



Adult Diversion Program Annual Legislative Report Fiscal Year 2023



Colorado Judicial Department

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SUMMARY & OVERVIEW

Over the past nine years, Colorado's prosecutor-led adult diversion programs have become a cornerstone of the criminal justice system, offering an alternative path to incarceration for low-risk offenders. These programs align with legislative goals of crime prevention, victim restitution, and reducing court strain, while also fostering rehabilitation and individual accountability.

FY23 saw significant successes:

- **Program Growth:** From 4 sites in FY15 to 12 in FY23, expanding program access across the state.
- **Participant Enrollments:** Increased from 299 in FY15 to 1,985 in FY23, demonstrating program demand and impact.
- **Successful Completion:** 88% of participants successfully completed diversion, avoiding conviction and collateral consequences.
- **Behavioral Health Treatment:** 35% of all diversion participants received treatment for identified behavioral health issues, marking a record high.
- **Low Recidivism:** Only 1% of successful participants had new charges filed within one year, showcasing the program's effectiveness in reducing future involvement in the criminal justice system.
- **Restitution:** Participants paid \$207,697.58 in restitution, directly benefiting victims and demonstrating accountability.

These achievements highlight the significant role of adult diversion in promoting a safer and more just Colorado.

STATUTORY REPORTING REQUIREMENT

House Bill 13-1156, enacted in August 2013, created a mechanism for diverting individuals accused of statutorily eligible offenses away from traditional criminal legal system involvement. The legislation defined the parameters of pretrial adult diversion and provided a mechanism to fund program operations in §18-1.3-101, C.R.S. The Colorado Judicial Branch supports the administration of funding and houses program information, including past annual legislative reports (see: <https://cjpu.colorado.gov/diversion>).

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 reporting obligations. 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 FY23 Funding Committee members.

Table 1, FY23 Adult Diversion Funding Committee Members

Name	Agency Representing	Email
Janet Drake	Office of the Attorney General	Janet.Drake@coago.gov
Michael Allen	Colorado District Attorneys' Council	michaelallen@elpasoco.com
Elizabeth Porter-Merrill	Office of the Public Defender	elizabeth.porter-merrill@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

Original Funding Recipients

The original adult diversion funding recipients in FY2014 were 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.

Growth of Funded Programs

The number of funded programs has increased over time:

- In FY17, the number of funded programs increased to 6 with the addition of the 20th (Boulder County) and 21st (Mesa County) Judicial Districts.
- In FY18, the number of funded programs increased to 9 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 number of funded programs remained at 9 with the addition of a program in the 7th Judicial District (Delta County).

- In FY20, the number of funded programs increased to 10 with the addition of a program in the 12th Judicial District (Alamosa, Conejos, Costilla, Mineral, Rio Grande and Saguache Counties).
- In FY21, the number of funded programs increased to 12 with the addition of programs in the 5th (Clear Creek, Eagle, Lake and Summit Counties) and 14th (Grand, Moffat and Routt Counties) Judicial Districts.

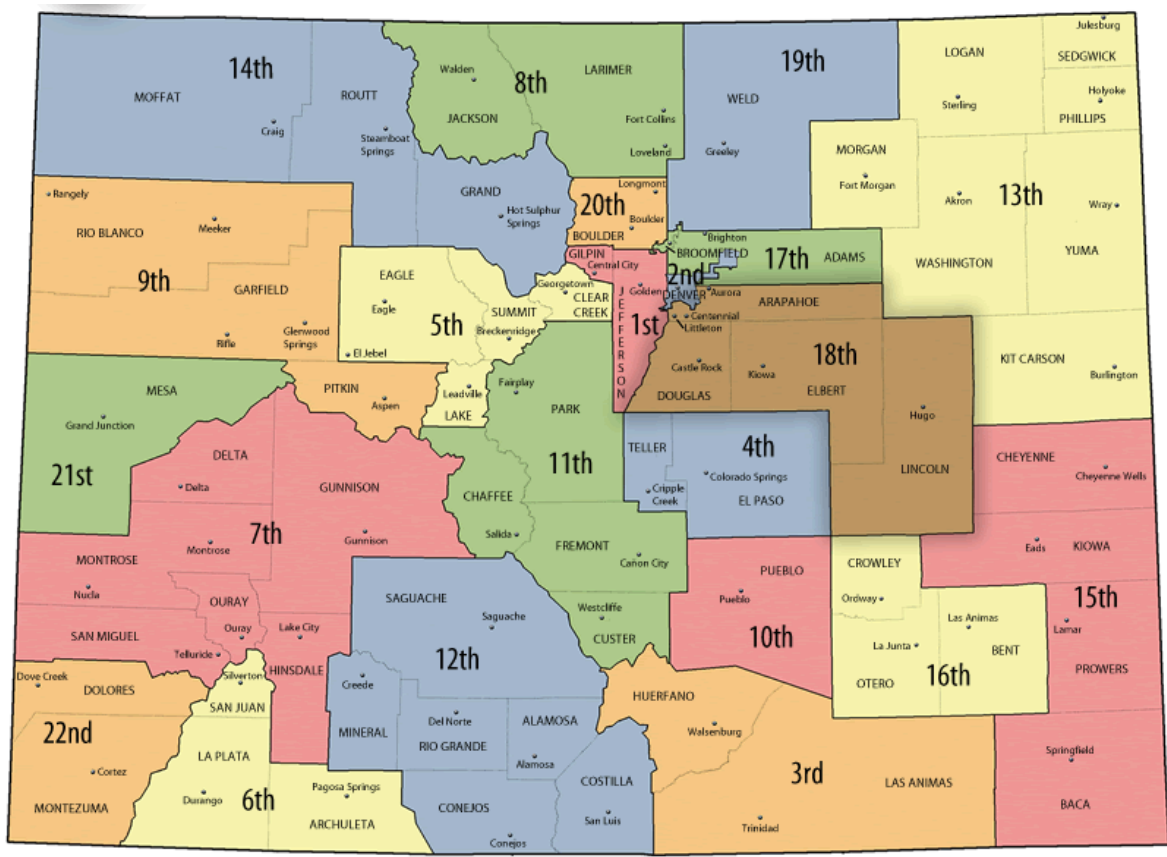
Recent Changes

- In FY22, the number of funded programs decreased 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.
- In FY23, the number of funded programs returned to 12 with the return of the 9th (Rio Blanco, Garfield and Pitkin Counties) Judicial District and the addition of the 8th Judicial District (Larimer and Jackson Counties).
- The 11th (Chaffee, Fremont, Custer, and Park Counties) Judicial District will be receiving funding in FY24.

Conclusion

The number of funded adult diversion programs has increased over time, demonstrating the program's effectiveness and growing recognition of its benefits. The addition of new programs in FY23 and FY24 further expands the reach of adult diversion and provides an alternative to the traditional criminal justice system for more individuals.

Colorado Judicial Districts



PROGRAM AND PARTICIPANT DATA

Funding: Allocations and Expenditures

The Adult Diversion Program's potential is undeniable, but inconsistent funding hinders its impact. Initially allocated \$400,000, funding reductions in FY21 and FY22 led to a 75% decrease in participant enrollment. A temporary \$4 million ARPA grant in FY23 revitalized the program, boosting enrollment by 145%. However, programs urgently need a reliable funding source to maintain this growth. Additionally, Correctional Treatment Fund (CTF), an important funding source for treatment, restrictions prevent hiring permanent staff, a major barrier to program stability. Consistent funding and CTF reforms are essential investments. Every dollar invested in the Adult Diversion Program yields significant returns in reduced recidivism, victim restitution, and cost savings for the criminal justice system.

Table 2 shows the number of applicant programs, the amount of funding requests and awards, and participant enrollment by fiscal year since program inception.

**Table 2, Overview of Adult Diversion Programs:
Funding Requests, Awards and Participant Enrollment**

Fiscal Year	# Applicants for Adult Diversion Funding	# Programs Awarded Funding	Adult Diversion Funding Requested	Adult Diversion Funds Awarded	# Participants Enrolled	% Change in Participant Enrollment (from Prior Year)
FY23	12	12	\$2,031,657.40	\$1,900,000.00	1,985	+33%
FY22	11	9	\$852,620.18	\$100,000.00	801	-37%
FY21	14	11	\$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	N/A

Among the various funding needs, compensation for personnel to administer local diversion programs is the most critical, as evidenced by Table 3. Personnel costs consistently rank as the highest expense category for operating diversion programs. District attorney offices generally oversee the program with dedicated staff like program coordinators, deputy district attorneys, or others who manage day-to-day operations, reporting, and billing. In some areas, these tasks are delegated to pretrial organizations.

Historically, programs have prioritized adequate staff compensation, and this remains true today. However, challenges in hiring temporary staff and finding qualified individuals willing to work on contractual or temporary bases exist. Consequently, many programs report having to turn away potential participants due to insufficient staffing. Additionally, Correctional Treatment Funds cannot cover staff costs, and ARPA funding expires in December 2024. This makes ARPA funding currently the only source supporting personnel expenses, highlighting the crucial need for adequate and sustainable funding to maintain staffing levels in adult diversion programs. Without sufficient funding,

programs may struggle to retain staff, leading to reduced capacity to serve participants and compromised program outcomes.

Table 3, Adult Diversion FY 23 Expenses by Category and Program

JD	ARPA Funds					Correctional Treatment Funds		
	Expense Categories				Adult Diversion			
	Personnel	Non-Personnel	Combined	Award	% of Award Expended	CTF Expenses	CTF Award	% of Award Expended
2	28,227.09	168,452.44	196,678.87	338,950.00	58%	22,236.35	37,550.00	59%
5	48,750.00	2,000	50,750.00	50,750.00	100%	n/a	n/a	n/a
7	58,790.73	37,695.75	96,486.48	298,234.00	32%	3,531.38	27,550.00	13%
8	76,977.09	20,751.78	97,728.87	151,993.00	64%	n/a	n/a	n/a
9	59,214.00	3,950.00	63,164.00	68,164.00	93%	680.00	2,800.00	20%
12	86,069.30	67,310.16	153,379.46	185,000.00	83%	0	3,000.00	0%
14	0.00	51,350.61	51,350.61	60,000.00	86%	27,550.00	27,550.00	100%
15	41,00.00	1,000.00	42,000.00	44,500.00	94%	0	1,500.00	0%
16	57,750.68	3,079.33	60,830.01	96,235.00	63%	0	6,000.00	0%
20	180,524.15	12,500.00	193,024.15	194,500.00	99%	12,469.45	25,000.00	50%
21	0.00	54,074.90	54,074.90	166,847.00	32%	0	13,500.00	0%
22	157,916.85	14,425.72	172,342.57	244,827.00	70%	27,550.00	27,550.00	100%
Total	754,219.89	436,590.69	1,059,467.35	1,705,500.00	70%	76,920.48	169,000.00	46%
%	71%	29%	n/a	n/a	n/a	46%	n/a	n/a

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

Diversion Participants

Table 4 shows data on the Adult Diversion Program for the fiscal years 2017 to 2023. The data includes the number of people screened for diversion, enrolled in diversion, who successfully completed diversion, and who did not successfully complete diversion. The table also includes data on the reasons for termination from diversion.

In FY23, there were 3,512 people screened for adult diversion in the 12 programs receiving funding. Of those, 1,985 were enrolled in diversion. 931 people successfully completed diversion, a success rate of 88%. The most common reason for termination from diversion was not complying with the diversion agreement (86 people). Overall, the Adult Diversion program appears to be successful in helping people avoid the negative consequences of criminal justice involvement.

Table 4, Diversion Eligibility, Enrollment, Services and Success

	FY17	FY18	FY19	FY20	FY21	FY22	FY23
# People Screened for Adult Diversion	985	1712	1636	1,580	1,599	1184	3512
# People Enrolled in Adult Diversion	837	1592	1518	1,259	1,273	801	1985
# People Who Successfully Completed Adult Diversion	509 (79%)	826 (78%)	1176 (79%)	1,080 (85%)	1,029 (89%)	653 (89%)	931 (88%)
# People under Diversion Agreements at Fiscal Year End	369	723	766	752	917	726	921
# People Who Did Not Successfully Complete Diversion	134	228	313	188	126	82	149
Reason for Termination from Diversion							
Did not Comply with Diversion Agreement	97	148	213	136	97	51	86
Committed New Offense during Diversion	24	47	70	30	29	19	30
Voluntarily Withdrew from Diversion	11	31	7	6	0	7	3
Absconded	0	24	21	16	0	2	8
Other Reason (e.g., death)	2	2	2	0	0	3	6
# Participants Referred for Treatment Assessment	178	380	381	410	420	272	473
# Participants Who Began Treatment after Assessment	172	301	280	318	322	222	373

Most participants who were dismissed from the diversion program did not commit new offenses, but instead failed to meet a program requirement. These requirements vary from program to program and often from participant to participant, depending on the type of offense and the participant's criminogenic needs. Noncompliance may occur due to a lack of contact with the diversion coordinator, failure to pay restitution, or failure to comply with another diversion requirement, such as completing a class on theft or obtaining a substance abuse evaluation.

The diversion program saw a significant increase in participants being referred to and enrolling in behavioral health services in fiscal year 2023. These services aim to address the root causes of criminal involvement and educate individuals about how mental health diagnoses, substance abuse disorders, and trauma can impair their functioning and increase their susceptibility to system engagement. Individuals with behavioral health problems are at higher risk of unemployment, chronic health problems, involvement with the criminal justice system, homelessness, strained relationships, and discrimination. These challenges often lead participants to turn to criminal activity to meet their basic needs.

It is important to note that individuals with mental health conditions often have difficulty accessing both general medical care and specialized mental health treatment. Therefore, it is of the utmost importance to ensure that these vital healthcare services are provided to participants who are actively involved in the diversion program, as it plays a critical role in preventing future criminal activity. The increase in referrals and engagement with these services is a positive sign that diversion programs recognize and are attending to this critical need.

Recidivism

Within this report, recidivism is defined as the proportion of former adult diversion participants, encompassing those who successfully completed the program and individuals who were terminated, who subsequently faced new misdemeanor or felony charges within one year of program discharge. Notably, the data reveals that 1% of Adult Diversion participants incurred felony or misdemeanor charges within the first year following program discharge.

It is important to highlight that participant information is manually entered into a database, and as of now, there is no electronic database in place. Consequently, there are inherent limitations to the collected data, given that recidivism is determined through name matching.

Moreover, in previous years, recidivism calculations included both individuals discharged from Diversion and those currently enrolled in the program who incurred new charges. This year, adjustments were made to the reporting process to address inconsistencies in deciding whether charges should be filed and participants should be discharged from Diversion, depending on the Judicial District.

Demographic Information

A primary objective for the fiscal year 2024 is the development of a participant database aimed at enhancing the comprehensiveness and inclusivity of data collection while also ensuring data integrity. We have broadened the scope of gender identities collected to encompass a more diverse range. Additionally, we are now gathering additional information related to behavioral health screening, participation, and success rates that were not previously captured.

The collection of demographic information serves multiple purposes. Firstly, it helps in identifying trends concerning program success or termination, stratified across demographic categories. This aids in pinpointing areas requiring program enhancements or attention. Secondly, it allows us to assess whether specific demographic groups are provided with opportunities to engage in alternatives to prosecution in proportion to their involvement in the criminal legal system. The Funding Committee diligently monitors program data and the accessibility of diversion programs for historically marginalized groups, especially in addressing the issue of overrepresentation in the criminal legal system and underrepresentation in prosecution alternatives. Despite the influence of various historical and systemic factors contributing to the number of individuals arrested or charged, data regarding entry into and completion of adult diversion programs is invaluable for ensuring equitable access, cultural responsiveness, and identifying areas for improvement.

Table 5 illustrates the successful program exits and terminations, categorized by race, in comparison to the total number of participants within each racial group.

Terminations may result from new misdemeanor or felony charges or noncompliance with diversion agreements. Presently, there is no standardized approach to collecting data on race and ethnicity, whether relying on self-reporting or officer descriptions. New data reporting systems are under development for FY24 to enhance data integrity and offer a more comprehensive view of the populations served. Given the disproportionate arrest and charging of Non-White individuals, it is crucial to capture data on these populations to prioritize their needs in service delivery.

It is imperative to remain vigilant and cognizant of disproportionality within the judicial system. Recognizing and addressing disparities, particularly those related to race and ethnicity, is essential for fostering fairness, equity, and justice. Ongoing awareness and proactive measures are crucial to ensure that all individuals, regardless of their background, are treated with equality and respect in the legal processes. By acknowledging and actively working to rectify disproportionality, we contribute to building a more just legal system.

Race		percentage
American Indian/Alaskan Native		3%
	Successful	90%
	Terminated	10%
Asian/ Pacific Islander		2%
	Successful	44%
	Terminated	56%
Black/African American		7%
	Successful	77%
	Terminated	23%
Multi- Racial		1%
	Successful	93%
	Terminated	7%
Other/ Unknown		5%
	Successful	94%
	Terminated	6%
Data not collected		5%
White		77%
	Successful	91%
	Terminated	9%

Table 6 depicts completion rates of diversion program participants of different ethnicities in FY23.

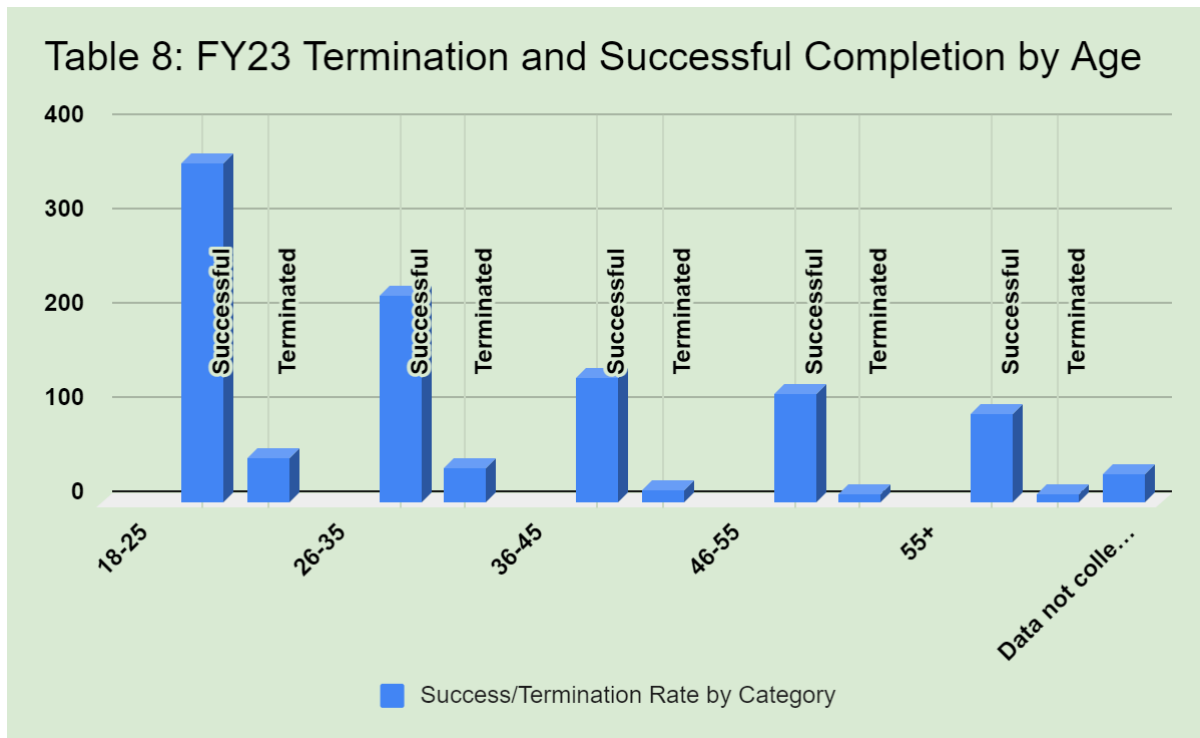
Race		Percentage
Latinx/Hispanic		26%
	Successful	86%
	Terminated	14%
Non-Latino/Hispanic		84%
	Successful	88%
	Terminated	12%
Unknown		4%
	Successful	71%
	Terminated	29%

Table 7 shows the number of participants categorized by gender and their success/termination rates. We are working to make our reporting on gender identities more inclusive, including a wider range of gender identities. Diversion Coordinators play a vital role in collecting this information from participants.

Table 7: FY23 Participants Terminated from / Successfully Completing Diversion by Gender and Judicial District			
Gender		Success/Termination Rate by Category	
			Percentage
Female		324	32%
	Successful	278	86%
	Terminated	45	14%
Male		606	60%
	Successful	540	89%
	Terminated	66	11%
Other/ not identified		15	5%
	Successful	11	73%
	Terminated	4	27%
Data Not Collected		72	7%

Table 8 illustrates the distribution of program participants across different age groups, alongside their respective success and termination rates. Notably, the 18-25 age range dominates the data as the main demographic served in the state. This significant representation can be attributed to several factors: 1. Prevalence of programs for first-time offenders: Many programs cater specifically to younger individuals engaging with the criminal justice system for the first time. 2. Increased involvement of young adults: In general, individuals within the 18-25 age group are statistically more likely to encounter the criminal justice system compared to other age groups.

Further analysis of the data will offer deeper insights into these trends and inform program development to ensure equitable access and successful outcomes for participants across all age groups.



Offense Data

Diversion programs handle a wide range of offenses, from petty crimes to felonies and drug felonies. Most programs divert at least some felonies, but the specific offenses vary across judicial districts based on local priorities and policies. Due to limited funding, the Funding Committee has established priorities to guide funding application review:

- Focus on criminal offenses: Funding should not be used to divert civil infractions.
- Prioritize victim restitution: Diverting crimes where victims have been harmed or are owed restitution is a higher priority than diverting victimless crimes.
- Emphasize rehabilitation and reintegration: Diverting cases that involve rehabilitation and reintegration services is a higher priority than those that do not.
- Consider collateral consequences: Offenses with more severe collateral consequences are considered a higher priority for diversion funding.

Community Impact: Restitution

Table 14 Restitution Collected by Judicial District in FY23	
Judicial District	Amount Collected
2	\$110,432.00
5	\$13,341.75
7	\$2,879.58
8	\$5,053.52
9	\$4,777.00
12	\$449.44
14	\$4,639.91
15	\$120.00
16	\$10,388.54
20	\$39,873.39
21	\$12,565.50
22	\$3,176.95
Total	\$207,697.58

Restitution

The Adult Diversion program incentivizes participants to make restitution to victims through the prospect of avoiding or reducing criminal convictions and obtaining dismissal of charges. This has proved effective, as evidenced by the increasing restitution collected each year. As detailed in Table 14, restitution collected statewide amounted to \$207,697.58 in FY 23, surpassing both FY22 (\$145,119.16) and FY21 (\$191,720.75). This not only benefits victims by providing financial compensation but also demonstrates the commitment of diversion participants to taking responsibility for their actions.

Program Forecast/Goals for FY24

As we embark on fiscal year 2024, we're driven by a clear vision: to build a more equitable and responsive criminal justice system, one that prioritizes both individual well-being and community safety. This year, we're making strategic investments in three key areas to achieve this vision: data-driven inclusivity, targeted support for vulnerable populations, and sustainable program growth. The program has four main priorities for FY24.

Data Collection: Prioritizing equitable and uniform data reporting with an emphasis on inclusivity. This approach ensures that our data collection methods are not only consistent but also sensitive to the diverse identities and experiences of all participants. By placing a strong emphasis on inclusivity, we acknowledge the importance of capturing a comprehensive representation of our community, promoting a deeper understanding of their unique needs.

Target Populations: Recognizing specific target populations, with a particular focus on vulnerable populations, notably individuals struggling with mental health or substance abuse challenges. Concurrently, acknowledging the importance of diverting low-risk, low-need populations.

Program Growth: Continuing to increase the number of programs served as well as increase enrollment in Adult Diversion Programs. This creates the opportunity to align with legislative goals of crime prevention, victim restitution and reducing the burden on criminal courts. Program growth also increases cost savings for jails, prosecutors and the courts, preserves prosecutorial resources for cases that are not suited for Diversion, rehabilitates individuals involved in or at risk of involvement in the criminal justice system, and does not jeopardize stable housing, employment, medical care, mental health care and family structure.

Funding: To work towards securing a more permanent funding source for adult diversion programs, ensuring access to skilled staff and treatment providers to meet the diverse needs of participants, thereby fostering long-term program stability and effectiveness.

**We recognize this document might not be completely accessible, please reach out to Katie.Hodson@judicial.state.co.us or adultdiversion@judicial.state.co.us*