terminated as unsuccessful divided by the number of unsuccessful participants charged with a new misdemeanor or felony within one year of exiting diversion.

<sup>11</sup> The overall recidivism rate is calculated as the number of total exits, both successful and unsuccessful, divided by the total number of exiting participants charged with a new misdemeanor or felony within one year of exiting diversion.

## Demographic Information

One purpose of collecting demographic information is to identify trends regarding success or unsuccessful program termination across demographic categories that may help identify areas of needed program improvements or attention. Another is to identify whether particular demographic groups are receiving opportunities to participate in alternatives to prosecution proportionate to their involvement in the criminal legal system, notwithstanding disproportionality in discretionary decision-making points that may adversely impact them prior to initiation of criminal charges. Accurate and consistent collection of demographic information continues to be a challenge, with variation among jail case management systems utilized from one jail to another and regarding Judicial Branch databases.

The Colorado Division of Criminal Justice within the Department of Public Safety addresses these challenges in their Community Law Enforcement Action Reporting Act Reports.<sup>12</sup> The Community Law Enforcement Action Reporting Act Report, Colorado Division of Criminal Justice (Oct. 2020)<sup>13</sup>, provides the following data regarding population, summons or arrest, and court filings across four demographic groups, set forth in Table 9. The Community Law Enforcement Action Reporting Act Report, Colorado Division of Criminal Justice (Oct. 2020), reveals data that demonstrates Black and Hispanic people are less likely to received deferred judgments than White people and more likely to receive jail sentences.

Table 9, Criminal Legal System Involvement: Demographic Comparison							
Black				White			
Population	Arrest or Summons	Court Filings		Population	Arrest or Summons	Court Filings	
		District	County			District	County
4%	12%	11%	8%	72%	58%	56%	60%
Hispanic				Other			
Population	Arrest or Summons	Court Filings		Population	Arrest or Summons	Court Filings	
		District	County			District	County
19%	29%	30%	29%	5%	2%	3%	3%

The Funding Committee monitors program data and access to diversion by historically marginalized groups with respect to overrepresentation in the criminal legal system and underrepresentation in prosecution alternatives. While a number of historical and systemic issues contribute, for example, to the number of individuals arrested and/or charged, data regarding entry into and completion of adult diversion can nonetheless provide crucial information for equitable access, cultural responsiveness, and areas for improvement.

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

<sup>12</sup> To improve data accuracy of race/ethnicity designations below, the Division of Criminal Justice used a statistical model to predict whether individuals were Hispanic in the arrest and court data below.

<sup>13</sup> Data from Community Law Enforcement Action Reporting Act Report, Colorado Division of Criminal Justice (Oct. 2020), <https://cdpsdocs.state.co.us/ors/docs/reports/2020-SB15-185-Rpt.pdf>, and presentation to Colorado Commission on Criminal Justice, [https://cdpsdocs.state.co.us/ccjj/meetings/2020/2020-10-09\\_CY2019-CLEAR-Act-Rpt.pdf](https://cdpsdocs.state.co.us/ccjj/meetings/2020/2020-10-09_CY2019-CLEAR-Act-Rpt.pdf).

Table 10 shows program exits by demographic category and judicial district, with the top number representing the number of individuals terminated from diversion due to new misdemeanor or felony charges or due to noncompliance with the diversion agreement. The bottom number reflects the number of individuals who successfully completed diversion. Presently, there is no standardized method of data collection on issues such as race and ethnicity, whether by self-report or officer description. The number of non-White diversion participants in non-metro area judicial districts is derived from low participant numbers and should be viewed with caution.

Table 10, FY21 Participants Terminated from / Successfully Completing Diversion by Demographic Category													
		Judicial District											
		2	5	6	7	9	12	14	15	16	20	21	22
Race	Black/ African American	1/13	1/1	2/1	0/0	0/0	1/0	0/0	0/0	0/2	1/2	0/0	0/4
	American Indian/ Alaskan Native	0/1	0/0	7/7	0/0	0/0	0/3	0/0	0/0	0/1	0/3	0/0	14/49
	Asian/ Pacific Islander	0/0	0/0	0/0	0/0	0/0	0/0	0/0	0/0	0/0	0/7	0/0	0/3
	Multi-Racial	0/0	0/0	0/1	0/0	0/0	0/0	0/0	0/3	0/0	0/3	0/0	0/0
	Other/Unknown	0/0	0/0	0/0	0/1	0/0	0/6	0/0	0/1	0/0	0/11	0/0	1/19
	White	2/62	4/40	42/149	0/17	0/30	2/35	1/0	1/18	6/39	18/190	11/123	11/184
Ethnicity	Latinx/Hispanic	0/29	3/11	9/21	0/2	0/6	2/17	0/0	0/11	2/17	7/54	4/20	0/28
	Non-Latinx/ Hispanic	3/47	2/30	42/137	0/16	0/24	1/17	0/0	1/10	4/23	12/151	7/103	25/230
	Unknown	0/0	0/0	0/0	0/0	0/0	0/10	1/0	0/1	0/2	0/11	0/0	1/1
Gender	Female	0/27	1/8	22/53	0/8	0/12	2/15	0/0	0/14	0/23	4/68	3/63	7/103
	Male	3/49	4/32	29/105	0/10	0/18	1/29	1/0	1/8	6/19	15/148	8/60	19/156
	Other	0/0	0/1	0/0	0/0	0/0	0/0	0/0	0/0	0/0	0/0	0/0	0/0
Age	18-25	0/47	3/15	13/37	0/8	0/11	2/18	0/0	0/4	3/15	11/137	5/30	13/71
	26-40	3/27	1/15	25/72	0/7	0/10	0/14	1/0	0/13	2/15	4/44	6/48	6/104
	41-60	0/2	1/8	11/32	0/3	0/4	1/9	0/0	1/3	1/6	4/31	0/30	5/54
	61+	0/0	0/3	2/17	0/0	0/5	0/3	0/0	0/2	0/6	0/4	0/15	2/30
Overall	#Terminated/ #Successful	3/76	5/41	51/158	0/18	0/30	3/44	1/0	1/22	6/42	19/216	11/123	26/259

## Offense Data

Programs divert an array of case types, ranging from petty offenses to felonies and drug felonies. Most programs divert at least some felonies. Offenses diverted varies among districts, generally reflecting local diversion program priorities and policies. Increased competition for limited funds prompted the Funding Committee to develop the priorities to guide funding application review, consistent with §18-1.3-101, C.R.S., and in the absence of a more specific statutory mandate:

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

## Community Impact: Restitution and Participant Narratives

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

### Restitution

The prospect of avoiding criminal convictions and obtaining dismissal of charges are effective incentives for the payment of restitution, benefitting victims and diversion participants alike. As shown in Table 11, restitution collected statewide amounted to \$191,720.75 in FY21, compared to \$103,499.85 in FY20 and \$69,791.39 in FY19.<sup>14</sup> In order of the amount collected, collections were highest in the 20<sup>th</sup>, 2<sup>nd</sup>, 9<sup>th</sup>, 22<sup>nd</sup>, 21<sup>st</sup>, and 6<sup>th</sup> Judicial Districts.

**Table 11, Restitution Collected from All Adult Diversion Participants during FY21**

Judicial District	Amount Collected
2	\$35,367.96
5	\$5,394.65
6	\$20,470.49
7	\$3,118.11
9	\$26,865.35
12	\$3,749.89
14	\$0.00
15	\$3,214.70
16	\$634.64
20	\$43,956.90
21	\$24,332.36
22	\$24,615.70
<b>Total</b>	<b>\$191,720.75</b>

<sup>14</sup> Prior year restitution data likely represent an under-calculation based on variations in programs, with some programs providing participant data only upon exit and others including data regarding ongoing participants. All programs confirmed the amounts reflected in Table 11.

As shown in Table 12 and in furtherance of the legislative intent of restoring victims of crime and facilitating restitution payment, 167 diversion participants completing diversion in FY21 were required to pay restitution as a condition for successful completion of diversion. Of all individuals exiting diversion, whether successfully or unsuccessfully, 134 or 80% fully satisfied their restitution payment obligations.

**Table 12, FY21 Adult Diversion Exits Involving Restitution**

Judicial District	Exits Requiring Payment of Restitution	Exits in which Restitution was Fully Paid
2	26	18
5	9	7
6	35	25
7	3	3
9	5	5
12	8	7
14	0	0
15	3	2
16	16	15
20	28	26
21	11	8
22	23	18
<b>Total</b>	<b>167</b>	<b>134</b>

### Participant Narratives

An individual struggling with addiction, homelessness, and trauma entered diversion regarding two motor vehicle theft charges. Following an initial substance use relapse, obtained full-time employment, engaged in outpatient treatment, lived in a sober house, participated in restorative justice practices, began addressing medical needs, and continues to maintain sobriety.

A client already involved in the child welfare system entered diversion for three charges, possession of a controlled substance, child abuse knowingly/reckless-no Injury, and child restraint not used. She participated in therapy and made progress, as well as testing negative for illegal substances, which warranted a reduction in her supervision and the level of interventions required. With child safety concerns mitigated, her child protection case was closed. She continues under adult diversion supervision and is thriving, despite challenging family circumstances. She continues to utilize skills learned and therapy and to make healthy choices for herself and her daughter.

A client with no criminal history but substance use struggles began drinking for the purpose of ending his life, after the death of a family member. He committed a serious act of property destruction. He entered the diversion program, engaging in intensive treatment, reevaluating his life to make better choices. With a renewed commitment to sobriety, he is an upstanding member of the community and an active volunteer in youth sports and mentorship.

Diverted through the Law Enforcement Diversion Program, a client achieved 477 days clean from Heroin after nine prior attempts at sobriety. He had attended 36 funerals due to opiate overdose and expresses that many might be alive today, like him, had they received diversion through LEAD, which he attributes to saving his life.



## FY22 Program Forecast

Fiscal Year 22 is the second year in which the Adult Diversion Program confronted the challenge of providing awards sufficient to enable program operations while also encouraging at least 10 programs to continue their diversion programming, despite total Adult Diversion Funding availability of only \$100,000. Table 13 shows FY22 funding requests of 11 jurisdictions for \$852,620.18, more than 800% of funding available. Of the programs requesting grant funding in FY22, none received an allocation that met their operational needs, as reflected below.

Table 13, FY22 Adult Diversion and Correctional Treatment Requests and Awards				
Judicial District	Adult Diversion Funds		Correctional Treatment Funds	
	Requested	Award	Requested	Award
2	165,600.00	0.00	35,700.00	33,458.68
3	72,242.00	NA	3,000.00	NA
5	27,500.00	15,500.00	0.00	0.00
7	56,574.22	15,500.00	19,740.00	19,740.00
12	151,412.00	15,500.00	3,000.00	3,000.00
14	22,500.00	15,500.00	35,700.00	33,458.68
15	39,154.56	15,500.00	0.00	0.00
16	75,000.00	15,500.00	2,000.00	2,000.00
20	27,500.00	1,000.00	40,000.00	37,488.72
21	109,187.40	1,000.00	13,500.00	13,500.00
22	105,950.00	5,000.00	27,145.00	26,353.92
<b>Total</b>	<b>\$852,620.18</b>	<b>\$100,000</b>	<b>\$179,785.00</b>	<b>\$169,000.00</b>

Program operations are likely to resemble those of FY21. With the continued interest in and success of diversion programming in Colorado, the Funding Committee continues to support programs to the greatest degree possible given the scarcity of funding. The Funding Committee and Programs persist with hope that financial relief is on the horizon.

## Program Profiles

2nd JD: Denver County			District Attorney Beth McCann	
Program Started in 2018	Adult Diversion Funds		Correctional Treatment Funds	
	Request FY21: \$193,000.00 FY22: \$165,600.00	Award FY21: \$0.00 FY22: \$0.00	Request FY21: \$61,200.00 FY22: \$35,700.00	Award FY21: \$52,556.00 FY22: \$33,458.68
Target Population	<ul style="list-style-type: none"> <li>• <b>Pre-Advisement Release Program:</b> Adults whose charges are not excluded. Exclusions: VRA offenses, municipal offenses, offenses with a knife or firearm, DF1 or DF2, burglary of a dwelling, criminal mischief, or DUI, CPAT 3 or 4, current felony supervision or pending felony, M1 conviction within 2 years or felony conviction within 5 years</li> <li>• <b>Young Adult Felony Diversion Program:</b> Adults 18-30 years old at time of statutorily eligible offense, first-time offenders</li> </ul>			
Program Goals	<ul style="list-style-type: none"> <li>• Offer pre-file diversion to eligible individuals</li> <li>• Collaborate with treatment providers to evaluate mental health and substance use treatment needs and provide targeted services following assessment</li> <li>• Work directly with victims to assess, collect, and distribute restitution payments</li> </ul>			
Projected Enrollment: 120		# Enrolled: 102		# Screened: 355
# Participants Successful: 76		# Participants Terminated: 3		
FY20 1-Year Recidivism Rate (Successful Exits): 17%			Successful Completion Rate: 96%	
Average Diversion Fee: \$150/month (est.)		Supervision Fees Collected: \$10,250		
Assessment Tools	Service Planning Instrument (SPIn), Urica Readiness to Change Screen			
Partner Agencies	Phoenix Multisport, Servicios De La Raza, Advent ELearning, Center for Employment Opportunities, Forward Movement Treatment, Life Recovery Centers, SOAR Therapy, The Conrad Center, Peak Wellness Center, Front Range Clinic, Stars Girlz Empowerment Program, Dr. Sarah Patz, Brian Milton, CAC III			
Achievements	<ul style="list-style-type: none"> <li>• Expanded program entry to post-file cases, with 32% of eligible individuals participating in the program</li> <li>• Through collaboration with treatment providers to evaluate mental health and substance use treatment needs, 43 candidates were referred for treatment assessment and 37 enrolled in treatment</li> <li>• Partnership with Master Apprentice Program for 7-week classroom training and apprenticeship program for construction, electrical, HVAC, masonry, plumbing and welding work</li> <li>• During FY21, diversion participants paid \$35,469 in restitution</li> <li>• 85 continuing participants on average at the end of each quarter</li> </ul>			
Challenges	<ul style="list-style-type: none"> <li>• Resistance to mental health and substance use disorder treatment</li> <li>• Limited participation in opportunity to earn funds for payment of restitution</li> <li>• Insufficient funding to serve potential population of 170 diversion participants</li> </ul>			

5th JD: Clear Creek, Eagle, Lake, and Summit Counties			District Attorney Heidi McCollum	
Program Started in 2019 (Funded in 2020)	Adult Diversion Funds		Correctional Treatment Funds	
	Request FY21: \$25,000 FY22: \$27,500	Award FY21: \$5,975 FY22: \$15,500	Request FY21: \$0 FY22: \$0	Award FY21: \$0 FY22: \$0
Target Population	<ul style="list-style-type: none"> <li>• Adults with potential felony charges. Exclusions: crime of violence (except Assault 2), DF1, drug distribution resulting in death, felony DUI</li> <li>• Veterans preference</li> <li>• Individuals who may need mental health or substance use treatment</li> <li>• Not limited to first-time offenders</li> </ul>			
Program Goals	<ul style="list-style-type: none"> <li>• Participants do not commit additional crimes</li> <li>• Harm repaired through payment of restitution, apology letters, and community service</li> <li>• Avoid collateral consequences of conviction through dismissal of charges for participants who successfully complete diversion</li> </ul>			
Projected Enrollment: 100		# Enrolled: 30	# Screened: 49	
# Participants Successful: 41			# Participants Terminated: 5	
FY20 1-Year Recidivism Rate: NA			Successful Completion Rate: 89%	
Average Diversion Fee: \$47.50/month			Supervision Fees Collected: \$6,010.00	
Assessment Tools	Service Planning Instrument (SPIn)			
Partner Agencies	Summit County Sheriff's Office SMART, Family Intercultural Resource Center, Summit Advocates, Summit Community Care Clinic, Mindsprings Health, Building Hope, Women's Recovery Center, Crossfit LowOxygen, Pastor Rick's Halfway House, Mountain Dreamers, Namastaysober, Mountain Family Health Centers, The Hope Center, SpeakUp Reach Out, Community Market, Bright Future Foundation, SolVista Health, Jefferson Center for Mental Health, Loaves and Fishes Food Bank			
Achievements	<ul style="list-style-type: none"> <li>• First year to receive program funding under §18-1.3-101, C.R.S.</li> <li>• Expanded program to include misdemeanors, as well as felonies</li> <li>• Planning to incorporate mental health interventions during FY22 and 23</li> <li>• During FY21, diversion participants paid \$5,394.65 in restitution</li> <li>• 18 candidates referred for treatment assessment and 13 enrolled in treatment</li> <li>• 31 continuing participants on average at the end of each quarter</li> </ul>			
Challenges	<ul style="list-style-type: none"> <li>• Maintaining contact with unhoused participants</li> <li>• Reduced in-person contact due to COVID</li> <li>• VA/Veteran hospital wait times for veterans needing immediate services</li> <li>• Illnesses/injuries limiting program participation and payment of restitution</li> <li>• Missed or positive drug tests</li> </ul>			

6th JD: Archuleta, La Plata, and San Juan Counties			District Attorney Christian Champagne	
Program Started in 2015	Adult Diversion Funds		Correctional Treatment Funds	
	Request FY21: \$71,886 FY22: \$0	Award FY21: \$7,920 FY22: \$0	Request FY21: \$27,000 FY22: \$0	Award FY21: \$24,047 FY22: \$0
Target Population	Need-based rather than offense-based; pre-file or post-file; low to medium risk participants who may require substance use, anger management, or domestic violence offender treatment. Common charges include driving under restraint, criminal mischief, or careless driving, and other instances in which problem-solving assistance may prevent future similar charges, such as pet-related offenses and neighbor disputes.			
Program Goals	<ul style="list-style-type: none"> <li>• Increase the number of referrals for diversion and restorative justice programs</li> <li>• Expand support from and collaboration with community-based treatment agencies and the Court to fully integrate the diversion and restorative justice programs in the community</li> <li>• Reduce recidivism</li> </ul>			
Projected Enrollment: 275		# Enrolled: 256	# Screened: 267	
# Participants Successful: 158		# Participants Terminated: 51		
FY20 1-Year Recidivism Rate (Successful Exits): 7%		Successful Completion Rate: 76%		
Average Diversion Fee: \$50/month		Supervision Fees Collected: \$9,335		
Assessment Tools	Administered by behavioral health providers			
Partner Agencies	NINA, Access to Justice, 6 <sup>th</sup> JD Probation Office, Therapeutic Experiences, Colorado State Patrol, Durango Fire and Rescue, Manna Soup Kitchen, La Plata County Human Society, Advent ELearning, La Plata Family Centers Coalition, Durango Adult Education Center, Cortez Addiction Recovery Services, Axis Health System, Preferred Counseling, Heart Centered Counseling, Cottonwood Clinical Services, Riversage Counseling, Nicole Fuller CAC III, Bright Sky Counseling, Authentic Solutions Consulting, Optimum Counseling, Four Corners Resolution, Arc Point Lab, AnyLab TestNow, Mobile Jo Testing			
Achievements	<ul style="list-style-type: none"> <li>• Secured alternate program funding from County based on demonstrated record of program success and value</li> <li>• During FY21, diversion participants paid \$20,470.49 in restitution</li> <li>• In-house Restorative Justice Program</li> <li>• Collaboration with law enforcement and mental health providers to assist unhoused individuals</li> <li>• 192 candidates referred for treatment assessment and 136 enrolled in treatment</li> <li>• 96 continuing participants on average at the end of each quarter</li> </ul>			
Challenges	<ul style="list-style-type: none"> <li>• Shortage of substance use disorder and domestic violence treatment providers</li> </ul>			

7th JD: Delta, Gunnison, Hinsdale, Montrose, Ouray, and San Miguel Counties			District Attorney Seth D. Ryan	
Program Started in 2018	Adult Diversion Funds		Correctional Treatment Funds	
	Request FY21: \$53,922.00 FY22: 56,574.22	Award FY21: \$4,620.00 FY22: \$15,500.00	Request FY21: \$21,840.00 FY22: \$19,740.00	Award FY21: \$18,751.00 FY22: \$19,740.00
Target Population	Adults with potential charges of marijuana possession-under 21, non-residential burglary, burglary tools possession, forgery, fraud, impersonation, trespass, criminal mischief, tampering, theft, domestic violence, obstruction, child abuse, and misdemeanor drug possession. Exclusions: Conviction within 1 year prior to present charges, participation in diversion program within 1 year prior to present charges, or other pending criminal charges			
Program Goals	<ul style="list-style-type: none"> <li>• Provide an early intervention diversion program for the target population</li> <li>• Screen participants using the Restorative Justice/Victim Offender Conferencing model</li> <li>• Avoid and/or greatly decrease collateral consequences experienced by participants</li> <li>• Reduce the number of cases in the criminal justice system</li> </ul>			
Projected Enrollment: 96-120		# Enrolled: 33	# Screened: 33	
# Participants Successful: 18			# Participants Terminated: 0	
FY20 1-Year Recidivism Rate (Successful Exits): 13%			Successful Completion Rate: 100%	
Average Diversion Fee: one-time fee of \$50/person			Supervision Fees Collected: \$950	
Assessment Tools	Adverse Childhood Experience inventory, PCL-Short, PHQ-9, AUDIT-C, DAST-10, ASAM, SASSI-4, LSI			
Partner Agencies	Delta County Alternative Sentencing Department, Integrated Insight Therapy, Ignite Change, therapist Maria Call, JRSS Enterprises			
Achievements	<ul style="list-style-type: none"> <li>• Readiness to incorporate Restorative Justice/Victim Offender conferencing model in appropriate cases</li> <li>• 16 candidates referred for treatment assessment and 14 enrolled in treatment</li> <li>• 14 continuing participants on average at the end of each quarter</li> <li>• Less than 7 day wait time, on average, from the date of referral to behavioral health assessment</li> <li>• Designed, proposed, and received preliminary approval for behavioral health and other interventions to support stability of individuals undergoing community-based competency restoration, which may lead to entry into diversion and reduce the competency and restoration backlog and wait times</li> </ul>			
Challenges	Lack of funding to support expansion of diversion beyond Delta County to Montrose, Gunnison, and San Miguel counties			

9th JD: Garfield, Pitkin, and Rio Blanco Counties			District Attorney Jefferson Cheney	
Program Started in 2015	Adult Diversion Funds		Correctional Treatment Funds	
	Request FY21: \$88,584 FY22: \$0	Award FY21: \$7,680 FY22: \$0	Request FY21: \$5,000 FY22: \$0	Award FY21: \$5,000 FY22: \$0
Target Population	Adults with limited criminal histories who present limited criminogenic risk and require treatment and/or rehabilitation. Diverted misdemeanor offenses may include harassment, criminal mischief, underage alcohol consumption/possession, underage marijuana possession, drug possession, assault, serving alcohol to a minor, and hunting violations. Diverted felony charges may include menacing, trespass, fraud, criminal impersonation, possession of forged document, and possession of controlled substances. Domestic violence cases may be diverted.			
Program Goals	<ul style="list-style-type: none"> <li>• Diversion of 175-200 cases</li> <li>• Identification of appropriate treatment levels for rehabilitation and reduction of recidivism</li> <li>• Inclusion of restorative justice as a condition of diversion</li> </ul>			
Projected Enrollment: 175-200		# Enrolled: 47	# Screened: 47	
# Participants Successful: 30		# Participants Terminated: 0		
FY20 1-Year Recidivism Rate (Successful Exits): 6%		Successful Completion Rate: 100%		
Average Diversion Fee: \$50/month		Supervision Fees Collected: \$2,500		
Assessment Tools	Service Planning Instrument (SPIn), Adult Substance Use Survey (ASUS)			
Partner Agencies	Garfield County Sheriff's Department, Alpine Springs Counseling, Mind Springs Health, YouthZone, Restorative Justice Coordinator Lindsay Straka, Restorative Justice Practitioner Jennie Curtis			
Achievements	<ul style="list-style-type: none"> <li>• During FY21, diversion participants paid \$26,865.35 in restitution</li> <li>• Expansion of target population to include higher risk, higher need individuals, including individuals with some prior criminal history</li> <li>• Expansion of offenses that may be diverted to include some felonies</li> <li>• Implementation of "field referrals" from law enforcement</li> <li>• 7 candidates referred for treatment assessment and all enrolled in treatment</li> <li>• 38 continuing participants on average at the end of each quarter</li> </ul>			
Challenges	<ul style="list-style-type: none"> <li>• Reduction in the number of participants served due to reduced funding award</li> <li>• Delay in assessment, evaluation, and community service completion related to lack of in-person meetings due to COVID</li> </ul>			



12th JD: Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache Counties			District Attorney Alonzo Payne	
Program Started in 2019	Adult Diversion Funds		Correctional Treatment Funds	
	Request FY21: \$69,613 FY22: \$151,412	Award FY21: \$9,120 FY22: \$15,500	Request FY21: \$3,000 FY22: \$3,000	Award FY21: \$3,000 FY22: \$3,000
Target Population	Adults with limited criminal history accused of traffic, misdemeanor and non-violent felony crimes. Offenses may include property crimes, drug, traffic, and victim-offender cases, including cases involving domestic violence, using a harm reduction approach and implementation of restorative practices, when appropriate. Offense exclusions: F1-F3, felony domestic violence cases, residential burglaries, identity theft or fraud, mistreatment of at-risk juvenile, adult, or elder, felony sex offenses, person felonies involving victims under age 18, DF1-DF3, and misdemeanor domestic violence cases if prior conviction or diversion within 5 years.			
Program Goals	Increase individual responsibility by providing accountability-based diversion practices including restorative practices, treatment, community services, restitution, and case monitoring, through the review of diversion applications and provision of appropriate services to participants			
Projected Enrollment: 250		# Enrolled: 61	# Screened: 67	
# Participants Successful: 44		# Participants Terminated: 3		
FY20 1-Year Recidivism Rate (Successful Exits): 5%		Successful Completion Rate: 94%		
Average Diversion Fee: \$50/month		Supervision Fees Collected: \$4,223.75		
Assessment Tools	Level of Service Inventory-Revised (LSI-R), Arnold Foundation Public Safety Assessment (PSA), John Praed Foundation Adult Needs and Strengths Assessment (ANSA), Dustin MacDonald Violence Risk Appraisal Guide (VRAG)			
Partner Agencies	Law Enforcement Assisted Diversion program, Center of Restorative Programs, San Luis Valley Behavioral Health, Adventfs, William Beverly, LCSW			
Achievements	<ul style="list-style-type: none"> <li>• During FY21, diversion participants paid \$3,749.89 in restitution</li> <li>• Readiness to implement law enforcement referral to pre-file diversion</li> <li>• 7 candidates referred for treatment assessment and 3 enrolled in treatment</li> <li>• Reduced wait time from treatment referral to treatment initiation due to use of virtual meeting format</li> <li>• 17 continuing participants on average at the end of each quarter</li> <li>• Use of participant survey upon program exit for program improvement</li> </ul>			
Challenges	<ul style="list-style-type: none"> <li>• Loss of funding for diversion coordinator position</li> <li>• Need to fully implement diversion at the law enforcement level, at the earliest opportunity to divert or deflect</li> <li>• Reduced in person meetings between participants and case managers due to COVID</li> <li>• Lack of data management system for data collection and maintenance</li> <li>• Need for increased community awareness and support to increase diversion utilization</li> </ul>			

14 <sup>th</sup> JD: Grand, Moffat, and Routt Counties			District Attorney Matt Karzen	
Program Started in 2020	Adult Diversion Funds		Correctional Treatment Funds	
	Request FY21: \$82,500.00 FY22: \$22,500.00	Award FY21: \$9,475.00 FY22: \$15,500.00	Request FY21: \$23,500 FY22: \$35,700.00	Award FY21: \$20,183.00 FY22: \$33,458.68
Target Population	Adults who are not on parole accused of offenses, excluding certain crimes of violence, DF1, drug distribution or transfer, and felony DUI. Diversion may serve high risk, high need participants.			
Program Goals	<ul style="list-style-type: none"> <li>• Supervise diversion participants in a manner that contributes to their successful completion of diversion</li> <li>• Ensure that diversion participants fully pay restitution to victims as part of their diversion requirements</li> </ul>			
Projected Enrollment: 80		# Enrolled: 11	# Screened: 24	
# Participants Successful: 0		# Participants Terminated: 1		
FY 20 One-Year Recidivism Rate: NA		Successful Completion Rate: NA		
Average Diversion Fee: \$100/month		Supervision Fees Collected: \$600		
Assessment Tools	Service Planning Instrument (SPIn)			
Partner Agencies	Grand County Juvenile Services Department, Moffat County Youth Services Department, Mind Springs, Luna Counseling, Correctional Alternative Placement Services, Stay Free Forever, The Health Partnership			
Achievements	<ul style="list-style-type: none"> <li>• Designed and launched adult diversion program during FY21</li> <li>• 4 candidates referred for treatment assessment and all enrolled in treatment</li> <li>• 10 continuing participants on average at the end of each quarter</li> </ul>			
Challenges	<ul style="list-style-type: none"> <li>• Implementing a new program with a small award, 11% of the amount requested,</li> <li>• Implementing a new program during COVID</li> <li>• Lack of providers to timely provide behavioral health services</li> <li>• Reduction of case filings and identification of individuals appropriate for diversion participants</li> </ul>			

15 <sup>th</sup> JD: Baca, Cheyenne, Kiowa, and Prowers Counties			District Attorney Joshua Vogel	
Program Started in 2015	Adult Diversion Funds		Correctional Treatment Funds	
	Request	Award	Request	Award
	FY21: \$39,155.00 FY22: \$39,154.56	FY21: \$7,780.00 FY22: \$15,500.00	FY21: \$0.00 FY22: \$0.00	FY21: \$0.00 FY22: \$0.00
Target Population	Adults accused of misdemeanor or felony cases, motivated for change and needing long-term treatment for substance use, mental health, or domestic violence, including cases involving restoration of harm to victims and the community. Exclusions: Title 42 traffic charges without other misdemeanor or felony charges, sexual offenses, violent offenses, most F1-F3 offenses, and drug distribution or possession with intent to distribute.			
Program Goals	Successful completion of diversion by participants			
Projected Enrollment: 55-60		# Enrolled: 8	# Screened: 9	
# Participants Successful: 22		# Participants Terminated: 1		

FY20 1-Year Recidivism Rate (Successful Exits): 31% <sup>15</sup>		Successful Completion Rate: 96%
Average Diversion Fee: \$10-\$25/month		Supervision Fees Collected: \$2,255
Assessment Tools	Varies by provider	
Partner Agencies	Southeast Health Group, Ryon Medical, First Step Recovery, Moving Forward, Cindy Vigil, SafeCare Colorado, and Divert Direct	
Achievements	<ul style="list-style-type: none"> <li>• During FY21, diversion participants paid \$3,214.70 in restitution</li> <li>• Only 1 participant was unsuccessful in completing diversion</li> <li>• Increased eligibility for individuals charged with felony cases</li> <li>• 10 candidates referred for treatment assessment and 6 enrolled in treatment</li> <li>• 13 continuing participants on average at the end of each quarter</li> </ul>	
Challenges	<ul style="list-style-type: none"> <li>• Pandemic-related budget cuts in Adult Diversion Program funding</li> <li>• Shortage of treatment providers, especially for domestic violence offender treatment</li> <li>• Small pool of potential participants</li> </ul>	

<sup>15</sup> This recidivism rate has minimal utility due to the small number of participants (i.e., 13 successful exits during FY20).

16 <sup>th</sup> JD: Bent, Crowley, and Otero Counties			District Attorney William Culver	
Program Started in 2014	Adult Diversion Funds		Correctional Treatment Funds	
	Request FY21: \$73,000 FY22: \$75,000	Award FY21: \$14,380 FY22: \$15,500	Request FY21: \$2,000 FY22: \$2,000	Award FY21: \$2,000 FY22: \$2,000
Target Population	Individuals with first-time charges who are amenable to behavior modification through education, therapy, and guidance. Individuals with prior criminal legal system involvement are considered on a case-by-case basis.			
Program Goals	<ul style="list-style-type: none"> <li>• Identification of treatment needs that will increase participant compliance with the law</li> <li>• Provision of educational opportunities to participants, including GED</li> <li>• Payment of restitution as a requirement for diversion completion</li> <li>• Successful completion of diversion by 70% of participants</li> </ul>			
Projected Enrollment: 80		# Enrolled: 48	# Screened: 63	
# Participants Successful: 42			# Participants Terminated: 6	
FY20 1-Year Recidivism Rate (Successful Exits): 3%			Successful Completion Rate: 88%	
Average Diversion Fee: \$50/month			Supervision Fees Collected: \$20,413.43	
Assessment Tools	Varies by provider			
Partner Agencies	Southeast Help Group, RESADA, Ryon Medical, Moving Forward LLC			
Achievements	<ul style="list-style-type: none"> <li>• Felony cases diverted more than doubled since program inception in 2014</li> <li>• 46 candidates referred for treatment assessment and all enrolled in treatment</li> <li>• 51 continuing participants on average at the end of each quarter</li> <li>• 3% one-year recidivism rate</li> </ul>			
Challenges	Lack of treatment providers for domestic violence and substance			

20 <sup>th</sup> JD: Boulder County			District Attorney Michael Dougherty	
Program Started in 2016	Adult Diversion Funds		Correctional Treatment Funds	
	Request FY21: \$34,000.00 FY22: \$27,500.00	Award FY21: \$6,000.00 FY22: \$1,000.00	Request FY21: \$45,000.00 FY22: \$40,000.00	Award FY21: \$20,000.00 FY22: \$37,488.72
Target Population	For supervised diversion, adults charged with first-time F3-F6 willing to accept responsibility for their actions, participate in assessments, engage in interventions, address substance use treatment needs, and repair harm caused by their actions; For unsupervised diversion, adults charged with misdemeanor or petty offenses willing to comply with diversion requirements, such as payment of restitution, completion of required interventions, restoration of harm. Exclusions: F1-F2 offenses, domestic violence, sex offenses, stalking, violation of bond, violation of protection orders, witness retaliation or tampering, escape, animal cruelty involving injury or death, most weapons offenses, high-level drug distribution, and traffic offenses including DUI.			
Program Goals	<ul style="list-style-type: none"> <li>Utilization of assessment-driven case planning to support skill development, connection with services, and positive participant outcomes</li> <li>Participant accountability and victim satisfaction</li> <li>Reduction of criminogenic risk factors and recidivism</li> </ul>			
Projected Enrollment: 100-150 supervised cases		# Enrolled: 219	# Screened: 227	
# Participants Successful: 216		# Participants Terminated: 19		
FY20 1-Year Recidivism Rate (Successful Exits): 2%		Successful Completion Rate: 92%		
Average Diversion Fee: \$50/month		Supervision Fees Collected: \$14,465		
Assessment Tools	Service Planning Instrument (SPIn)			
Partner Agencies	Boulder IMPACT, Boulder County Public Health Community Substance Abuse Prevention (CSAP) Program, Center for Change, Collegiate Recovery Center, Phoenix Multisport, Mental Health Partners, Attention Homes, Bridge House, Workforce Boulder County, The Learning Source			
Achievements	<ul style="list-style-type: none"> <li>During FY21, diversion participants paid \$43,956.90 in restitution</li> <li>Referred 21 candidates for treatment assessment and 15 enrolled in treatment</li> <li>On average, 76 participants continued in programming at the end of each quarter</li> <li>Received approval for funding of expanded mental health diversion program with case management, behavioral health, and other interventions to support stability of diversion participants and reduce delays in access to competency and restoration services</li> <li>Adult Diversion Coordinator earned qualification as a Certified Addiction Specialist</li> <li>Administered the Service Planning Instrument for all supervised diversion participants to inform case planning and appropriate interventions</li> <li>All moderate/high risk participants decreased their criminogenic risk while on diversion</li> <li>Administered survey for exiting diversion participants, with the majority reporting skill development, improved decision-making, and increased connection with community resources due to participation in diversion</li> <li>100% of diversion participants reported that diversion assisted them in taking responsibility for their actions, with 93% reporting having repaired some harm</li> <li>100% of victims who participated in facilitated restorative justice processes with diversion participants reported satisfaction with the process and reported that the person who committed the offense accepted responsibility</li> </ul>			
Challenges	<ul style="list-style-type: none"> <li>Wait time to access community-based mental health, psychiatric, and substance use treatment and provider unavailability</li> <li>Shortage of group therapy treatment options</li> <li>Lack of in person treatment options due to COVID</li> <li>Housing insecurity, increase in homelessness, and lack of housing assistance</li> </ul>			

21 <sup>st</sup> JD: Mesa County			District Attorney Daniel Rubinstein	
Program Started in 2016	Adult Diversion Funds		Correctional Treatment Funds	
	Request	Award	Request	Award
	FY21: \$122,687.00 FY22: \$109,187.40	FY21: \$15,580.00 FY22: \$5,000.00	FY21: \$0.00 FY22: \$13,500.00	FY21: \$0.00 FY22: \$13,500.00
Target Population	Individuals assessed as presenting lower to medium risks, including those with no prior arrests and lower level criminal charges, and animal services cases. Eligible offenses include most non-VRA petty, misdemeanor and lower-level felony crimes.			
Program Goals	<ul style="list-style-type: none"> <li>• 90% or more of participants will not be charged with a new felony or misdemeanor during period of diversion</li> <li>• 40% or more of participants will successfully terminate from diversion prior to their planned completion date by complying with diversion terms</li> </ul>			
Projected Enrollment: 600		# Enrolled: 121	# Screened: 122	
# Participants Successful: 123		# Participants Terminated: 11		
FY20 1-Year Recidivism Rate (Successful Exits): 10%			Successful Completion Rate: 92%	
Average Diversion Fee: \$45/month		Supervision Fees Collected: \$10,685		
Assessment Tools	Hawaii Proxy Risk Assessment, Substance Screening Instrument (SSI), Level of Service Inventory (LSI), Colorado Criminal Justice Mental Health Screen-Adult (CCJMHS-A)			
Partner Agencies	Mesa County Criminal Justice Services Department (CJSD), Mind Springs, Rocky Mountain Health Plans			
Achievements	<ul style="list-style-type: none"> <li>• During FY21, diversion participants paid \$24,332.36 in restitution</li> <li>• 11 candidates referred for treatment assessment and 7 enrolled in treatment</li> <li>• 32 continuing participants on average at the end of each quarter</li> <li>• Began implementation of law enforcement diversion without filing of charges</li> <li>• No participants had misdemeanor or felony charges filed during the period of diversion</li> <li>• 92% of participants exited diversion early and in compliance with diversion requirements</li> <li>• Designed, proposed, and received preliminary approval for funding of behavioral health and other interventions to support stability of diversion participants and reduce delays in access to competency and restoration services</li> <li>• Commitment to not terminating participants solely for inability to pay supervision costs</li> </ul>			
Challenges	<ul style="list-style-type: none"> <li>• No-show by program candidates for intake appointment and loss of contact with participants</li> <li>• Participant inability to pay supervision fees, resulting in high rate of fee waivers</li> <li>• Need to expand use of Law Enforcement Assisted Diversion for designated crimes</li> <li>• Reduced referrals in 4th quarter, due to COVID-related changes in court operations</li> </ul>			



22 <sup>nd</sup> JD: Dolores and Montezuma Counties			District Attorney Matthew Margeson	
Program Started in 2017	Adult Diversion Funds		Correctional Treatment Funds	
	Request FY21: \$108,925.00 FY22: \$105,950.00	Award FY21: \$11,470.00 FY22: \$5,000.00	Request FY21: \$27,315.00 FY22: \$27,145.00	Award FY21: \$23,463.00 FY22: \$26,353.92
Target Population	Individuals charged with traffic and property crimes, including first time DUI, minor drug charges, and low-level theft and criminal mischief offenses, with crimes against persons considered on a case by case basis. Most participants have no prior involvement in the criminal legal system, do not present a high risk to community safety, and are responsive to diversion interventions.			
Program Goals	<ul style="list-style-type: none"> <li>• Increase in the number of diversion participants</li> <li>• Development of a restorative justice program, incorporated into diversion program</li> <li>• Participant accountability through successful completion of diversion and abstention from committing additional criminal acts during diversion</li> </ul>			
Projected Enrollment: 390		# Enrolled: 337	# Screened: 336	
# Participants Successful: 259			# Participants Terminated: 26	
FY20 1-Year Recidivism Rate (Successful Exits): 3%			Successful Completion Rate: 91%	
Average Diversion Fee: \$25/month			Supervision Fees Collected: \$19,978.92	
Assessment Tools	Determined by provider			
Partner Agencies	The Recovery Center			
Achievements	<ul style="list-style-type: none"> <li>• Systematically reviewed every case filing for diversion eligibility prior to 1<sup>st</sup> appearance</li> <li>• Covered treatment cost, half of the substance abuse evaluation, and all UA sign up fees in cases involving drug and alcohol use</li> <li>• Incorporated victim impact component to cases involving drugs and/or alcohol</li> <li>• During FY21, diversion participants paid \$24,615.70 in restitution</li> <li>• Increased the number of successful program completions</li> <li>• Increased the number of diversion enrollments involving felony charges</li> <li>• 45 candidates referred for treatment assessment and 34 enrolled in treatment</li> <li>• 373 continuing participants on average at the end of each quarter</li> <li>• Trained staff as restorative justice facilitators; planned training of community members</li> <li>• Designed, proposed, and received preliminary approval for funding of behavioral health and other interventions to support stability of diversion participants and reduce delays in access to competency and restoration services</li> </ul>			
Challenges	<ul style="list-style-type: none"> <li>• Rural location with few service providers</li> <li>• Complex demographic population, including citizens of three Tribes</li> <li>• Lack of service providers</li> <li>• Need for additional diversion program staffing resources</li> <li>• Cost of phone or internet needed by participants for contact with diversion coordinator</li> <li>• Lack of public transportation for participant attendance of appointments, classes, etc.</li> </ul>			

# ADDENDUM TO ANNUAL REPORT

Attachment I      FY21 Adult Diversion Funding Application  
Attachment II     FY21 Funding Guidelines

## ADULT DIVERSION FUNDING APPLICATION – FY 21

**PLEASE COMPLETE AND RETURN THE APPLICATION TO  
[kara.martin@judicial.state.co.us](mailto:kara.martin@judicial.state.co.us) BY MARCH 20, 2020**

<b>SCAO use only</b>	FY 19:	Amount Awarded: \$	Amount Spent: \$
	FY 20:	Amount Awarded: \$	Amount Spent: \$
Score:	Comments:		
Deny/Grant:	FY 21:	Amount Awarded: \$	

### SECTION 1. APPLICANT INFORMATION

Judicial District:	Counties Served:		
Primary Contact Name:	Elected District Attorney:		
Email:	Office Phone:	Alt. Phone:	
Mailing Address:	City:	CO	Zip:
Funding Amount Requested for FY 2021: \$			

### SECTION 2. ADULT DIVERSION PROGRAM INFORMATION

<i>A. Is this a new or existing program?</i>	<i>New</i>		<i>Existing</i>		<i>Year Started</i>	
<b>PART A - TARGET POPULATION</b>						
<i>B. Describe your program's target population, including any targeted offenses, and explain any changes in the target population from FY20.</i>						
<i>C. Why did you select this target population, including any targeted offenses?</i>						
<i>D. Approximately how many participants do you expect on a monthly or yearly basis, and how did you determine this number?</i>						
<i>E. Identify your program's objective and subjective, if any, eligibility criteria. What are the screening and selection processes used to identify diversion candidates? Explain any differences in eligibility criteria from FY20.</i>						
<b>Written policies and procedures addressing eligibility criteria are due with year-end reports.</b>						
<i>F. How does diversion of the target population prevent participants from committing additional criminal acts?</i>						
<i>G. How does diversion of the target population advance the restoration of victims of crime and facilitate payment of restitution?</i>						

H. To what extent will diversion of the target population **reduce the number of cases in the criminal justice system**?

I. How will diversion of the target population **ensure accountability**?

J. How will diversion of the target population **limit the collateral consequences of criminal charges and convictions? How will it contribute to participant rehabilitation or reintegration into the community?**

K. In what specific ways will diversion of the target population **serve the public interest**?

**PART B - PROGRAM IMPLEMENTATION AND OPERATIONS**

L. Describe any unique circumstances in your judicial district that contribute to the need for adult diversion (e.g., increasing case filings, increasing volume of jury trials, jail overcrowding, etc.).

M. If you are a **first time applicant** planning to create a new program, describe the adult diversion program you envision, including your implementation plan and time frames for key tasks. If you have an **existing diversion program**, provide a brief summary of your operations, including any operational changes made within the prior year, unless already noted above.

N. Describe any training or other resource needs required for successful implementation or operations.

O. How do you determine whether a diversion participant warrants supervision, including any screens, tools, assessments or other processes used in this decision-making process?

P. The Risk Needs Responsivity Model relies on the following principles:

- **Risk Principle:** Interventions should match the risk level for re-offending, with higher risk individuals receiving more intensive programming for longer periods of time and lower risk individuals receiving low-intensity or no interventions.
- **Need Principle:** To reduce recidivism, interventions should identify and target criminogenic needs.

• *Responsivity Principle: Treatment or interventions are most effective when matched to an individual’s level of criminal risk, criminogenic needs, learning style, personality, and skills. Please describe the extent to which your program implements these principles in determining the nature and level of supervision and identifying interventions, including tools or methods your office or your partners use to individualize diversion agreements consistent with these principles.*

*Q. Describe, or attach a copy of, any standard terms of diversion agreements, including standard requirements for successful completion of the diversion agreement.*

*R. How will you determine whether a behavioral health treatment assessment referral is necessary?*

*S. How many people or what percentage of your target population do you anticipate will need behavioral health treatment?*

*T. Who will conduct behavioral health treatment assessments? If the treatment provider and assessor are the same, what oversight will guard against over-assessment into treatment?*

*U. How will you track successful participation in behavioral health treatment, when required, and evaluate treatment provider effectiveness?*

*V. How will you demonstrate an effective return on investment for the grant award?*

**PART C - PARTNER ORGANIZATIONS**

*W. Identify any partner organizations that will serve, supervise or support participants in completing their diversion agreements, including a contact name, phone, email and mailing address for each.*

*X. For any partner identified above, please identify the services each will provide and state, or provide documentation for, the qualifications to provide those services.*

***If this is a first-time request for funding or partner organizations have changed, please attach a letter of commitment from each partner identifying the partner role.***

**PART D – DATA REPORTING, GOALS, OBJECTIVES AND OUTCOMES**

*Please identify three goals in the sections below that connect program goals, objectives, and measurable outcomes to one or more statutory goals of:*

- *Preventing the commission of additional criminal acts;*

- *Restoring victims of crime;*
- *Facilitating the payment of restitution;*
- *Reducing the number of cases in the criminal justice system;*
- *Ensuring participant accountability;*
- *Avoiding collateral consequences of criminal charges and convictions;*
- *Rehabilitating and reintegrating participants into the community; and*
- *Advancing the public interest.*

**Program Goal 1:**

Objective (a):	Objective (b):	Objective (c):
Measurable Outcome(s) (a):	Measurable Outcome(s) (b):	Measurable Outcome(s) (c):
Timeframe:	Timeframe:	Timeframe:

Statutory goal(s) advanced by Program Goal 1:

**Program Goal 2:**

Objective (a):	Objective (b):	Objective (c):
Measurable Outcome(s) (a):	Measurable Outcome(s) (b):	Measurable Outcome(s) (c):
Timeframe:	Timeframe:	Timeframe:

Statutory goal(s) advanced by Program Goal 2:

**Program Goal 3:**

Objective (a):	Objective (b):	Objective (c):
Measurable Outcome(s) (a):	Measurable Outcome(s) (b):	Measurable Outcome(s) (c):
Timeframe:	Timeframe:	Timeframe:

Statutory goal(s) advanced by Program Goal 3:

**SECTION 3. ADULT DIVERSION BUDGET**

*Explain program financial needs and anticipated expenses. Identify any fees participants will be charged. State the anticipated cost per participant and explain the calculation of this amount.*



**ADULT DIVERSION FUNDING APPLICATION – FY 21**

**Table Instructions:** Estimate the total expenses to be funded by the Adult Diversion Program grant and total amount to be supported by other sources. Example: In-kind or match support will cover \$20K of the \$50K total personnel cost, the “Funded by Grant” column should list \$30K.

Expenses Category	Funded by Grant*	Funded by Other Sources	Total
<b>GENERAL ADULT DIVERSION PROGRAM FUNDS</b>			
Personnel:	\$	\$	\$
Training:	\$	\$	\$
Consultants/contract support:	\$	\$	\$
Operating:	\$	\$	\$
Non-Correctional Treatment:	\$	\$	\$
Other (specify):	\$	\$	\$
<b>CORRECTIONAL TREATMENT FUNDS, §18-19-103, C.R.S.</b>			
Screening, assessment & evaluation:	\$	\$	\$
Alcohol and drug testing:	\$	\$	\$
Substance abuse education/training:	\$	\$	\$
CCJC conference:	\$	\$	\$
Substance abuse/ Co-occurring treatment:	\$	\$	\$
Recovery support services:	\$	\$	\$
<b>Quarterly reporting will track expenses related to grant monies distributed, not outside funding.</b>			
Estimated # of participants to be supervised:		Avg. monthly supervision fee:	\$
Total anticipated participant fees:	\$	Match/in-kind support:	\$
Total grant-funding requested:	\$	Total cost for Adult Diversion Program:	\$

**SIGNATURE**

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

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

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

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

**BACKGROUND AND OVERVIEW**

The Colorado Commission on Criminal and Juvenile Justice supported the passage of HB 13-1156, which replaced deferred prosecution with adult diversion as a voluntary alternative to prosecution of criminal offenses. Codified at §18-1.3-101, C.R.S., the bill's passage created a funding source and provided structure for the State Court Administrator's Office (SCAO) to administer grant awards to receptive District Attorneys (DAs). Diversion allows the accused to fulfill conditions listed in a diversion agreement approved by the DA. Conditions may include participation in interventions that address or treat factors related to the alleged offense, that reduce the likelihood of future criminal behavior, and that restore victims of crime. Successful completion of the diversion agreement results in dismissal or no-filing of the charges, returning the program participant to the same legal status as if the offense had never occurred.

Diversion is intended to operate simply and flexibly. DAs can divert individuals at any point before plea or trial, even before the filing of charges. DAs can preserve the ability prosecute offenses by requiring a signed statement of facts related to the alleged offense. DA diversion programs, law enforcement and pretrial service organizations may monitor compliance with and enforce diversion agreements. Probation departments may likewise monitor compliance with and enforce diversion agreements filed in court. New and existing diversion programs can seek funding, as set forth in these guidelines.

**GRANT APPLICATION AND AWARD TIMELINE**

- **January 6, 2020**, request for proposals announced (new and existing programs)
- **January 22, 2020**, noon to 1:30 p.m., Application Process Webinar
- **March 20, 2020**, end of business, application deadline. Late requests considered in the order received, depending on fund availability
- **April 2, 2020**, 9:00 a.m. to noon, funding meeting with pre-scheduled applicant telephone calls
- **April 20, 2020**, grant awards announced
- **May 4, 2020**, applicant response deadline for grant award notices
- **July 1, 2020 through June 30, 2021**, award effective dates

**APPLICATION INSTRUCTIONS FOR NEW AND EXISTING DIVERSION PROGRAMS**

- Submit completed funding applications and supporting materials electronically as a PDF to [kara.martin@judicial.state.co.us](mailto:kara.martin@judicial.state.co.us).
- **New!** Provide contact information for applicant representative to pre-schedule April 2, 2020 telephone call to address Funding Committee questions

**FUNDING CRITERIA**

House Bill 13-1156 authorized the Adult Diversion Funding Committee. The FY21 Adult Diversion Fund has approximately \$400,000 available. The Correctional Treatment Fund provides additional monies to cover treatment needs of funded programs. In determining grant award amounts, the Funding Committee will consider:

- The local need for adult diversion of the target population and projected number of participants;
- The connection between the program and statutory goals, which include:
  - Preventing the commission of additional criminal acts;
  - Restoring victims of crime;
  - Facilitating the payment of restitution;
  - Reducing the number of cases in the criminal justice system;

- Ensuring program participant accountability;
- Avoiding collateral consequences of criminal charges and convictions;
- Rehabilitating and reintegrating program participants into the community; and
- Advancing the public interest.
- Program implementation and compliance, including budget management, data collection, and reporting.
- The Funding Committee will prioritize awards based upon the ability of the applicant to demonstrate the return on investment for the grant award, alignment of program design to statutory goals for diversion, and implementation of recognized best practices.

### PERMISSIBLE USES OF FUNDING

- Personnel, including salaries, wages, and benefits for employment of full-time, part-time, or contractual diversion program staff or attorneys.
- Training, including costs to train and develop program staff or attorneys in case management and assessment best practices, and professional skill development that enhances participant services; and expenses for outreach to educate or promote the program locally.
- Consultants/contract support, including payment for non-employee work that improves the quality of services delivered by or provided for the benefit of the diversion program and its participants, directly tied to a program or statutory goal for a diversion participant or to more generally to program outcomes.
- Operating, including expenses for program-related daily business operations, such as office supplies, monitoring services, software licenses, etc., incurred or expensed by a diversion program housed in a DA office or other DA-approved agency.
- Treatment (non-C.R.S. §18-19-103), including expenses for social or support services, cognitive behavioral therapy, or other services performed by a licensed, certified, or accredited provider designed to 1) reduce recidivism or criminogenic risk(s), as identified through professional assessment, evaluation, or screen; 2) address the nature of the crime charged and circumstances surrounding the offense; or 3) address a special circumstance or characteristic of the participant.
- Other, including expenses not otherwise outlined but necessary for program operation.

### GRANT AWARD REQUIREMENTS AND REPORTING DEADLINES

- DA grant award recipients must execute a contract with the SCAO and comply with SCAO policies and procedures for data collection, reporting, and billing.
- The Colorado Judicial Branch operates on a July 1 – June 30 fiscal year; Funds awarded for FY21 must be spent by June 30, 2021 and reported by July 10, 2021.
- Future funding is not guaranteed.
- Quarterly participant data and financial reporting, are due as follows:
  - Quarter 1 (July through September), due **October 10, 2020**;
  - Quarter 2 (October through December), due **January 10, 2021**;
  - Quarter 3 (January through March), due **April 10, 2021**;
  - Quarter 4 (April through June), program expense reimbursement and financial reporting due **June 30, 2021**, and remaining data due **July 10, 2021**.
- Quarterly participant information, including:
  - Number of people screened and number who met program criteria;
  - Number of people denied program participation;
  - Number of people enrolled in adult diversion;
  - Number of people who declined to enroll in adult diversion;

- Participant demographics (age, gender, ethnicity, judicial district, county of residence);
- Case supervision data (treatment assessment, restitution owed, charging details);
- Participant status (intake, signed agreement, successful completion, termination and reason);
- Intake/exit forms for exiting participants.
- Quarterly financial updates, including:
  - Funds requested;
  - Funds expended by category; and
  - Supervision fees collected;
- SCAO will review quarterly reports, including documentation of expenditures. Following approval of expenses, SCAO will distribute reimbursements on a quarterly basis.
- Programs must maintain and, upon request, provide proof of expenditures, such as receipts, for audit or other verification.
- Annual report, including:
  - Recidivism data during and at one and three years following completion or termination from the diversion program, with assistance from SCAO in data collection and analysis;
  - Aggregate data on outcomes, restitution, and other diversion data; and
  - Adult diversion policies and eligibility guidelines.

## STATUTORY OVERVIEW

Diversion programs funded pursuant to §18-1.3-101, C.R.S., must comply with its statutory terms, including:

- Pre-plea or pre-trial diversion of adults only (e.g., program is unavailable to those under 18);
- Eligibility policies and guidelines, including consideration of:
  - The nature of the crime and circumstances surrounding it;
  - Special circumstances or characteristics of the diversion candidate;
  - Whether diversion is consistent with rehabilitation and reintegration into the community; and
  - Whether the public interest will be best served by diverting the individual from prosecution.
- Program operation within a DA's office or through an outside DA-approved agency or program, including restorative justice services.
- Supervising agencies shall provide supervision necessary for rehabilitation and for completion of the diversion agreement, holding participants accountable to the terms.
- Victims have the right to be informed of the decision to enter an adult diversion agreement.
- Reduction of collateral consequences for participants and reparation of harm to victims underly the program's purpose.

**Domestic violence and sexual offenses.** Regarding cases involving domestic violence or sexual offenses:

- Charges must be filed as a pre-condition of diversion eligibility;
- Diversion candidates must receive the opportunity to consult with counsel;
- Diversion candidates must complete a domestic violence treatment evaluation or sex-offender specific evaluation;
- Certain offenses are not eligible for diversion, including 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 agreement requirements:**

- Participant, participant attorney (if any) and DA signatures;



- Written waiver of the right to a speedy trial for the period of diversion;
- A prohibition against the commission of any other criminal offense during the period of diversion;
- Requirement of dismissal, with prejudice, of all related criminal charges against the participant if the participant completes the terms and obligations of the agreement.

**Optional diversion agreement terms:**

- Individualized terms related to the participant's strengths, risks, needs, and abilities and the victim's needs for repair.
- Assessment of criminogenic needs and individualized interventions to meet those needs;
- Identification and contact information for a diversion supervisor or supervisory agency.

**Prohibited diversion agreement terms:**

- Requirement for entry of a plea;
- A diversion period of more than two years, unless payment of restitution is the sole remaining condition of diversion, due to a present inability to pay and future potential to pay. In such case, the maximum extension is one additional year.
- Any provision allowing for use of evidence obtained during the diversion process in prosecution of the deferred crime, other than a statement of fact completed by the program participant.

**Other statutory requirements:**

- The DA may hold or file the diversion agreement in court but must file it in court if the probation department will supervise compliance or if the court will assist with collection of restitution.
- When the diversion agreement is entered, the court shall stay further proceedings.
- When the diversion agreement is completed successfully, all charges filed must be dismissed.
- Following successful completion, a participant may petition to seal all records related to the offense and sealing is mandatory.
- If a diversion participant violates the diversion agreement, the supervising entity must provide written notice to the participant, the DA and the court. The DA may then proceed with prosecution, as allowed by law.

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For more information and questions please contact Kara Martin at (720) 625-5963 or [kara.martin@judicial.state.co.us](mailto:kara.martin@judicial.state.co.us)

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