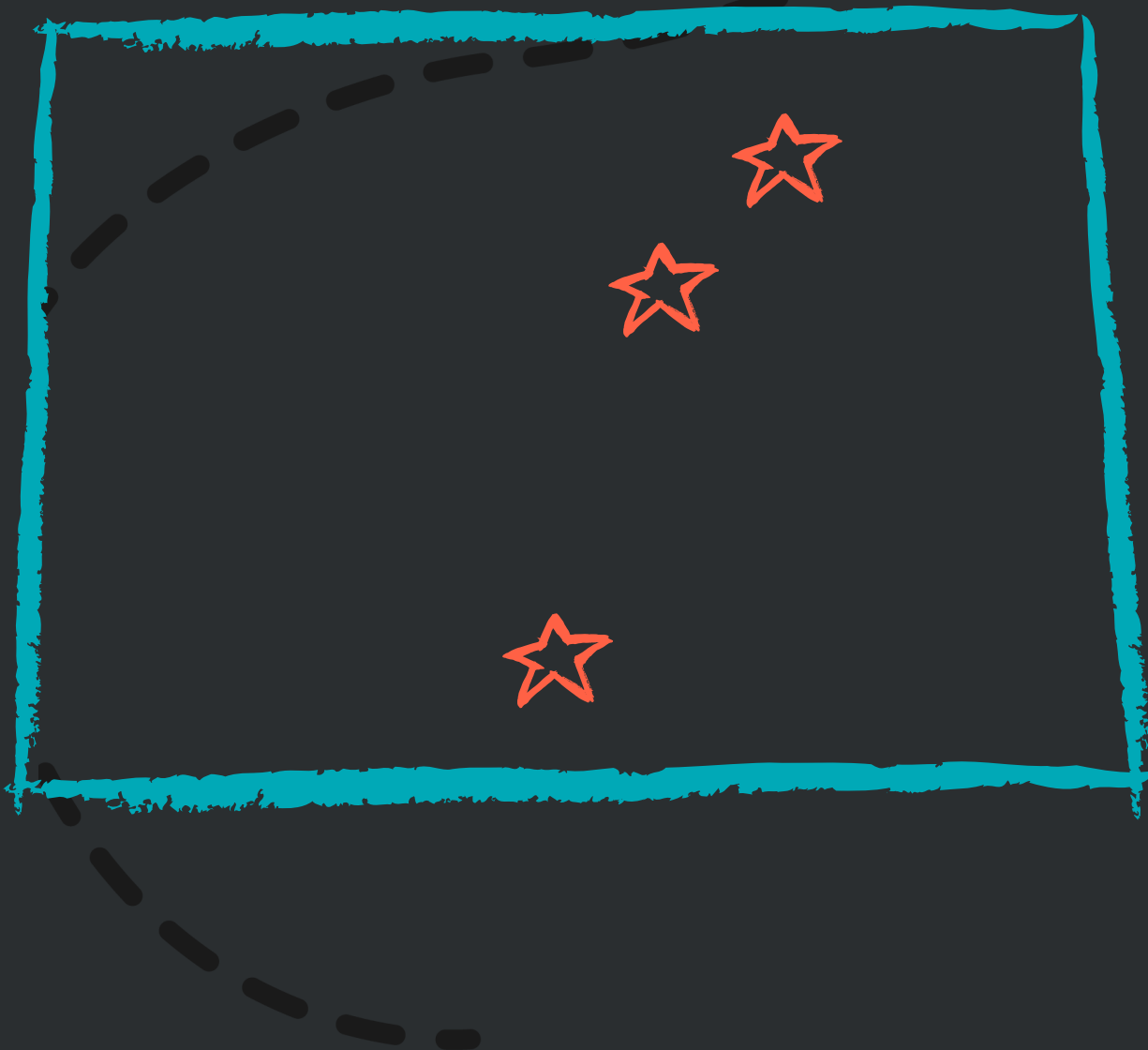


# MAPPING THE PATH TO RESTORATIVE JUSTICE JUVENILE DIVERSION

Lessons from HB13-1254, Colorado's Legislated Pilot  
of Pre-File Restorative Justice Diversion for Juveniles



# ACKNOWLEDGMENTS

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This report is the culmination of many conversations between the authors and those involved in the implementation of HB13-1254 between 2014 and 2020. We want to extend our thanks to the partners and collaborators who gave their time, shared their stories, and helped to identify commonalities across their experiences. These include the Center for Restorative Programs in Alamosa, Colorado, 19th Judicial District Attorney's Office, and the 20th Judicial District Attorney's Office Center for Prevention and Restorative Justice.

Specifically, we would like to thank Kirsta Britton, Erin Siffing, and Luke Yoder for their assistance in designing and developing this report such that it would meaningfully illuminate the challenges and opportunities related to the implementation of restorative justice diversion and inform future work in Colorado and beyond. They each provided extensive information, helped us understand the patterns and themes emerging from the data, and gave feedback on multiple drafts. Without their contributions this report would not be possible.

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# ABOUT THIS REPORT

In 2013, Colorado lawmakers authorized the creation and funding of a special pilot program. The purpose of the pilot was to explore the use of restorative justice in pre-file juvenile diversion cases in contexts across the state. Four elected DAs – representing four of Colorado’s 22 judicial districts – agreed to host a pilot site. The statute required them to offer a restorative justice-based diversion process to eligible juveniles in their district at the pre-file stage. The pilot sites received some support from the State, including a modest start-up budget with incremental reductions each year; a supportive network of partners to hash through challenges; an external evaluator to provide data collection tools and analysis; and technical assistance from the State’s Restorative Justice Coordinating Council.

While the state provided general guidance on definitions of restorative justice, the nature of pre-file diversion, and eligibility constraints, it was left to each site to determine how their program would operate and execute the implementation. They were faced with the same questions as many policymakers and practitioners considering developing a new restorative justice diversion program. How would eligible juveniles be selected into the program? How would referrals be made? Who would deliver the services? What would be the role of partner agencies in fulfilling the mission of the project? How would agreements be monitored and cases resolved? How would successes be measured and documented?

As Colorado’s pilot project in restorative justice-based juvenile diversion comes to a close, we are at a juncture to reflect on the journey. We gathered those most closely involved with each site’s implementation of the pilot to tell their story, compare notes, and identify the lessons they would most like to share with others preparing to undertake a new restorative justice diversion program.<sup>[1]</sup> Based on this series of conversations, this report answers the following questions.

(1) How did each pilot site choose to implement this project within their unique local context?

(2) What are the key processes that influenced implementation across sites? In other words, what consistently mattered most?

(3) What skills and resources did the champions of these efforts need to be successful?

We conclude by offering some reflections on the role of HB13-1254 in the success of restorative justice-based diversion in the indicated judicial districts – now and in the foreseeable future.

[1] You can learn more about our methods – when, where, and how these conversations were held, and how we analyzed what we heard to land on the final themes presented in this report – in Appendix C.

# COLORADO HOUSE BILL

## HB13 - 1254

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Colorado House Bill HB 13-1254 was introduced by Representative Pete Lee and passed by the Colorado state legislature in 2013. Building on prior restorative justice bills in Colorado, HB 13-1254 expanded and clarified the use of restorative practices for juvenile diversion. Most significantly, it created a pilot program to test restorative justice-based pre-file diversion in four Colorado judicial districts. There are seven significant features of the bill, the first two of which are the focus of this report:



### **Juvenile Pilot Program**

A key provision of the bill is the establishment of a juvenile pilot program in four judicial districts in Colorado. The option to participate in a restorative process will be offered, prior to filing charges, to youth who have been identified as first-time offenders through a screening process by the District Attorney's office. No charges will be filed following successful completion.



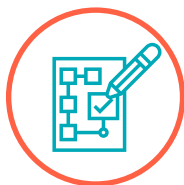
### **Data Collection**

The bill includes data collection obligations from the pilot programs to gain a better understanding of the potential for restorative practices to lower cost and recidivism rates, as well as improve process and well-being for all parties involved. The data will be submitted to the Division of Criminal Justice where annual reports will be provided to the public.



### **Restorative Justice Programs Database**

A database of existing restorative justice programs in the state of Colorado will be developed by RJCC and reported to the House and Senate Judiciary Committees.



### **Procedure for Restorative Justice Process**

HB 13-1254 expands the procedure for initiating the restorative justice process by allowing both parties involved (victim or offender), as well as the DA and law enforcement, to request the use of restorative practices. There are a few stipulations including, not permitting offenders to directly contact victims and DA's remaining the point of contact with victims, that remain as best practices.



### **Restorative Justice Coordinating (RJCC) Positions**

Additional member positions are added by the bill to include appointees from the State Board of Parole, Juvenile Parole Board, Department of Corrections, Victim Advocacy groups, and Restorative Justice practitioners.



### **Court Surcharge**

To support the restorative justice programs and administrative costs of the RJCC, a \$10 surcharge will apply to anyone convicted or adjudicated of a crime in Colorado.



### **Language Clarifications**

The bill clarifies some of the language from the original bill to broaden the scope of practices (uses the term “restorative justice practices” instead of “victim offender conferences”) and removes “victim initiated” from the definition to allow for the procedural change above.

In April of 2014, the four pilot sites identified in statute were able to draw down funding associated with the Juvenile Pilot Program. Each site submitted a budget and received from \$30k to \$81k, depending on the size of their district and implementation needs. During both the second and third years of implementation, the 12th, 19th, and 20th each received between \$123k and \$237k each year to continue program implementation, depending on their submitted budgets.

It should be noted that shortly into the second year, the 10th Judicial District demonstrated an inability to implement the pilot program as legislated and received no further funding. The 10th Judicial District could not be reached for comment and is therefore not represented in this report. State records suggest that the District Attorney's office had either an unwillingness or inability to refer cases at a volume consistent with the state's expectations. Learning more about the 10th Judicial District's pilot experience certainly may be important to understanding what successful implementation of restorative justice-based pre-file diversion looks like.

More can be learned about the individual pilots via their annual reports submitted to the state legislature ([2014 Annual Report](#); [2015 Annual Report](#); [2016 Annual Report](#)) and the reports created by the state contracted independent evaluator, Omni Institute ([2016](#), [2017](#), [2018](#)). While the impact of the pilot projects on individual participants is addressed in these reports, the current report focuses on the implementation process of each pilot and what can be learned by looking at their journeys side by side.

# THE ALAMOSA COUNTY STORY

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## About Alamosa County

The 12th Judicial District in Colorado serves six counties: Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache counties. The district spans 8,199 square miles, and it may take five or more hours to drive from the northwest corner of Saguache to the southeast corner of Costilla, across the San Luis Valley. Despite its massive geographic territory, the 12th Judicial District serves just 50,000 residents, dispersed across the two major cities - Alamosa (pop: 9,997) and Monte Vista (pop: 4,124) - along with smaller municipalities and private lands. The district also encompasses acres of federally managed lands, national forests, and the Great Sand Dunes National Park.

The counties making up the 12th Judicial District have distinctly different demographics. Alamosa County residents are majority Hispanic (47.6%) and White (47.1%), with a sizeable American Indian/Alaskan Native population (5.5%). The population of nearby Mineral County is 91.2% white and 6.2% Hispanic. While the Black population in the 12th Judicial District averages around 2% and the Asian population closer to 1%, 13.4% of Conejo County residents identify as Black and 5.9% as Asian.

The Alamosa County Courthouse holds the district court and is accompanied by six county courts that hear lesser complaints and claims. In the 12th Judicial District DA's Office, there are 65 full or part-time staff. Annually, there are approximately 2700 cases that are brought in as new filings in District Court.

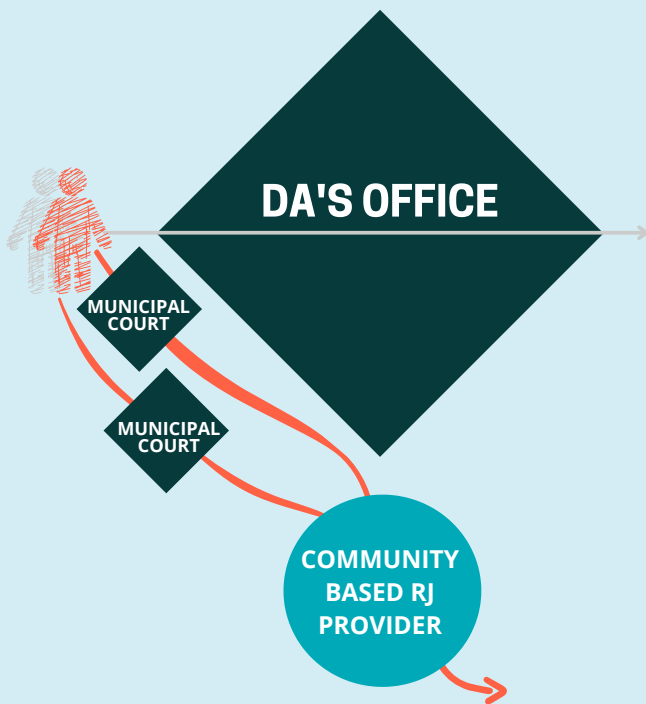


## The Alamosa Program Model

Upon receiving HB13-1254 funding for the restorative justice pilot, there was some early skepticism to overcome. The DA's Office in the 12th was not currently implementing pre-file diversion for juveniles, and the Center for Restorative Programs - a community-based organization tasked with leading the effort - struggled to secure commitments from the DA's Office related to screening and referrals. In 2013, they convened a stakeholder meeting among the district's many justice officials. This meeting revealed an immovable lack of buy-in from the elected DA, who showed little interest in developing a restorative justice-based diversion program. This was a major setback, as the DA's office had been expected to be the primary referral source for the pilot.

As often happens, the challenge presented an opportunity. Collective recognition of the DA's lack of buy-in led to generative conversations among the rest of the stakeholders about what it would look like for them to do pre-file juvenile diversion without full investment from the DA's office.

## The Alamosa Model: Community-Based Programming



### *Creating a Collaborative Model*

The 12th's stakeholders consisted of probation officers, chiefs of police, municipal court judges, chief judges, public defenders, and local state highway patrol, among others. Together, led by the Center for Restorative Programs, they devised a plan to initiate direct law enforcement referrals to restorative processes, using the same criteria that were outlined in the legislation. With nineteen law enforcement agencies, several different municipalities, and six different county courts, there were a lot of moving parts that had to be carefully navigated to ensure that all youth in the district had access to restorative diversion opportunities in appropriate circumstances. In short, without the DA's office on board, there was no singular funnel.

The stakeholders arrived at the decision to conduct screening before juveniles entered the municipal courts (before they were recorded in any court of record). Since the Center for Restorative Programs was not allowed to take municipal referrals, a municipal court judge wrote a standing order applying to the two largest cities - Alamosa and Mona Vista - enabling this. Then, it was up to the city clerks to identify all the young people that met the legislative criteria and make referrals.

The Center for Restorative Programs provided services and sent reporting information to the DA's office for submission to the state in compliance with the legislation. With state support for these adaptations and lots of buy-in from local law enforcement and courts, they were able to design a creative program model that would work for their judicial district.

### *Unique Opportunities*

The Center for Restorative Programs had a long history with restorative programming, a strong internal infrastructure, and other funding sources from the Department of Criminal Justice that they could leverage. Their challenges with referrals were balanced with an easy transition into programming. Still, program staff spoke of the pilot program as "Miracle Grow" for the professionalization of their forms and procedures, development of trainings, and expansion of their volunteer pool.

In addition, the unique rural context of their judicial district presented a strength. They found themselves dependent on one another in ways that differ in larger urban contexts. The people they worked with were more likely to see each other again and have sustained relationships that they valued keeping. The strength of

relationships in this rural area also allowed more personal communication between the partner agencies, and the development of trust and community buy-in across the justice system. As with the other pilot sites, they discovered that the legislation shined a light on a doorway, but local relationships turned the key to the lock.

## Looking into the Future

In 2015, largely in response to advocacy from stakeholders in the 12th Judicial District, the Colorado legislature passed HB15-1094, which opened eligibility to municipal court charges and petty offenses. This allowed for the pilot, which was still using municipal courts as a referral funnel, to operate with more fluidity and confidence.

Eventually, turnover in the DA's office allowed for another opening to expand and strengthen the program. In 2017, the newly elected DA was more willing to have a conversation about the intentions of the pilot and how they would move forward. She was open to listening to stakeholder's pitches about the impacts they were starting to see from early data collection efforts. Following those conversations, she started to make more referrals out of her office which allowed for the Center for Restorative Programs to serve the kids they had been missing - those entering district court.

With newfound opportunities surfacing, the 12th is clearly seeing the impacts - both anecdotally and through empirical evidence - of their labor. Reports from the state pilots show increased victim and community satisfaction and reduced recidivism, and this data joins growing evidence gathered by the Center for Restorative Programs that restorative practices are having a positive impact on the community. Pilot staff credit the legislation with helping to build and scale their programming in the diversion context, but they give credit to their own long history of providing restorative practices to the 12th for their confidence in sustaining the growth and outcomes achieved over the past five years.



# THE BOULDER COUNTY STORY

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## About Boulder County

Boulder County makes up Colorado's 20th Judicial District. The county has a population of 300,000, with most residents residing in the county seat of Boulder. It is situated northwest of Denver and stretches to the eastern border of Rocky Mountain National Park, encompassing 740 square miles and 10 incorporated towns and cities.

The racial make-up of Boulder County is predominately white (77.4%), with 14% of residents identifying as Hispanic, and 5% as Asian. Boulder is widely thought of as Colorado's most liberal county, and residents have voted Democratic in the past six Presidential elections. The county's median income is \$10,000 above the median income of the state. In addition, 60% of residents have a college degree, compared to 40% of Colorado residents. This can be attributed in part to the presence of the University of Colorado at Boulder campus in the heart of Boulder.

The Boulder County District Attorney's Office is staffed by more than 80 employees, including two Assistant DAs, Chief Trial Deputies and a number of Deputy DAs, , investigators, victim

advocates, and support staff. Even in 2013, the DA's office was quite practiced in juvenile diversion and experimenting with restorative practices. The elected DA was supportive of incorporating restorative justice more widely into juvenile diversion and open to doing so at the pre-file stage. This made Boulder County a promising location for the HB13-1254 pilot.

## The Boulder County Program Model

As soon as HB13-1254 passed, the Boulder County DA's office started referring cases to community providers for restorative justice services. Initially, these partnerships were established under MOUs that ensured the confidentiality of these community-based processes. In 2014, with the goal of utilizing a network of community service providers, the DA's office designated a lead implementing agency that was experienced in restorative justice facilitation. There were high hopes that this partnership would ground services in the local community. However, the subcontract was terminated after only a year - in mid-2015 - due to the DA's concerns about financial and administrative management. Because the DA's Office was ultimately responsible for fiscal management, data collection, and other statutory



requirements related to the pilot project, the office determined that they could have better oversight regarding fiscal management, process, and outcomes if they built the restorative justice program in-house. This required a major shift in direction, and in some ways, staff felt they were starting from scratch over a year into implementation.

### **Changing Directions**

Boulder County's decision to create an in-house model was unique in Colorado. The DA's Office found a number of benefits to this approach: direct quality control, streamlined record-keeping, and a reduced number of contacts required of juvenile defendants and crime victims. Additionally, staff felt strongly that the in-house model allowed for improved equity and accessibility across the large county, as the DA's office was accustomed to working across multiple municipalities in ways that community-based organizations were not.

The in-house model was launched as part of the new Center for Prevention and Restorative Justice at the Boulder County DA's Office in the summer of 2015, and a few months later, the diversion office hired a new full-time staff member to lead the project. This was the first hire of a restorative justice practitioner in the DA's office. However, in subsequent months, the project was met with some resistance from long-term diversion staff who didn't buy-in to restorative justice, or understand where it fit with current diversion initiatives.

In 2016, the DA's Office leveraged additional funds from a federal Justice Assistance Grant (JAG) grant to partner with an implementation

## **The Boulder Model: In-House Program Delivery**



science group for assistance in program design and model clarification. This marked a turning point for the pilot program. Through the process, the DA's Office identified two "arms" of their diversion efforts: one focused on reducing risk by addressing underlying needs, such as therapeutic and treatment needs, of the juvenile defendant, and the other (restorative justice) focused on accountability and repairing harm with victims and the community. In addition, a monthly advisory group was established to review processes and to provide education and support. Gaining clarity in the model dissolved much of the resistance from diversion staff, and some holdouts ultimately transitioned out of the office.

### **Growing Capacity**

Once the new in-house model felt solid, stakeholders in the Boulder County DA's office were able to devote more time to building their resources, the office hired a program capacity. Leveraging other funding streams and a case

manager, and grew their own volunteer team. The expanded team developed their own restorative justice curriculum and facilitator manual in 2016. In early 2017, they held their first facilitator training for volunteers. It was also around this time that they were able to critically examine victim participation and designate staff to work on increasing victim outreach.



## Looking into the Future

Within a couple of years, the Boulder County DA's Office began to expand the range of its diversion services to serve more of the population at more stages of the court process. Again leveraging other funds, they launched an adult diversion program, and added county court diversion referrals that weren't included in HB-1254. Five years after the initiation of the pilot, they have expansive charge criteria, with the exception of a few really serious offenses. This distinguishes their program from many others that only focus on minor offenses. The diversion team credits this shift to the work done early on to gain buy-in on the initial program model, slowly developing the confidence needed to take on higher need cases.

To be sure, they are uniquely situated with the support of a progressive and relatively well-resourced DA's Office. Pilot staff also relish the support of their community for restorative approaches. As of 2020, the DA's Office is diverting more youth than they are prosecuting, and restorative justice is a key part of the services provided. They are looking for ways to continue their partnerships and build new ones, such as engaging in preventative work with schools to help keep cases out of the system. Looking back, HB13-1254 has offered a stepping stone to the adoption and expansion of new best practices in a constantly changing arena which increasingly values restoration and community reintegration as justice outcomes.

# THE WELD COUNTY STORY

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## About Weld County

Colorado's 19th Judicial District maps directly onto Weld County, the third largest county in the state. Weld County has a population of 304,435 people, with nearly half residing in the county seat and principal city of Greeley. Outside of Greeley, the county is quite geographically large and diffuse. It extends from northern Denver to the southern border of Wyoming, encompassing more than 4,000 square miles. It takes more than 2 hours to drive from one end of the county to the other. This vast area contains 32 incorporated towns that are served by the Weld County Sheriff's Office along with 27 local police departments. Further, there are 21 judicial officers, comprised of 11 district court judges, four court judges, four county court judges, five magistrates, and one water referee.

The population of Weld County is predominately White (66%) and Latinx (29%). The county's political climate is largely conservative, with most residents voting Republican in the last five Presidential elections. 4H, FFA, and the county fair are important local activities in the county's many agricultural communities.

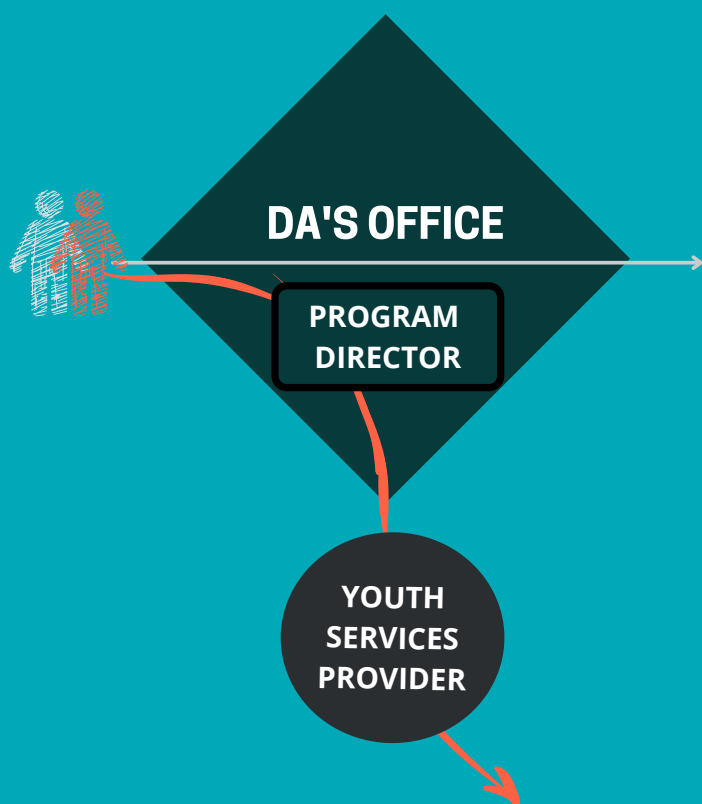
The Weld County DA's Office has a staff of approximately 80 people including an elected District Attorney, an Assistant District Attorney, four Chief Deputy District Attorneys, Deputy District Attorneys, investigators, victim witness staff, diversion staff, and clerical staff. These staff work on all county, juvenile, and district level offenses presented in the 19th Judicial District.



## The Weld County Program Model

In 2013, following the passage of HB-1254, the elected DA and Chief Deputy DA held a meeting of community stakeholders, including DA's office staff, school district personnel, and local restorative justice and prevention providers. The legislation provided little guidance as to what the program model should look like or where it should be housed, which was both a challenge and a valuable opportunity to build based on local context. Together, this group of stakeholders agreed that the site of the county's Juvenile Assessment Center (JAC), a community-based organization called Youth and Family Connections, would also serve as the programming site for the restorative justice service delivery. Youth and Family Connections was viewed as a beneficial choice because it was community-based (located outside of the DA's office) but had experience coordinating services across the vast area of the county. The DA's office would also assign a Program Director dedicated to the pilot project from their existing staff to facilitate referrals and oversee the funding and reporting requirements.

## The Weld Model: Hybrid Referral Structure



### **Program Development**

With that, the pilot project was off and running. In fact, implementation began right away - in the same year the legislation was passed. This provided little time for planning. Program staff recall a sense of urgency to hit the ground running. While they already had an established diversion program and a basic structure for restorative justice conferences, they quickly realized that there were gaps in their capacity. The community partner had expertise in youth services, but not in restorative justice. A number of community volunteers offered experiences in restorative practices, but not program development expertise. It was a challenge to find the right person to move things forward.

It felt serendipitous when an experienced volunteer who had previously started a restorative justice program in another state came on board in 2014. Working around 60 hours a week, only partially compensated by the pilot funding, the new volunteer helped with developing program documents and formalizing processes.

### **Gaining Buy-In**

Meanwhile, the Chief Deputy DA leveraged existing county infrastructure and processes to support the rollout of the pilot. Since the district was already in the process of implementing changes in how they processed juvenile cases, she used training encounters with law enforcement to also talk about the pilot, introduce restorative justice as a part of diversion, and provide guidelines for referring cases to the new program. Further, pilot staff in the DA's office worked with prosecutors, probation officers, and other system stakeholders to educate them about restorative justice and how they were using it for diversion. This was partially achieved through weekly team meetings in the DA's office and monthly meetings with the Juvenile Services Planning Committee, additional examples of how the pilot site leveraged existing infrastructure to support the new initiative.

While the pilot had the support of the elected DA, gaining ongoing buy-in from new deputy DAs entering the District Attorney's office was a constant process that continued well beyond the initial stages of the pilot development. While education was a starting point in normalizing the use of restorative justice for juvenile offenses, the real tipping point came as prosecutors started to use restorative justice and experience its benefits firsthand. In addition "small town" relationships with defense attorneys helped to minimize barriers

based on concerns about legal protections and confidentiality. In many ways, getting buy-in from the public came more easily. Prior to the initiation of the pilot program, the community frequently demonstrated a natural desire to repair harm and relationships. In fact, in some early restorative justice conferences, participants seemed to express that they had already sought restoration through informal paths. However, gaining regular participation from volunteers, crime victims, and community members was an ongoing task for program staff. As with system stakeholders, this was done through ongoing education and a growing number of positive experiences with restorative justice.

### ***Unique Challenges***

Across the initial years of the pilot, turnover in the provider agency became a recurrent problem. Each turnover required re-training and re-establishing critical relationships. Repeated staff changes in the community provider agency prompted a more top-down approach from the DA's office than had originally been conceptualized, which had both pros and cons. On one hand, having the DA's office in the driver's seat was beneficial to developing buy-in from system actors. In addition, the elected DA held a lot of influence, which ultimately helped make the pilot successful. On the other hand, as pilot funding for the DA's office ends, the sustainability of the program feels less uncertain.

### **Looking to the Future**

Beginning in 2017, knowing that the funding from the pilot would be ending soon, lead pilot program staff began seeking additional funding to continue restorative justice conferencing in diversion and beyond. While the practices

themselves seem to be cost-effective, the costs of coordinating and overseeing the partnership are substantial. As of 2020, envisioning how the project will continue has been a greater challenge than expected due to limited funding streams and limited ownership of the project by the community-based partner organization. The task falls to the Weld County DA's Office to determine whether and how restorative justice services in diversion will continue.

With the end of the pilot, the district has been left with a lot of important questions for moving forward:

- Absent a formalized and funded partnership, will the priority of using restorative justice in diversion cases be sustained?
- Will the responsibility for providing restorative justice services stay with Youth and Family Connections?
- What does the future hold for restorative justice in Weld County?



# LET'S TALK ABOUT THE PROCESSES THAT MATTER THE MOST


*We talked to the people most involved in the initial implementation and continued oversight of the three pilot projects. During this series of conversations, we identified key processes which influenced their success. While experiences varied across the pilot sites, these areas had a common importance. Here, we talk about the processes that mattered most.*

## esponding to the Local Context


As is clear from their stories, each Colorado pilot project began with a unique social, political, and historical context. The 12th judicial district is a large rural area with a politically conservative population, while the 20th is a comparatively smaller area with a distinctly progressive political climate. The 19th was fast growing at the time of the launch, encompassing both agricultural areas and suburban “bedroom” communities.

Due to the structure of Colorado’s judicial districts, each site includes multiple municipalities spread over one or more counties. Most of the encompassed municipalities would best be described as rural or suburban, and each pilot district experienced – at some level – the challenges of a geographically diffuse service area and the benefits of a context in which people know their neighbors.

Each district also had different resources and capacities. The 19th and 20th had high support from their elected DAs and a lot of experience with diversion programs, while the 12th had only loose informal partnerships. In contrast, the pilot placed in the 12th was led by a long-standing restorative justice agency with lots of expertise in delivering services.



*"I think the one thing that has been really clear to me as we've gone through the pilots is that there is not a one size fits all approach to doing this type of work, and it really needs to be community driven. It's been fascinating to observe over the last few years how differently each of us have approached this."*



*"We are small, we are rural, and we are dependent on one another in ways that are different than a large urban context.. When we're working with youth who come through our doors. It's different to talk with them about harm and impact when they know that they will see that person again."*

In short, each pilot was planted in a unique context defined by its population and geography, history with diversion and restorative justice, and organizational and system capacities. Based on this context, each had to decide how to design their program, and how to work with external partners. In the end, the three sites developed three different models to meet the requirements of the grant. Across sites, the ability to exert local control over the program model was viewed as not only valuable, but essential.



# honoring Timing and Workload Needs

## A Whole Other Layer of Work

Despite their starting points, all three pilot sites experienced the burden of implementation as quite high. Pilot program funding was intended to offset this burden. However, the funding agreement brought its own challenges: engaging in grants management, observing structured requirements, developing the infrastructure needed to meet metrics, and doing additional data collection. Project directors spoke repeatedly to the importance of accounting for grants management in staffing a new restorative justice diversion program.



*"[Our staff] were used to cruising along at a certain number of cases per year. All of a sudden we've got this whole other layer of work that we're doing – a whole other set of partnerships we need to maintain, a whole other set of protocols we need to adhere to. That was a challenge in the first year or two in particular."*

## Cart Before the Horse

Each of the site leaders above describes the capacity burden as heavier at first, and lessening over time. Pilot leaders spoke about a sense of urgency in getting started, and for most part felt that they started making referrals or providing services before they had finalized a program model or gotten important details in place. As on site leader put it, "we really had the cart before the horse. This whole project: cart before the horse." They emphasized the importance of a one to two year planning period before full implementation.




*"We were trying to do a lot between 2013 and 2015. We were playing with all of these procedures and practices, and then we really got good at everything in 2016."*

## Champions

Getting the projects off the ground was frequently credited to the efforts and influence of key "champions" in the DAs office or in community organizations. Across sites, individuals ranging from DAs to law enforcement leaders and judges to program staff to key volunteers were noted as critical to the program's success.

In talking with the pilot leaders, it also became clear that there are two sides of the coin. There are dangers of over-relying on champions in a context with frequent position mobility and turnover. For instance, in the 19th, five different people served in the program management role in six years, with even more turnover in the facilitator roles. These individuals were embedded in an organization for which restorative justice was not a primary function. As a result, the program thrived on individual rather than organizational knowledge. This has presented a challenge both to implementation as well as expansion and sustainability.




*"We've had lots of moments in this story where we have somebody leave, somebody else comes in. And we start over from the beginning... I would say that without one person being a constant, it would be very difficult."*

## uilding Capacity in the DA's Office


Not surprisingly, the support of the elected DA was cited as a strong influence in terms of overall capacity building. The two districts who experienced the consistent and vocal support of two elected DAs over the course of the project cited this as an important facilitator of their work. The other experienced so little interest and support from the elected DA that the implementing agency built a broad-based network of community partnerships to work around the DAs office during implementation. In short, pathways to implementation success are possible, may look quite different with or without the support of the elected DA.

In the in-house RJ program in the 20th, hiring dedicated RJ staff in the DA's office was cited as a big capacity boost. Not only did it provide a compass for implementation, the acquisition allowed them to attend to more sophisticated tasks like developing their volunteer base, training facilitators, and cultivating victim participation. It also was viewed as valuable compared to prior efforts to partner with agencies outside the DAs office to deliver RJ services. For instance, the 20th emphasized how hiring dedicated RJ staff with a background in victim services allowed them improve their work with victims of crime:




*"We had been addressing it [victim outreach] with our partnering agencies, but because we were in this position of being like... we weren't their bosses! We could give guidance, we could talk about what's working for people, what wasn't that kind of thing...what our hopes were for victim participation... but we weren't able to really manage that for other programs. So once we had [dedicated staff] on, we were able to really increase the victim outreach."*

With or without dedicated staff in the DAs office, pilot sites were united in their challenge to get broad staff buy-in in the DAs office. The in-house program made significant progress in this arena when they worked with an outside consultant to undergo an organizational planning process focused on implementation science. They described how much of the resistance "dissolved" after getting clarity on their program model.



*"I really can't say enough about the implementation science process, as painful as it was during the time. It was hard to figure things out. It was hard to get staff on board who had been there a long time and who weren't interested in new things or changing what they were doing. It was hard work, but so incredibly worthwhile. It was such a turning point for us to get clarity around our program model."*

The process of gaining buy-in was described across sites as ongoing and iterative, frequently interrupted by turnover, and best facilitated through relationship-building and positive experiences with restorative justice.




*"It's really gotten to the point where our prosecutors are totally on board with restorative justice for a lot of these cases. And we've had prosecutors even initiate! But it's really truly through everyday using restorative justice in cases, and allowing prosecutors to see how that can be used in the outcome of a case that has shifted their mindset on things."*

## aining Community Buy-In

The DA's office was only one area where capacity had to be built. Pilot sites found that effective implementation required broad based buy-in among community stakeholders – like law enforcement, judges, city and county officials, schools, and social services – as well as the general public. The three pilots described varying levels of buy in from the general public when they began. In the 20th, the community "almost demanded restorative practices" from the DA's office, whereas in the 12th, the community climate toward diversion and restorative justice was characterized by skepticism at best.

Despite various starting points, all pilots noted attending to education and outreach tasks in order to improve community support for the programs. Early on, each pilot site engaged in some sort effort to convene key stakeholders in their community and gain their buy-in for


restorative justice diversion. In the 20th, this meant engaging an existing collaborative partnership between local agencies concerned about juvenile crime and willing to "work together and share the risk" of trying new strategies. In the 19th and 12th, pilot described an initial convening which was pivotal in launching the program as a collaborative effort.



*"I spent so much time just sitting and listening and building relationships and talking about what people's needs were, what their goals were, what they wanted to see happen in the community... talking with chiefs of police, talking with our city managers, talking with our county commissioners, talking with our district attorney's talking with our judges, talking with our probation officers. I mean, that that is the work that had to be put in, in our community for this to be successful."*


## rganizing a Collaborative Effort

Collaboration was described as incredibly important across pilot sites. Coordinating efforts with other systems and community organizations was essential to avoiding service duplication, reducing unnecessary contacts with families, and building partnerships that everyone could get behind.



*"It wouldn't have happened if there had not been this collaborative community effort... My role was not to say, 'This is what we need to do, let's go.' I didn't have that positional authority. But I did have the relational credibility to say, 'Alright, how do we get there? Who needs to be at the table? How do we have these kind of conversations?' That was the critical role."*

All three pilot sites, at varying levels, leveraged existing resources to support implementation of the project. These resources included existing infrastructure, funding streams, and even partnerships.



*"Over the last couple decades, the county had already done a lot of the hard work around that shared risk continuum, care coordination, understanding of different roles and missions, where we have alignment and where we have disagreement... those types of really important pieces to collaboration."*

In this way, the pilots were able to avoid "starting from scratch" and take advantage of existing community capacities.



## Setting Parameters for Services

One conflict that pilots spoke about was balancing the readiness in their communities for restorative justice with caution about “over serving” or “netwidening” – serving kids through restorative justice that didn’t really need system involvement at all.



*"I think that there is a risk of net widening, in general, when you're doing pre file work, and we've had that happen recently in the last year or so with our DAs office, where they've started to send some things to us. And sometimes we say, "You wouldn't charge this otherwise. Would you charge this?" And they'll so "No." And we'll say, "We're not taking it."*

In addition to assessing juvenile defendants for participation, pilot leaders were thoughtful about whether and how victims shows up for restorative justice. While this was an area of focus at the state level, they emphasized that not all cases had direct victims, and that not all victims wanted or needed a restorative process.

In order to prevent the misuse of restorative justice, pilot leaders emphasized the importance of centering restorative justice expertise in the design and implementation of programs. The community-based program noted that "having an organization devoted to restorative justice at the help is almost like keeping an evidence-based fidelity tool wherever you go." Even so, all sites acknowledged that it was important to be on guard for misalignment between restorative justice values and the context in which it was embedded.



*Trying to peg it into an existing agency that doesn't have a skill base or a passion or a knowledge for restorative justice has been our biggest challenge. And so working with people who want to spread RJ in the community is going to make everything so much easier for you.*

## Addressing Confidentiality Needs in Restorative Processes

Pilot staff felt that the original legislation that established the pilots didn't address confidentiality sufficiently, but they largely felt successful in developing processes that were satisfactory to them without legislation. One of the first tasks was to create a confidentiality agreement or MOU which would be established between the provider agency and the DA's office. However, there are multiple dimensions of what confidentiality protections look like in practice.


For instance, what about protecting statements in the restorative process from subpoena in a civil suit or other related matter? While the pilots each have agreements that both parties sign, this has not been engaged in a legal test. Importantly, Colorado's pilot sites identified as close-knit communities where there folks generally knew and trusted one another's word. In short, local relationships were important in overcoming challenges related to confidentiality.




## valuating the Success of the Pilot Program

One requirement of HB13-1254 was that the pilot sites collect data and report back to the legislature on results, including information on the number of cases in which restorative justice was considered, used, and not used, including demographics, a description of the practices used, and the results of a uniform satisfaction evaluation."


All three sites spoke about the importance of proving the efficacy of the pilot programs to the general public, community stakeholders, and funders and decision-makers. They celebrated data collection and reporting as a pathway for doing this, and were pleased to be able to share high satisfaction rates across the board and a reduced recidivism rate compared to other forms of diversion.



*"One reason we did go in house is that we were responsible for pre and post surveys. It was very challenging to coordinate with another provider to complete surveys, and they're communicating with their volunteers about how and when to administer them, and it's still a challenge after all of this time."*



*"If you're looking at building a program, there's a lot of communication between different systems that needs to occur. All of us really wanted a data management system that we could use for case management and that volunteers could use for data collection. We tried to build it, and it was so big... just didn't ever really get up off the ground."*




*"[Buy-in in the DA's office] has gradually happened over time, as we have seen the impacts of what we're doing both anecdotally and in terms of the data - the victim data in particular, where victims are satisfied with this process, unlike many of the typical encounters that they have in the DA's office. Seeing community satisfaction, seeing participant satisfaction, seeing low recidivism rates... all of those things were part of what drove a change in philosophy within their office."*

### **"Still a Challenge After All this Time"**

Despite a shared sense that the evaluation was important, collecting and storing data was a source of frustration across pilot sites. They spoke about a number of variables that contributed to this frustration, including the burden on staff and partners of data collection, technological difficulties and infrastructure gaps related to software and databases, and lack of programmatic expertise in the state contracted evaluator.

### **Something Missing**

Despite high hopes for the state evaluation process to prove their outcomes, in general, the site leaders fear it has fallen short. Reports produced by the state-contracted evaluator focused on outcomes at the state level; individual pilots only recently received site-level data and are finding that a more accessible format is needed to communicate their successes. In addition, the evaluation hasn't answered all the questions that feel important at the local level. Sites emphasized their need to prove cost savings and other system level impacts in the long-term in order to generate sustainable funding and support. In short, fully evaluating the impacts of restorative justice pre-file diversion will be an ongoing process.



*"I feel like it could be a cost savings for the county. We need the data to show that, to show that we are keeping people out of the system. I just don't know if we have the answers yet."*

# ESSENTIAL TOOLS FOR PROGRAM CREATORS

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*During our conversations with people directly involved in designing and implementing Colorado's pilot programs, we heard about key skills that they deemed essential for their success. Some skills they had in ready abundance, while others they had to acquire. Sites considering developing a restorative justice-based pre-file diversion project should focus on adding these competencies to their toolkits as early as possible.*



## **Administration & Grants Management**

Every pilot site reflected on the surprising needs that arose related administration and grants management. These skills were required to both design and implement the program and to manage statutory and other funding requirements. Site leaders quickly realized that the administrative side of implementation, including grants management, data collection, and data analysis, required more time and personnel than they had been prepared to allocate.

*"When we are talking about doing the work of restorative justice, there are two components. There is the work of gathering affected parties, and sitting in the circle, and repairing harm. But there's this other administrative aspect of collecting and reporting data, ensuring continued funding, and the administrative logistics of running a program. Both of these components are substantial."*



## **Language Fluency**

Pilot leaders spoke frequently to the importance of being able to communicate with different stakeholders differently depending on their needs and interests. They described strategies for translating restorative practices for justice system actors and for the general public. For instance, while restorative justice practitioners might talk with some audiences about transformation and empathy, they might talk with others about public safety, or centering the needs victims. Becoming fluent in the languages of many stakeholder groups was essential.

*"We had to hire people who can speak to prosecutors credibly. We can speak to public safety and victim voice, and it has built credibility for our program. It has helped to push us from misconceptions of restorative justice. It's something we're really intentional about when we're hiring – just the way you communicate about restorative justice to different audiences in a way that is credible for them and speaks to their needs."*



## Relationships

Pilot leaders spoke repeatedly about the importance of building, maintaining, and sometimes repairing relationships in order to be successful in their work. They spoke about the importance of local relationships in everything from gaining buy-in to addressing misconceptions to overcoming barriers. As one site leader said, "It's the relationships that made it work than anything."

*"I think that the relationship piece is so critical, particularly if it's a rural community. You may be able to drive things from the top down in a larger context, but I think here, we had to do it more organically. We had to do it with more community input – input that was really, really critical to our success. And having seen many other similarly situated nonprofits trying to do this work in their communities and failing because they don't have relationships with their justice system stakeholders – that to me feels like the secret sauce."*



## Responsivity

Each pilot site had a unique local context characterized its history, capacities, and community readiness to engage in restorative justice. The site leaders found that they had to be responsive, adaptive, and flexible to bring the theoretical model of restorative justice version to their community. Incidentally, this was considered a strength of the HB13-1254 legislation: While it laid out general requirements, it allowed a high level of local control in the design and delivery of the pilots.

*"I think the one thing that has been really clear to me as we've gone through the pilots is that there is not a one size fits all approach to doing this type of work, and it really needs to be community driven. It's been really fascinating to observe over the last few years how differently each of us have approached this."*



## Restorative Justice Know-How

Even sites who noted high support for restorative justice found that they had to educate and overcome misconceptions about restorative justice with law enforcement, business owners, and communities, including addressing some negative past experiences with it. In order to do this well, they had to really know and understand restorative justice – a knowledge base that may not be a starting point for many prosecutor's offices. Each of the sites had a key figure who was trained as a restorative justice facilitator **first**, not as an afterthought.

*"We have overcome a lot of misconceptions about restorative justice with law enforcement and community members. I remember an instance where I was real excited about my new job and I mentioned restorative justice at a local business. And the owner said, "Oh, I hate that. I went through that and it was total BS." And it hit me like a punch to the stomach. Not everybody thinks positively of restorative justice? Being able to overcome some past poor experiences with prior programs... and just the misconceptions that restorative justice is easy on crime or a slap on the wrist. That's both been a milestone and a challenge."*

# TO LEGISLATE OR NOT TO LEGISLATE?

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*HB13-1254 was the bill that launched the challenging but worthwhile expeditions described in this report. We listened for the effects of the policy itself on the process undertaken by each pilot. In closing, we offer some reflections on the role of HB13-1254 in the success of restorative justice-based diversion in the pilot districts – now and in the foreseeable future.*

## **Miracle Grow**

Pilot leaders all spoke about the value of HB13-1254. They each talked about prior or ongoing efforts that were in place, and ways that the legislative program encouraged or required them to formalize, amplify, or expand existing work with restorative justice in diversion.

In particular, the infusion of resources – even though it didn't feel like enough at times – led to meaningful growth. As one site

"The legislation is what forced us to try to find some way to work more intentionally with the District Attorney's Office. It put an additional layer of scrutiny on them and forced a different set of conversations. The part that was exciting was that it was an opportunity for us to say, "There's a light being shined on our community by the state, we've got to step up and actually do this work."

leader said, "Prior to the pilot, we were operating at a base level. This really kind of gave us some Miracle Grow to develop and expand what we were already doing." Sites noted that bill not only bolstered their funding and resources, but also offered credibility to their efforts, along with a layer of scrutiny that motivated hesitant partners.

## **A Plus and a Minus**

While the pilot legislation brought value to the program development process, it also posed challenges. Site leaders noted that the funding and reporting requirements presented a burden along with the benefit, albeit one that was perhaps worth it.

In addition, while the legislation left a lot of room for them for local control, they still found themselves struggling to work with or around aspects of the legislation that were too prescriptive. In particular, the pilot program was designed to focus on pre-file diversion through the DA's office.

Eventually, the scope of cases able to be served in the pilots was expanded. In 2015, the legislature passed HB15-1094, which allowed municipal court charges and petty offenses; and in 2017, HB17-1039 expanded access to restorative justice diversion during plea bargaining.

## So How Does This Story End?

When asked what they see for the future of their pilots, leaders expressed both optimism and uncertainty. These interviews were conducted during the COVID-19 pandemic, when the stability of state funding streams was in question.

In the 12th, where the pilot project was housed in and led by a community-based organization, the history of the organization remains a source of stability and confidence. "Being a standalone nonprofit that focuses specifically on restorative justice, our work isn't going to stop when the pilot goes away," they shared. However, they will face losses when the pilot ends. Despite a rocky start, the funded position in the DA's office has become a valuable asset that is likely to be lost.

HB13-1254 outlined step downs in the funding in the final years of the pilot to encourage sustainability. In the 19th, nearly all of the remaining funds in the final year are going to the community partner agency to deliver restorative justice services. As of 2020, the DAs office has maintained its investment in the project, but it is unknown whether and how the current community partner – who did not provide restorative justice services prior to the pilot and is not centered on restorative justice – will continue to fund its work in the future. In addition, the DAs office still carries out a number of functions that they had hoped to hand off by this point.

The 20th, by developing a fully in-house program, embraced DA ownership of restorative justice programming early on. Their program has grown substantially due to the work done during the pilot period, and they've been able to locate a

supplemental funds to offset reductions in pilot funding. While saying goodbye to the pilot funding is not insignificant, they believe their program is sustainable and will only grow in years to come.

Seven years after the passage of HB13-1245, the conclusion of this story is still unfolding. Certainly, Colorado's pilot in restorative justice-based pre-file diversion has expanded the use of restorative practices in the targeted districts. Further, the embedded independent evaluation

"I think we're in a place where we're well grounded in our model. And where we have that clarity, we've been fine tuning things and looking for ways to continue partnerships or build partnerships. What's our next step, you know? What do we want to tackle next? And having that groundwork done, I can't understate how important that is as we move forward.

shows that it has positively impacted participants, leaving both crime victims and defendants satisfied, and boasting recidivism rates lower than comparable diversion programs. Pilot leaders say that the initiative has nourished support for restorative justice in their respective jurisdictions, and has empowered them to share their learnings with neighboring towns and states. While they are still deciding what's next, they are grateful for the foundation built through HB13-1254.

# APPENDIX A: IMPLEMENTATION ROADMAP

*Developing a restorative justice-based diversion program is a complex endeavor that will vary widely in each jurisdiction due to the local context. However, Colorado's pre-file restorative justice diversion pilot programs found that they faced some common tasks and decision points along their path. These tasks are offered here, with the recognition that they may arise in a different order, or recur in intervals once initially resolved.*

Assess community readiness and system capacities that will enable you to implement a successful project. (Use Appendix B of this report for assistance.)

Secure funding and hire staff with expertise in restorative justice and program administration. Strategically consider which roles are appropriate for staff or volunteers, and ensure that all team members have necessary training.

Determine which partnerships are critical for this effort and take the time to develop meaningful relationships and communication structures.

Utilizing knowledge about your local context, select a program model suited to your jurisdiction. Will it be primarily system-based, primarily community-based, or a hybrid?

Agree on eligibility and suitability requirements and develop a clear plan for referring, managing, and terminating cases. Make specific plans to avoid netwidening.

Specifically consider the role of crime victims in your program. Who will contact crime victims, and how? What will be the parameters for victim participation and support services?

Create a realistic plan for collecting, storing, and analyzing data that measures program participation and outcomes.

You're ready for the open highway! Begin providing services, slowly at first, and returning to the tasks above as needed along the way.

## Staff and Volunteers Must Be Ready To:

- Manage grant funding and reporting requirements.
- Deliver restorative justice services with expertise.
- Communicate effectively with crime victims, defendants, community stakeholders, and system partners.
- Collect, store, and analyze data

# APPENDIX B: READINESS INVENTORY

*This readiness inventory is designed to assist states and localities in assessing the readiness of a jurisdiction to develop and implement a restorative justice-based diversion project. This inventory is intended to be used as a guide, with the understanding that not all communities will clearly fit into one category on each row. In addition, communities who mark a number of areas as low readiness (areas indicated in the red column) should not view their scores as an indicator of their ultimate potential to successfully implement a restorative justice-based diversion project, but can and should use the guide to identify ways to improve their readiness, progressing to the yellow and green columns.*

PROCESS ELEMENT	STOP AND LOOK BOTH WAYS	PROCEED WITH CAUTION	YOU'RE READY TO GO!
Responding to Local Context	You haven't explored how your community's geographic, social, and political landscape will impact implementation, or you're aware of several ways in which the landscape will impede the project but have no clear plans for how to address these challenges.	You've identified some geographic, social, and political features of your community's landscape that will be conducive to implementation, and others that present barriers or challenges. You haven't fully thought through how to address contextual challenges.	You have extensive knowledge of your community's geographic, social, and political landscape, and have clearly identified how it may impact implementation. You have a realistic plan for addressing the challenges you have identified.
Honoring Timing Needs	You expect (or are expected) to begin implementation right away, without time to make strategic decisions, form necessary partnerships, and gain buy-in. You expect or plan to demonstrate results within the first year of implementation.	You have set aside time for planning, but it is less than a full year and there is not much flexibility in the timeline if things don't go as planned. You expect or plan to demonstrate results in just a year or two.	You have allocated at least a full year for the design phase of your project, and understand that adaptations will be required even after kick off. Stakeholders understand that it could take three to five years to realize sustainable implementation.
Covering Funding and Staffing Needs	You plan to implement your new project using only existing staff, who have other part time or full-time responsibilities. The staff and volunteers who will deliver services do not have specialized knowledge in program development or restorative justice.	You have some designated staffing to oversee implementation of the project, but not a full-time position. Specialized knowledge related to program development or restorative justice is held by only one or two people, without which the project is unlikely to thrive.	You have the staffing required (at least one full time position) to oversee implementation of a complex collaborative project with reporting expectations. You have a solid team of staff and volunteers with specialized knowledge in program development and restorative justice.



# APPENDIX C: METHODS

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The purpose of this report is to track the implementation of Colorado's HB13-1254, a legislated pilot initiative designed to evaluate the efficacy of pre-file restorative justice diversion for juveniles by launching and evaluating programs in select Colorado counties. The counties selected by the legislation were intended to represent a range of contexts: some more rural, some more urban; some conservative, some liberal; some tight knit, some diffuse. The range of pilot sites provided a particularly useful vehicle for considering the implementation of system-based restorative justice diversion programs across a range of contexts.

Premised on the desire of the Colorado community and surrounding areas to learn from HB13-1254, this report sought to answer the following questions: (1) How did each pilot site choose to implement this project within their unique local context? (2) What are the key processes that influenced implementation across sites? In other words, what consistently mattered most? (3) What skills and resources did the champions of these efforts need to be successful? The authors used a qualitative approach to answer these questions, combining a series of interviews with key stakeholders who were directly involved with the implementation of Colorado's pilot projects with review of historical documents including state reports and news articles related to HB13-1254.

Interviews for each of the three pilot sites were conducted in a group format in order to elicit a dialogue about the history of the pilot and, subsequently, a collective understanding of the path each pilot took to fulfill its legislative mandate. Interviews were conducted online via video conferencing between April and June of 2020. Each group interview utilized a graphic elicitation method, in which a blank timeline was presented to the interviewees and completed collaboratively during the interview. Interviewees were encouraged to manipulate the timeline during the interview, resulting in real time member-checking. In addition, interviewees were provided with a completed timeline and interview summary after their interview and were given the opportunity to review and revise each.

After interviews were recorded and transcribed, they were coded in Dedoose qualitative analysis software. Both authors coded the transcripts separately, working together iteratively to finalize a shared coding scheme. Codes applied consisted of a priori codes established through review of the literature on policy implementation processes, as well as unique codes emerging directly from the data gathered in this project. Following this process, a consensus meeting was held with representatives from each pilot site to discuss the preliminary analysis and refine it, resulting in the final thematic analysis presented in this report.

