
Colorado Drug Courts

A plan for statewide
implementation -
Prepared in response
to Joint Budget
Committee request
for information

Prepared by:
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Analysis
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This report was prepared in response to the Colorado FY 2008-09 Joint Budget Committee request of the Department which reads:

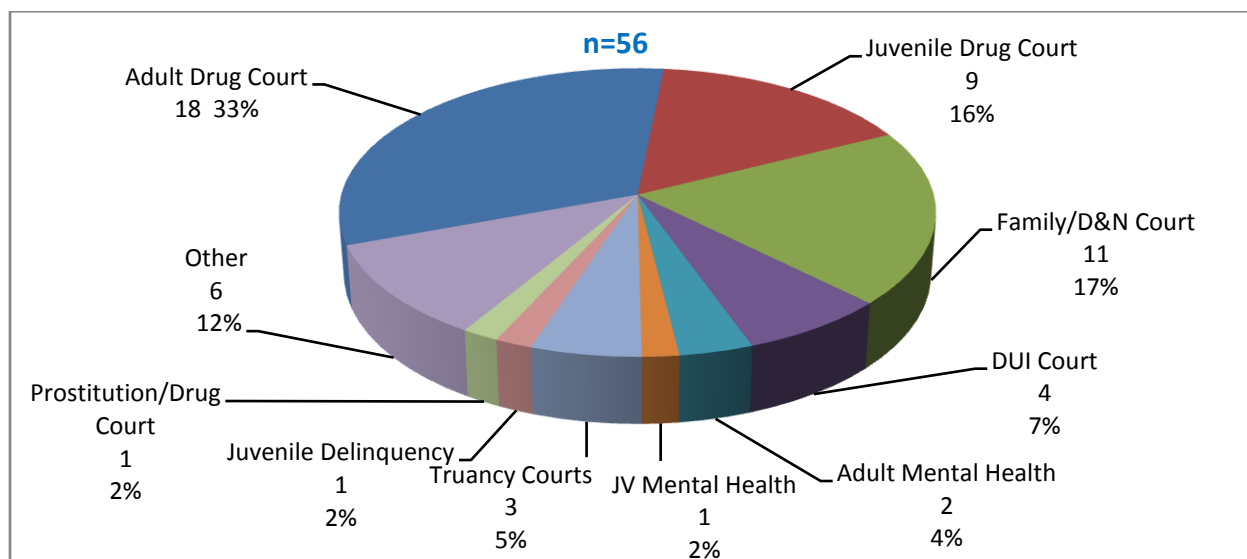
“Judicial Department, Trial Courts, Trial Court Programs -- The Department is requested to develop a general strategy and plan regarding the provision of drug courts statewide, including in rural areas, and to provide a report on this plan to the Judiciary Committees of the House and Senate by December 31, 2008.”

INTRODUCTION

Drug Court is an innovative alternative to prison with emphasis on accountability and intensive monitoring for drug abusing criminal offenders. The drug court removes defendants from the clogged courtrooms of the traditional criminal justice system, placing them in a new type of courtroom environment where they undergo treatment and counseling, submit to frequent and random drug testing, make regular appearances before the judge and are monitored closely for program compliance. In addition, drug courts increase the probability of defendants' success by providing ancillary services such as mental health treatment, trauma and family therapy, and job skills training.

It has been nearly two decades since the first adult drug court was introduced in the United States as an innovative strategy to solve the problem of increasing court cases that involved individuals who were abusing or dependent upon drugs. As one of the most nationally scrutinized criminal justice programs, meta-analysis of adult drug courts conclude that the efficacy of these programs are greater than other programs targeting the substance abusing/dependant criminal justice population. As adult drug courts have demonstrated the value of problem solving principles the advancement of other problem solving courts have also demonstrated promising returns to our justice system and to our communities.

There are over fifty operational problem solving courts in Colorado with others in the planning stages. Of the operational problem solving courts approximately twenty of them exist in rural jurisdictions. Operational problem solving courts in the state consist of, but are not limited to drug courts such as: adult drug courts; DUI courts; juvenile drug courts; family / dependency and neglect drug courts; and mental health drug courts.



Defining Drug Courts

ADULT DRUG COURTS represent the coordinated efforts of the judiciary, prosecution, defense bar, probation, law enforcement, mental health, social service, and treatment communities to actively and forcefully intervene and break the cycle of substance abuse, addiction, and crime. As an alternative to less effective interventions, drug courts quickly identify substance abusing offenders and place them under strict court monitoring and community supervision, coupled with effective, long-term treatment services.

In this blending of systems, the drug court participant undergoes an intense regimen of substance abuse and mental health treatment, case management, drug testing, and probation supervision while reporting to regularly scheduled status hearings before a judge with specialized expertise in the drug court model (Fox & Huddleston, 2003). In addition, drug courts may provide job skill training, family/group counseling, and many other life-skill enhancement services.

The target population for adult drug courts has been defined as substance abusing or dependent offenders who are determined to be in high need of treatment and are further determined to be high risk for recidivating. An offender's risk level is established by probation services through use of the Level of Supervision Inventory (LSI). The LSI is a standardized risk management tool utilized to determine offenders needed level of supervision by assessing ten life areas (criminal history; education/employment; financial; family/marital; accommodation; leisure/recreation; companions; alcohol/drug problems; emotional/personal; attitude/orientation).

An offender's level (intensity, duration, and type) of need is based on his/her need for services and the severity of abuse or dependence on alcohol and/or drugs as identified through the use of valid screening tools and clinical assessments. An offender's need for treatment is established through the combined scores of the LSI and the Adult Substance Use Survey (ASUS); followed by a clinical assessment conducted by a licensed treatment provider. The clinical assessment should be based upon American Society of Addiction Medicine (ASAM) placement criteria.

National research indicates that best results are obtained in drug court when the levels of supervision and intervention are matched to the needs of the offender. Drug court is meant to provide an intense level of supervision for offenders who display a high level of substance abuse or addiction and need a more intense level of community supervision than found on standard probation. Offenders excluded from this target population are violent offenders, sex offenders, offenders who pose to large of risk to the community and lower risk individuals who are better served through other programming.

DUI COURTS are dedicated to changing the behavior of the alcohol/drug dependant offenders arrested for Driving Under the Influence (DUI). The goal of DUI court is to protect public safety by using the drug court model to address the root cause of impaired driving, alcohol and other

substance abuse. With the repeat offender as the primary target population, DUI courts follow the Ten Key Components of Drug Courts and the Ten Guiding Principles of DUI Courts.

FAMILY / DEPENDENCY AND NEGLECT DRUG COURT programs are different from both the adult and juvenile drug courts. Although the parent is the participant, the focus on the best interest of the child (ren) is paramount. Family Drug Court programs focus on treatment for parents struggling with substance abuse. The programs serve families whose parental substance abuse is a contributing factor in children being removed from the home due to abuse or neglect. Family Drug Court promotes the safety and well-being of children by supporting the recovery of parents from alcohol and drug abuse through enhanced access to comprehensive treatment services and increased accountability to the court.

JUVENILE DRUG COURT is defined as a drug court that focuses on juvenile delinquency matters that involve substance-abusing juveniles. Juvenile drug courts differ from adult drug court in that parents are involved in court proceedings and treatment is centered around the family while holding both the juvenile and parent(s) accountable to the court. A Juvenile Drug Court is a court that has been specifically designated and staffed to supervise non-violent juvenile drug defendants who have been referred to a comprehensive and judicially monitored program of drug treatment and rehabilitation services.

MENTAL HEALTH DRUG COURT is a specialized court that seeks to craft a meaningful response to the problems posed by defendants with co-occurring substance abuse and mental illness in the criminal justice system. Addressing both the treatment needs of defendants with mental illness and the public safety concerns of the community, the mental health court uses the authority of the court to link defendants with serious and persistent mental illnesses (such as schizophrenia and bipolar disorder) who would ordinarily be jail- or prison-bound to long-term treatment as an alternative to incarceration. The Court aims to improve the court system's ability to identify, assess, evaluate and monitor offenders with mental illness, create effective linkages between the criminal justice and mental health systems, and improve public safety by ensuring that participants receive high quality community-based services.

Drug Court Team Members Roles and Responsibilities

Successful drug courts rely upon the combined expertise and collaboration of many disciplines. Representatives from the court, probation, district attorney, public defender, drug court coordinator, mental health and drug treatment agencies, and other community based agencies work together to provide the support, accountability and services that are conducive to positive behavior change.

THE DRUG COURT JUDGE presides over the court proceedings and monitors appropriate application of disciplines, sanctions and incentives while maintaining the integrity of the court. The judge regularly reviews case status reports detailing each participant's compliance with the treatment mandate, drug test results, cooperation with the treatment provider, and progress towards abstinence and law-abiding behavior. During regular court appearances (the frequency can be once a week to once every month), the judge administers a system of

graduated sanctions and rewards to increase each participant's accountability and to enhance the likelihood of recovery.

As a result of their frequent interactions during court appearances, participants develop a strong rapport with the judge. The judge speaks directly to them, asking about their progress, exhorting them to try harder, and applauding their accomplishments, while also reminding them of the obligation to remain drug-free. The judge imposes any sanctions, including time in jail, for ongoing drug use or other behavior that is inappropriate or impedes progress in the program. The judge typically inquires about specific issues or difficulties, such as school attendance, attempts to gain employment, and efforts to reunite with their children and other family members. Finally, the Judge decides the ultimate program outcome of graduation or incarceration.

THE DRUG COURT COORDINATOR is typically responsible for overseeing the day-to-day drug court operation such as managing the budget and resources, grant writing, maintaining individual files on participants, compiling statistical data and guiding or participating in program evaluation, contract management, preparation and management of drug court dockets, and soliciting community support through education and other linkages in an effort to enhance services available to the participant. Other miscellaneous responsibilities can include such things as public relations, organizing and/or chairing local multidisciplinary teams, and in situations where time and skills allow, may also provide some case management services.

Drug court coordination is currently a secondary responsibility of various team members. Judges, probation officers, treatment providers, judicial staff etc. have assumed this responsibility in addition to their other duties and as a result there is not enough time to accomplish all tasks adequately. Court Coordinators serve as the "hub" of the drug court program and are responsible for program development, program enhancement, and day to day operations. Drug Court Coordinators are familiar with the various team member operations and maintains clear and open relations with team members and community agencies. Under the proposed model the coordinator assumes the responsibility of collecting and disseminating information used in pre-court staff meetings and in court. The coordinator will also be responsible for collection and entry of essential data for program evaluation. In the drug court model, judicial staff and probation officer FTE will significantly increase without funding for the coordinators.

THE PROSECUTOR/COUNTY ATTORNEY reviews all potential participants for eligibility, actively participate in staffing of cases, and interact with the staffing team to address revocations, pleas and application of sanctions and incentives as they apply to the participant. The role of the prosecutor in a drug court is quite different from a "typical" criminal proceeding where the roles of prosecutor and defense attorney are adversarial. In drug court, all parties, including the prosecutor and defense attorney, share a common goal of successful treatment completion.

The prosecutor reviews new cases, determines which are drug court appropriate, and recommends the incarceration alternative should the defendant fail to comply with the

treatment mandate. As part of a collaborative team with the judge, defense attorney, case manager, and treatment staff, the prosecutor monitors participant progress and can make recommendations regarding sanctions and ultimate treatment outcomes. Also, if a participant is re-arrested, the prosecutor investigates the new case and assesses the appropriateness of continued participation.

THE PUBLIC DEFENDER actively participate as defense counsel by advocating for the participant during staffing and court proceedings in a non-adversarial manner, assisting with the negotiation of plea agreements, and completing necessary documents to facilitate the treatment process for the participant. The defense attorney represents and counsels the defendant in all court proceedings. The defense attorney is interested in promoting not only the legal rights but also the health and well being of the defendant. At the same time, the defense attorney always makes the defendant's constitutional rights the primary concern.

DESIGNATED CHEMICAL HEALTH AND MENTAL HEALTH STAFF participate in weekly staffing, make treatment recommendations to the Court, and as appropriate, will identify and/or provide a continuum of care for participants while advocating on behalf of the client and for the integrity of the Court. Treatment services could include hospital-based detoxification, short-term residential treatment, long-term residential treatment, outpatient treatment, and intensive outpatient treatment. Staff refer participants to specific programs based on their clinical suitability, the program's ability to comply with reporting requirements, and the program's capacity to meet any special needs that may exist (e.g., mental or physical health, or language barriers).

THE CASE MANAGER in an adult drug court is typically a Probation Officer and is responsible for direct supervision of the drug court participant's compliance with the program, including implementation of the appropriate supervision level based on established measures, providing community linkages and referrals to appropriate agencies, and monitoring the day-to-day activities and home environment of the participant.

"Case management" is essential to carrying out the mandate of the key components of a drug court as outlined in *Defining Drug Courts: The Key Components*. It is a series of inter-related functions that provides needed coordination and seamless collaboration, and is the force that holds the varied and many drug court elements together, ensuring that:

(1) Clients are linked to relevant and effective services; (2) all service efforts are monitored, connected, and in synchrony; and (3) pertinent information gathered during assessment and monitoring is provided to the entire drug court team in real time.

Essentially, case management forms the framework around which the drug court process can credibly and effectively operate."¹

Current adult probation drug court caseloads in the state are up to 100 offenders per probation officer. Probation Services has mapped out the various drug court probation officer duties and have concluded that 40 offenders per probation officer is an adequate adult drug court offender to probation officer ratio.

¹ *Drug Court Case Management: Monograph Series 7*, National Drug Court Institute

THE LAW ENFORCEMENT OFFICER acts as a liaison between the program and their respective department and is responsible for dissemination of information to officers that come in contact with Drug Court participants to assure reasonable and appropriate measures are used when checking the participants for compliance.

THE EVALUATOR is responsible for developing reliable and valid methodologies to study the effectiveness of the drug court. It is necessary for all drug courts to regularly evaluate their effectiveness. This is done through primarily three evaluations: process, outcome, and cost-benefit. The evaluator is an essential component of every drug court, though this is not necessarily a position/FTE employed by every court; i.e., the role can be provided at the state, regional or local level. The evaluator, while generally considered a part of the drug court team, does not participate in drug court team reviews as it compromises the objectivity of the evaluator and the integrity of the evaluation process.

Problem Solving Courts in Colorado

Historically, problem solving courts in Colorado have been created at the local level with little coordination with other judicial districts regarding staffing models, funding models, treatment, case management, and other policy and practice issues that impact the sustainability and effectiveness of these courts.

In April, 2008 Chief Justice, Mary J. Mullarkey, signed an Order Establishing the Problem Solving Court Advisory Committee (Advisory Committee) and Charge to the Committee. The Advisory Committee membership consists of nineteen individuals representing the various geographic regions of the state and is staffed by the Court Programs Specialist who is employed by the State Court Administrators Office.

The Advisory Committee's charge is as follows:

- Study and attempt to address the concerns that not all drug treatment courts conform to the 10 key components recognized by the Drug Court Program Office of the Office of Justice Programs of the United States Department of Justice
- Develop a staffing model for treatment courts that reflects the needs of the Trial Court, Probation, District/County Attorneys, Public Defenders (Defense Bar) and treatment organizations to effectively operate these specific dockets within the 10 key component guidelines.
- Assist in the development of a strategic plan that will lead to the sustainability of problem solving courts in terms of judicial, community, and adequate financial support.
- Develop a funding model reflective of an approved staffing model and all other expenses associated with the operations of problem solving courts.
- Assist in the development and design of an evaluation strategy including design of a statewide automated Drug Treatment Court management information system consisting of identified core data collection elements for day to day management of drug treatment courts and long-term outcome evaluation.

- Assist in the development of a benefit-cost evaluation model that will assist the State Court Administrators Office in assessing the effectiveness of problem solving courts in improving outcomes for court clients, the judicial branch, and the justice system as a whole.
- Provide guidance and support for problem solving courts through identification of best practices, identification of training and education needs, and the formulation of a problem solving court professional organization to facilitate communication and ideas among interagency stakeholders.
- Take on other duties and responsibilities as directed to promote and coordinate the development and implementation of problem solving courts.

Given the aforementioned Charge and the number of identified problem solving courts in the State, the Advisory Committee has initially elected to 1) focus the committee's energy on problem solving courts that are most prevalent and that currently serve the greatest number of offenders in the state; 2) prioritize the types of problem solving courts that are best supported by state and national research; and 3) prioritize the problem solving courts that will most likely produce the greatest return on state resources. The Advisory Committee will initially focus upon adult drug courts followed by family / dependency & neglect treatment courts; DUI courts, juvenile drug courts, and mental health courts.

Taking Colorado Adult Drug Courts to Scale

Adult drug courts report having an operational capacity to serve less than 2,000 clients; which is only a fraction of the eligible population. Data indicates that there are nearly 6,000 clients that would meet the eligibility criteria. The eligibility criteria defines an appropriate participant for adult drug court as a non-violent, non-drug dealing, non-sex offender, drug abusing or dependant offender that displays high criminogenic risk and high need for treatment.

Nearly fifteen years have passed since the first drug court was introduced to Colorado as an innovative strategy to solve the problem of increasing court cases that involved individuals who were abusing and/or dependant on drugs. On a national level, over the past two decades there have been no less than 5 meta-analysis of the research on drug courts; few if any criminal justice programs have undergone this level of scrutiny. According to Doug B. Marlowe, J.D., Ph.D, when it comes to efficacy, adult drug court meets the highest standards of proof.² Furthermore, on a national level well-functioning drug courts have been found to reduce high need / high risk drug abusing offender crime rates by 35% and are known to save \$2 to \$4 in benefits for every \$1 invested.³

² Doug B. Marlowe, J.D. Ph.D., NADCP National Drug Court Conference, May 2008. *The Verdict IS IN*.

³ Lowenkamp, C. T., Holsinger, A. M., & Latessa, E. J. (2005). Are drug courts effective: A meta-analytic review. *Journal of Community Corrections, Fall*, 5-28 (see p. 8 Table 3 & p. 10).

Adult Drug Court Statewide Plan

Adult drug courts are currently serving approximately 25% of the potential drug offending criminal population that would qualify to participate in a drug court program. The current drug court population is being served through existing funds; which are limited. Additional FTE are needed in existing adult drug courts in order for the courts to provide services that are supported by nationally established best practices.

To fund existing adult drug courts at 100% of staffing need, based on the adult drug court funding model, would require 78 FTE at an estimated cost of 8.8 million dollars. While data indicates a much larger population could be served, many jurisdictions are not in a position to serve 100% of the target population and will need time to build an infrastructure that will accommodate the estimated target population.

The Judicial Branch recommends that the adult drug court be taken to scale over the course of five years; funding the adult drug courts at up to 35% of the calculated FTE need in the first year. During the second through fifth years of funding adult drug courts would be funded at 50%, 65%, 85% and 100% respectively. Allocation of funds will be based upon individual jurisdictions demonstrating compliance to the Colorado Drug Court Model by serving the identified target population while complying with the ten key components of drug court. Jurisdictions may elect to serve fewer offenders than data suggests serviceable; resulting in the allocation of fewer resources.

Jurisdictions wanting to implement new adult drug courts will be funded at up to 35% of the identified population in the first year of operation with the potential of increasing their annual allocation in years to follow based on the number of offenders served. **(See Chart I)**

Statewide Plan for DUI Court, Family / Dependency and Neglect Drug Courts, Juvenile Drug Courts and Mental Health Drug Courts-

Parallel to the adult drug court model, operational and funding models need to be developed for DUI court, family / dependency and neglect drug courts, juvenile drug courts and mental health drug courts. While these courts utilize the fundamental problem solving components as the adult drug court, there are different elements in each court that must be addressed separately. For example, in family / dependency and neglect courts the department of human services assumes the role of case manager rather than probation services.

In the coming months and years individual models will need to be established for the respective courts. As models are developed for the respective courts it will become necessary to provide the necessary training, technical assistance, and funding to allow these courts to operate at a level that will provide the best return on our investments.

Training

A key component of an effective drug court is continuing interdisciplinary education.⁴ Select drug court teams in Colorado have completed formal planning and implementation training through the National Drug Court Institute while many teams have not. Furthermore, drug courts that have been in existence for any length of time have experienced personnel turn-over; resulting in new team members who have not received adequate training.

Training will be provided through statewide conferences where local and national experts on effective, evidence based drug court practices will provide education on topics such as motivational interviewing, drug testing, treatment, community supervision, etc. The first annual statewide training in Colorado is tentatively scheduled for March 2009.

Technical assistance is available at the local level through the Office of the State Court Administrators Office and through the National Drug Court Institute. These training sessions are tailored to meet the specific needs of the respective drug court and can be requested on an ongoing basis.

Treatment

Drug and alcohol treatment and mental health treatment are essential to drug court outcomes. Currently, the availability to drug/alcohol and mental health treatment services varies around the state. Rural jurisdictions struggle to provide a full spectrum of services. A wide range of treatment services generally exists in the urban jurisdictions of the state. However, some agencies report significant waiting lists.

Quality of treatment is as crucial to positive outcomes as having access to treatment. As drug courts target a high need and high risk offender population the need for quality evidence based treatment becomes essential.

One reason drug courts work is that participants are required to show up to treatment and are required to stay in treatment longer. As drug court participants show up to treatment more often and stay in treatment longer than other populations the need for treatment will increase as the number of drug court participants increases in the state.

As drug courts in Colorado become more unified and jurisdictions begin to expand the Problem Solving Court Advisory Committee in conjunction with the State Court Administrators Office and the Division of Behavioral Health will need to develop a strategy of identifying the availability and quality of treatment services available to serve the drug court populations.

In implementing and expanding effective drug courts, the availability of adequate treatment is paramount. Lack of adequate treatment services may become a barrier to expanding drug courts that is beyond the courts control.

⁴ Bureau of Justice Assistance (2004); *"Defining Drug Courts: The Key Components"*

Evaluation

Another key component of an effective drug court is program monitoring and evaluation to measure the achievement of program goals and to gauge effectiveness. Historically, few drug courts have had adequate resources to complete a thorough program evaluation.

Two of the Problem Solving Court Advisory Committees priorities are to assist in identifying key data elements for evaluation and to assist in the development of a benefit-cost evaluation model that will assist the State Court Administrators Office in assessing the effectiveness of problem solving courts in Colorado. Once the data elements and evaluation model have been established and a process is in place to collect the data is in place the Office of the State Court Administrator will compile the data for evaluation.

Fiscal Year 2010 Drug Court Budget Request

In response to the Joint Budget Committee's FY 2009 request for information concerning a statewide plan for drug courts, The Judicial Branch will submit a FY 2010 budget request for 17 FTE at a cost of approximately \$1,300,343 for adult drug courts. This request asks for \$977,718 cash funds and \$322,625 in general funds and is aimed at staffing each currently operational adult drug courts at 35% of the calculated eligible target population. Funding will be utilized to enhance current adult drug court operations by staffing the drug courts with adequate judicial staff, drug court coordinators, and probation staff.

Summary

Drug court can be one of the most successful interventions for drug abusing offenders if the programs have adequate resources, utilize the key components, and serve the appropriate target populations. With over 50 problem solving courts in Colorado we have the opportunity to enhance and expand these programs; ultimately benefiting our judicial system, reducing the number of jail beds and assisting productive citizens to return to our communities.

Chart I

Adult Drug Court 5 Year Plan										
	Year 1		Year 2		Year 3		Year 4		Year 5	
Judicial Officers	35% FTE	35% Cost	50% FTE	50% Cost	65% FTE	65% Cost	80% FTE	80% Cost	100% FTE	100% Cost
	2.00	\$315,454	1.23	\$193,749	1.51	\$237,934	1.26	\$199,442	2.30	\$362,826
Judicial Assistant	35% FTE	35% Cost	50% FTE	50% Cost	65% FTE	65% Cost	80% FTE	80% Cost	100% FTE	100% Cost
	4.90	\$215,438	9.15	\$402,414	5.00	\$220,046	4.42	\$194,189	7.26	\$319,251
Coordinator	35% FTE	35% Cost	50% FTE	50% Cost	65% FTE	65% Cost	80% FTE	80% Cost	100% FTE	100% Cost
	5.50	\$446,826	0.69	\$56,155	1.86	\$150,894	1.86	\$150,894	2.48	\$201,192
Probation Officer	35% FTE	35% Cost	50% FTE	50% Cost	65% FTE	65% Cost	80% FTE	80% Cost	100% FTE	100% Cost
	2.75	\$181,750	15.73	\$1,039,405	8.65	\$571,621	11.90	\$786,623	17.49	\$1,155,899
Probation Supervisor	35% FTE	35% Cost	50% FTE	50% Cost	65% FTE	65% Cost	80% FTE	80% Cost	100% FTE	100% Cost
	1.00	\$96,934	2.11	\$204,970	1.67	\$161,406	1.82	\$176,263	2.43	\$235,584
Probation Sup. Staff	35% FTE	35% Cost	50% FTE	50% Cost	65% FTE	65% Cost	80% FTE	80% Cost	100% FTE	100% Cost
	1.00	\$43,941	3.42	\$150,120	2.64	\$116,220	2.64	\$116,220	3.53	\$154,960
Annual Requests	17.15	\$1,300,343	32.33	\$2,046,812	21.33	\$1,458,121	23.90	\$1,623,631	35.48	\$2,429,712
				Total FTE	130.20			Total Cost	\$8,858,619	