



SMART Act Hearing Agenda  
Wednesday, January 15, 2020  
1:30 p.m.  
Old State Library (Room #271)  
Colorado State Capitol

1. Introductions and Department Overview - (Rick Garcia, Executive Director)
  - A. Board of Assessment Appeals
  - B. Division of Housing
  - C. Division of Local Government
  - D. Division of Property Taxation
  - E. Executive Director's Office
2. Strategic Plan Overview - (Rick Garcia, Executive Director)
3. Reports
  - A. 2020 Regulatory Agenda – (Bruce Eisenhauer, Legislative Liaison)
  - B. 2019 Regulatory Agenda Report – (Bruce Eisenhauer, Legislative Liaison)
  - C. Housing Assistance for Persons Transitioning from Criminal or Juvenile Justice System Report – (Alison George, Division of Housing)
  - D. Mobile Home Park Act Dispute Resolution and Enforcement Report – (Alison George, Division of Housing)
  - E. Law Enforcement Community Services Grant Report – (Chantal Unfug, Division of Local Government)
  - F. Seizure and Forfeiture Activity Report – (Chantal Unfug, Division of Local Government)
  - G. Gray and Black Market Marijuana Enforcement Grant Report - (Chantal Unfug, Division of Local Government)
  - H. Defense Counsel Grant Program - (Chantal Unfug, Division of Local Government)
4. Decision Items Overview - (Rick Garcia, Executive Director)
  - A. R-1: Rural Economic Development Incentive (REDI) Grant Funding Increase
  - B. R-2: Field Services Staff Increase
  - C. R-3: Affordable Housing Reappropriation
  - D. R-4: Crime Prevention Initiative Unused Funds Adjustment
  - E. R-5: Gray and Black Market Marijuana Unused Funds Adjustment
  - F. R-6: Transfer State Demography Office to Executive Director's Line item Budget Adjustment
  - G. R-7: Moffat Tunnel Improvement District Spending Authority Adjustment
5. Other
  - A. HB19-1319 Vacant Land for Affordable Housing – Update – (Alison Goerge, Division of Housing)
  - B. 2020 Census - (Rick Garcia, Executive Director)
6. Community Service Block Grant (CSBG) Legislative hearing - (Chantal Unfug, Division of Local Government)



# 2019

Regulatory Agenda **Report**



**COLORADO**  
Department of Local Affairs

## Overview

Pursuant to Colo. Rev. Stat. §2-7-203(4), the Department of Local Affairs submits the following 2019 Regulatory Agenda Report. Pursuant to statutory requirements concerning the Department’s Regulatory Agenda, this Regulatory Agenda Report details the results of the past year’s rules review activity, including the results of mandatory rule reviews conducted under Colo. Rev. Stat. §24-4-103.3(4) as part of the Department’s “Regulatory Efficiencies Reviews.”

### This report includes the following items:

- “Rulemaking included in 2019 Regulatory Agenda,” providing an update of rules included in the Department’s 2019 Regulatory Agenda
- “Rulemaking not included in 2019 Regulatory Agenda,” providing a summary of rule activity not included in the 2019 Regulatory Agenda
- “Results of Mandatory Rules Review,” providing a summary of the activities and outcomes associated with the Department’s mandatory rule reviews conducted under Colo. Rev. Stat. §24-4-103.3(4)

### Rulemaking included in 2019 Regulatory Agenda

Rule Number and Title	Division/ Board/ Program	New rule or revision?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
8 CCR 1302-5 Resolution #23 - Limits for Revolving Loan Program	Division of Housing - Housing Development Section	Revision	C.R.S. 24-32-717	Repeal a rule that is duplicative of statutory language C.R.S. 24-32-717	Jan 8, 2019	Housing Authorities, private and non-profit developers; low- and moderate-income households	Adopted 2/12/19 Effective 4/14/19	
8 CCR 1302-14 Administrative Rules: Non-residential and Residential Factory-built Structures; Sellers of Manufactured Homes;	Division of Housing - Building Codes & Standards Section	Revision	C.R.S. 24-32-3305(1)	Cleanup errors in rules and review for additional opportunities to create efficiencies and effectiveness in this industry after massive effort in 2017/2018 to	May 14, 2019		Delayed	This effort did not occur as originally planned in FY’19. It was pushed back to take place in the next fiscal year and will therefore be

Manufactured Home Installations; and Hotels, Motels, and Multi-Family Dwellings in those areas of the State where no Standards Exist				consolidate five separate “resolutions” under one set of rules.				accounted for in the 2020 DOLA Regulatory Report.

Rulemaking not included in 2019 Regulatory Agenda

Rule Number and Title	Division/ Board/ Program	New rule or revision?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
8 CCR 1301-1	Board of Assessment Appeals	Combination	Completion of process improvement and upcoming acquisition of case management system	Rules had not been reviewed in over ten years	June 2019, effective August 15, 2019	Taxpayer Representatives (tax agents and attorneys); County Attorneys; County Assessors; and Division of Property Taxation	Completed	The rules were revised, updated and reordered for ease of use by stakeholder groups.

### Results of Mandatory Rules Review

Rule Number (CCR) and Title	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	If revisions/repeals are completed, identify the adopted date
N/A							

The Department has very few regulatory rules. As a result, all Divisions within the Department annually complete an internal review of all rules. Each Division maintains a statement on its web page that any comments to any rule will be accepted on an on-going basis.



**Department of Local Affairs  
CRS 24-32-721 FY 2018-2019 SMART Government Act Report**

Colorado Revised Statutes title 24, article 32, section 721, subsection 4f reads that the “Department of Local Affairs shall report to the senate committee on health and human services and the house of representatives committees on health and insurance and public health care and human services, or any successor committees, under the “State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act”, part 2 of article 7 of title 2, on:

- I. The number of projects funded under this section
- II. The number of units in each project funded under this section
- III. The number of qualified individuals housed as a result of this subsection (4); and
- IV. To the extent practicable, the number of individuals who, after receiving a voucher under subsection (4)(b) of this section, returned to the facilities from which the individuals were transitioning.

Section 721 concerns 1) construction grants and loans for affordable housing and 2) housing vouchers, rental assistance, and other support services for housing assistance. It includes several programs including:

- Housing Development Grant and Loan (HDG) program: General Fund
- Homeless Solutions Program (HSP): Marijuana Tax Cash Fund
- Homeless Solutions Program - Justice Involved (HSP-JI): Housing Assistance for Persons Transitioning from the Criminal or Juvenile Justice Cash Fund, and
- Recovery-oriented Housing (HB19-1009)

**I. The number of projects funded under this section**

In FY 2018-2019, the number of affordable housing development projects funded under CRS 24-32-721 was 23. Details about each of these projects was provided in DOLA’s Cost Effectiveness RFI #1, which was provided to the Joint Budget Committee in September 2019 and is available upon request.

**II. The number of units in each project under this section**

In FY 2018-2019, the total number of units funded under section 721 was 1,144. In addition to these units, DOH funded one project with a total of 100 shelter beds. The tables on the following pages list the projects and the number of affordable units in each, as well as the project funding from DOH and the total project cost.



<b>FY 2018-2019 Housing Development Grant (HDG) Projects (General Fund)</b>				
<b>Project #</b>	<b>County - Project Name</b>	<b>Affordable Units</b>	<b>Amount of State Funds</b>	<b>Total Project Cost</b>
<b>18-052</b>	Arapahoe - Connections at 6th	68	\$800,000	\$19,431,873
<b>18-053</b>	Statewide - Colorado Housing Connects <sup>1</sup>	N/A	\$118,797	\$224,357
<b>18-058</b>	Arapahoe - Residences at Hoffman	85	\$850,000	\$22,132,003
<b>19-004</b>	Larimer - DMA Plaza	124	\$1,000,000	\$31,747,034
<b>19-006</b>	Larimer - Manufactured Home Repair	20	\$177,918	\$356,000
<b>19-018</b>	Larimer - The Meadows Renovation	59	\$400,000	\$12,799,032
<b>19-032</b>	Fremont - Cedar Village and Canyon Country Mobile Home Park Acquisition	51	\$600,000	\$2,640,000
<b>19-035</b>	Larimer - Provincetowne Green Capital Improvement Project	84	\$350,000	\$13,949,718
<b>19-039</b>	Moffat - Sunset Meadows 2	44	\$359,212	\$2,511,487
<b>19-040</b>	Adams - Range View Apartments	223	\$1,000,000	\$59,916,690
<b>19-044</b>	Chaffee - Old Stage Road Rowhomes	8	\$50,000	\$1,564,664
<b>19-055</b>	Boulder - Tungsten Village	26	\$260,000	\$9,702,409
<b>19-056</b>	La Plata - Senior Residences at Three Springs	53	\$500,000	\$13,895,431
<b>19-057</b>	Larimer - Mirasol Phase 3	60	\$600,000	\$19,316,096
<b>19-058</b>	Routt - Alpenglow Village	48	\$650,000	\$23,892,273
<b>19-059</b>	Adams - Libretto Apartments Phase II	42	\$420,000	\$12,542,438
<b>19-067</b>	El Paso - Silvercrest Villas	20	\$600,000	\$1,200,058
<b>19-070</b>	Gunnison - GardenWalk of Gunnison <sup>2</sup>	36	\$218,073	\$10,119,238
<b>Total</b>		1,051 <sup>3</sup>	\$8,954,000	\$257,940,801

<sup>1</sup>18-053 funds a housing counseling program, as such there were no units produced by this award. This award was partially funded with FY 2017-18 funds, which amount was reported last year. Total award was \$146,650.

<sup>2</sup>19-070 total award amount is \$450,000. The remaining \$231,927 will utilize FY 2019-20 funds and will be reported next year.

<sup>3</sup>An additional 51 units of market rate units were created between 19-058, 19-035 and 19-018. These units were not supported with state funds.



<b>FY 2018-2019 Homeless Solutions Program (HSP) Projects (Marijuana Tax Cash Fund)</b>					
<b>Project #</b>	<b>County - Project Name</b>	<b>PSH Units<sup>1</sup></b>	<b>Shelter Beds</b>	<b>Amount of State Funds</b>	<b>Total Project Cost</b>
18-038	El Paso County - Vecino Bond Group Freedom Springs <sup>2</sup>	0	0	\$1,000,000	\$14,079,197
19-050	Adams County - CCH Veterans Renaissance Apts	59	0	\$1,800,000	\$19,193,065
19-075	Mesa County - Karis Apts	34	0	\$850,000	\$9,118,316
19-076	Larimer County - Mason Place <sup>3</sup>	0	0	\$600,000	\$19,367,676
19-082	Pueblo County - Pueblo Rescue Mission Shelter	0	100	\$1,303,000	\$1,889,879
		<b>93</b>	<b>100</b>	<b>\$5,553,000</b>	<b>\$63,648,133</b>

<sup>1</sup>PSH = Permanent Supportive Housing.

<sup>2</sup>\$500,000 for Freedom Springs was reported in the Department's FY18 RFI. An additional \$1,000,000 was awarded to this project in FY19. The project consists of 50 affordable units, but they are not included in this table to avoid double-counting with FY18 reports.

<sup>3</sup>\$750,000 for Mason Place (formerly Midtown on the Max) was reported in the Department's FY18 RFI. An additional \$600,000 was awarded to the project in FY19. The project consists of 60 affordable units, but they are not included in this table to avoid double-counting with FY18 reports.

For additional information, the table below includes the number of units and shelter beds funded under this section by state fiscal year.

<b>State Fiscal Year</b>	<b>Number of Units</b>	<b>Number of Shelter Beds</b>
2018-19	1,114	100
2017-18	1,859	113
2016-17	968	0
2015-16	1,015	108
2014-15	914	0



**III. The number of qualified individuals housed as a result of this subsection (4)**

Subsection 4 includes vouchers, rental assistance and other support services for housing assistance. HSP and HSP-JI funds are used for two models of housing that are proven best practices: Supportive Housing and Rapid Re-housing.

- Supportive Housing, also known as Permanent Supportive Housing, is affordable, community-based housing that provides tenants with the rights of tenancy and access to intensive supportive services. People in need of Supportive Housing are typically living with multiple disabilities, often struggling with substance use, and more than likely have been chronically homeless. Supportive Housing communities are typically served by full-time case management personnel with mental health and/or substance abuse support available from on-site or referral-based providers. HSP funds are utilized for vouchers as well as the construction of Supportive Housing units (construction projects were reported in the answer to questions I and II above)
- Rapid Re-housing focuses on individuals who need extra assistance and time to stabilize their lives through connection to community services and employment. Rapid Re-housing expedites the process of connecting households experiencing homelessness to permanent housing options through a client-centered support system. Rapid Re-housing offers rental assistance for up to two years and targeted supportive services in order to solve the practical and immediate challenges to obtaining permanent housing.

At the end of FY 2018-2019, the number of qualified individuals who were housed as a result of section 721 subsection (4) include the following:

- 331 individuals in 257 households housed in Supportive Housing utilizing a state-funded HSP voucher, and
- 62 individuals in 54 households receiving short to medium term rental assistance and housing-related services through a Rapid Re-housing for Re-entry program funded through the HSP-JI program (the program provides Rapid Re-housing rental assistance and related services to 220 justice involved households annually; FY19 was the initial start-up year).

DOLA's Cost Effectiveness RFI #1, which was provided to the Joint Budget Committee, provides details about DOH's partner agencies across the state that have been awarded vouchers and the populations that they serve.

HB19-1009 added \$1M per year to this subsection for vouchers and support services for populations, including individuals with a mental health disorder, substance use disorder, or co-occurring behavioral health disorder who is transitioning from the Department of Corrections, the Division of Youth Services in the Department of Human Services, a mental health institute, a psychiatric hospital, or a county jail into the community; or individuals who are homeless or in an unstable housing environment and are transitioning from a residential treatment program or are engaged in the community transition specialist program. Because the appropriations for this program were made starting in FY20, we do not have anything to report for FY19 on the vouchers added by HB19-1009.



**Update on the Progress of the HB19-1009 Voucher Program**

After collecting public comments and feedback from stakeholders across the Recovery-Oriented Systems of Care, affordable housing providers, and homeless service entities, the Colorado Department of Local Affairs, Division of Housing (DOH) released the Recovery-Oriented Housing Request for Applications (RFA) on December 6, 2019. Using HB19-1009 funds, the RFA makes up to 71 tenant-based rental assistance vouchers available, as well as funding for supportive services (up to \$3,600 per participant household per year).

The Recovery-Oriented Housing RFA supports various recovery-oriented housing models of recovery compliance and service delivery that address the complex needs of individuals transitioning from a variety of institutional and community-based settings at various stages of recovery. This spectrum of available approaches is intended to meet the aim of HB19-1009 by improving housing stability and reducing returns to homelessness, the justice system, and hospitalization. RFA applicants are required to provide information on prior experience serving the RFA's target population, the supportive services in which participants will have access, other funding sources leveraged, and how the applicant will meet benchmarks related to long-term housing stability. Applicants' letters of intent are due January 10, 2020. Full applications are due February 17, 2020.

**All State-Funded and Federally-Funded Rental Assistance Programs**

DOH also operates several other state-funded and federally-funded rental assistance programs. The number of individuals housed across all of the Department's rental assistance programs are included in the table below.

Program	Number of Individuals Housed by Program on June 30, 2019*	Funding
HSP	331	State
HSP-JI	62	State
CCT	325	State
SHV	191	State
811	15	Federal
FUP	772	Federal
HCV	8,352	Federal
CoC	795	Federal
VASH	946	Federal
<b>TOTAL</b>	<b>11,789</b>	

\*11,789 individuals are part of 7,313 households. At any given time, there are also households with a voucher who are searching for housing.



- IV. To the extent practicable, the number of individuals who, after receiving a voucher under subsection (4)(b) of this section, returned to the facilities from which the individuals were transitioning.**

This will be tracked for the vouchers funded with appropriations from HB19-1009, which was initiated for FY 2019-2020. As of the end of FY 2018-2019, the vouchers for this program had not yet been funded, so no vouchers had been issued.



# Mobile Home Park Oversight Program

## December 2019 Program Update

### Introduction

Enclosed is the Division of Housing's December 2019 Program Update to the Transportation and Local Government Committee of the House of Representatives, the Local Government Committee of the Senate, and the Department of Regulatory Agencies (DORA) on the Mobile Home Park Act Dispute Resolution and Enforcement Program ("Mobile Home Park Oversight Program," MHPOP, or Program). This update contains information on the number of constituents contacted by the Division of Housing (Division) concerning the Program, a summary of the Program's work to date, and an overview of upcoming Program activities.

Currently, the Division does not have information on complaints, administrative appeals, or relevant court decisions to report since the Program's complaint process does not open until May 1, 2020, pursuant to statute. In addition, the Division will be engaging an independent contractor to conduct the required annual constituent survey in 2020, after the Program has been effective for one year. The Division will provide a full Annual Report on the Program at the end of Fiscal Year 2019-20.

### Building the Program

The Division has taken the following steps to build and implement the Program since May 23, 2019, when Governor Jared Polis signed House Bill 19-1309 into law.

### Constituent Engagement

1. Division staff presented at 9 meetings and events to educate stakeholders about the Mobile Home Park Act (Act) and Program. The stakeholder events were attended by a mix of mobile home owners, mobile home park landlords, housing organizers, city and county officials, and state legislators, and took place in Adams, Arapahoe, Boulder, Denver, Eagle, El Paso, Gilpin, Lake, and Larimer counties. Four hundred (400) constituents attended stakeholder events in person or online in 2019. These events included presentations to both the Colorado Coalition of Manufactured Home Owners (organized mobile home owners) and Rocky Mountain Home Association (trade association for park owners).
2. The Program's growing stakeholder email list currently includes 484 members. In 2019, the Division used the email list to share information on Program rulemaking, stakeholder events, and mobile home park (MHP) registration with constituents.
3. The Program has received and addressed 155 emails to the Program's email address ([DOLA\\_MHPADREP@state.co.us](mailto:DOLA_MHPADREP@state.co.us)).
4. Six hundred seventy-four (674) unique viewers visited the Program's stakeholder information webpage ([www.colorado.gov/dola/mobile-home-park-oversight](http://www.colorado.gov/dola/mobile-home-park-oversight)). The average time viewers spent on the stakeholder page was 4 minutes and 20 seconds, which indicates viewers spent time reading information on the page. In addition, 44 unique viewers conducted searches on the Department of Local Affairs' website related to the Program.

### Program Administration and Staffing

1. The Division assigned the responsibility of implementing and overseeing this new program to the Program Manager over its Building Codes & Standards Section, which is a separate regulatory program under the Division. He in turn hired a full-time MHPOP Program Administrator (7/22/19) and Program Manager (10/29/19) to assist him with implementing and administering the Program. The Program staff he identified and hired have a combined 20 years of experience in building and administering regulatory programs, public policy, legal analysis, and program management. The Division has since created the Office of Regulatory Oversight (ORO) over both its regulatory programs with the former Program Manager for the Building Codes & Standards Section overseeing both programs as the Director of ORO and a Program Manager under him for each regulatory program to manage operations.
2. The Division set up the Program's toll-free phone number (1-833-924-1147), email address ([DOLA\\_MHPADREP@state.co.us](mailto:DOLA_MHPADREP@state.co.us)), stakeholder email list, and official stakeholder website ([www.colorado.gov/dola/mobile-home-park-oversight](http://www.colorado.gov/dola/mobile-home-park-oversight)).





3. The Division promulgated rules to clarify the statutory requirements of the Act and Program. The Division received 22 written and in-person comments to inform the rulemaking process after publishing the proposed rules on September 30, 2019. Prior to that, the public helped draft the proposed rules as part of the stakeholder engagement held in Adams, El Paso, and Larimer counties during the month of September. The first set of administrative rules included additional details around Definitions, Registration Requirements, Dispute Resolution and Enforcement, Penalties, and Notice Requirements. The adopted rules are effective December 30, 2019, and are available on the Program's [stakeholder website](#).
4. The MHPOP Program Administrator and ORO Director completed the Colorado Bar Association's 40-hour Mediation Training in July and August of 2019. The training covers topics including, but not limited to: Transitioning Parties from Positions to Interests; Cultural Issues in Mediation; Dealing with Threats, Demands and Other Toxic Language; Mediating Money Matters; Coaching Parties to Raise Conflict Constructively; Dealing with Impasse; and Power Issues in Mediation. The MHPOP Program Manager has registered to take the training in January 2020.

## Mobile Home Park Registration

1. Program staff conducted significant outreach to both counties and individual mobile home parks (MHPs) to collect and verify mailing addresses and contact information for MHP landlords in advance of sending out the Mobile Home Park Registration Notification, Information Packet, and Registration Application.
  - a. The Division contacted the County Assessor's Office in all 64 Colorado counties to get current contact information for MHPs and landlords in the state. Sixty-two out of 64 counties provided this information to the Division, including two County Assessors who indicated they did not have any MHPs in their county. The Division is following up with the two unresponsive counties.
  - b. The Division contacted 340 mobile home parks by phone or email to verify their ownership and contact information.
2. The Division created a Registration Application and built an online MHP Registration Database. It will begin processing registration applications submitted by mail, in person, and online on January 2 through January 31, 2020.
3. In November 2019, the Division mailed the required Registration Notification to all known MHP landlords in the state, to inform landlords of the new Program, upcoming registration requirement, complaint process, and adopted rules. The Division sent the Registration Notification initially to 691 potential MHP landlords and then in December to an additional 334 potential MHP landlords, and then shared a copy of this letter with the Program's stakeholder email list.
4. In December 2019, the Division mailed all known MHP landlords the required Information Packet, the paper MHP Registration Application form, and the web address for the online Registration Application form. The packet included information on: important Program dates, how to register a MHP, the registration fee, late fees, charging costs to home owners, the registration application review and approval process, registration expiration dates and renewal applications, collections procedures and liens under the Program, and protections afforded to home owners under the Act and Program. The Division also provided Frequently Asked Questions about MHP Registration with the Information Packets. The Division sent the Information Packet and Registration Application form to 1,025 MHP landlords, and shared a copy of this letter with the Program's stakeholder email list.

## Additional Activities

1. In mid-August 2019, the ORO Director visited Washington State and met with staff at the Office of the Attorney General to learn about Washington's Manufactured Housing Dispute Resolution Program in order to help him effectively implement Colorado's new program. House Bill 19-1309 modeled Colorado's program in part off Washington's program, which has been in effect since 2007.
2. The Division connected with other Colorado state agencies to better understand their role and authority to address concerns within MHPs, including: the Department of Regulatory Agency (DORA), Division of Professions and Occupations; DORA, Public Utilities Commission; Department of Public Health and Environment (CDPHE), Water Quality Control Division; and CDPHE, Division of Environmental Health and Sustainability.
3. The Division is working with stakeholders in Gunnison County, including Gunnison County's Office of Community and Economic Development and the Gunnison Valley Regional Housing Authority on solutions to issues the county identified with water and electrical services to/in some mobile homes situated in some of its mobile home parks.
4. Program staff received information on a MHP that was attempting to collect additional security deposits from existing tenants by May 1, 2020, in potential violation of the Act. The Division sent a letter to the landlord to provide additional





information on relevant contents of the Act to the conduct and the upcoming complaint process, and advising the landlord to speak with an attorney to ensure compliance with the Act and Program.

## Future Activities

In the first half of 2020, the Division is focusing on the following activities for the Program.

- Registering MHPs by the statutory deadline (before February 1, 2020).
- Sending the Home Owner Notice in English and Spanish to registered MHPs and ensuring landlords post the Notice in accordance with the statute and rules.
- Starting a second round of rulemaking for the Program in January 2020 focused on providing additional details on the complaint and dispute resolution and enforcement process with an effective date of April 30, 2020 (before the complaint process opens on May 1, 2020).
- Creating the complaint form and building the online complaint database, in English and Spanish, before May 1, 2020.
- Hiring two more staff for the Program who will start on or after July 1, 2020, in accordance with the fiscal note for HB19-1309. At least one of the Program staff will be bilingual in English and Spanish.
- Hiring an independent contractor to conduct the constituent survey for the FY 2019-20 Annual Report.





**COLORADO**  
**Department of Local Affairs**  
Division of Local Government

# Law Enforcement Community Services Grant Report Per Colorado Revised Statute 24-32-124(6)

SMART ACT REPORT

December 16, 2019



## **SMART ACT REPORT**

### **Law Enforcement Community Services Grant Program**

#### **December 16, 2019**

In Colorado's 2018 legislative session, House Bill 18-1020 was passed creating the Law Enforcement Community Services grant program (LECSGP) as outlined in Colorado Revised Statute (C.R.S.) 24-32-124. The program gives grants to law enforcement agencies, local government entities, and community organizations to improve services to the communities. This includes community services such as policing and outreach, drug intervention, prevention, treatment and recovery, and other services. The grant program includes a seventeen-member committee to make recommendations to the Executive Director to review grant applications, and recommend which grants should be approved. Pursuant to 24-32-124(3)(a) C.R.S., the appointments to the committee must be made by the following:

- (I) A representative of the department of local affairs appointed by the executive director who shall chair the committee;
- (II) A representative of the department of public safety appointed by the executive director of the department of public safety;
- (III) A representative of the department of law appointed by the attorney general;
- (IV) The following persons appointed by the governor:
  - (A) A representative of a statewide organization of district attorneys;
  - (B) A representative of a statewide organization of county sheriffs;
  - (C) A representative of a statewide organization of chiefs of police;
  - (D) A representative of a statewide organization of law enforcement officers;
  - (E) A representative of a statewide organization of counties;
  - (F) A representative of a statewide organization of municipalities;
  - (G) A representative of a drug treatment provider;
  - (H) A representative of a nonprofit organization that advocates for civil liberties; and
  - (I) Four additional members who are not members of any of the entities described in subsections (2)(b)(IV)(A) to (2)(b)(IV)(H) of this section, but who represent community organizations that provide services to the community and represent the diverse geographic areas and the ethnic and racial diversity and gender balance within the state;
- (V) A member of the senate appointed by the president of the senate; and
- (VI) A member of the house of representatives appointed by the speaker of the house of representatives.

The revenue stream to fund the LECSGP is provided through the Law Enforcement Community Services grant program fund. The fund is created through the disposition of seized personal property, if the prosecution prevails in a forfeiture action in district courts, the court shall order property forfeited. Proceeds from forfeiture actions are distributed, upon order of the court, resulting in the collection of twenty-five percent of the proceeds awarded to district courts. Pursuant to Section 16-13-311 Disposition of Seized Personal Property, said proceeds are sent to the Department by state warrant and deposited into the LECSGP. The Division can charge 5% administrative costs of the total fund balance to make grants. Since its inception in July 1, 2018, the fund has collected \$328,457.

Section 24-32-124 (6), C.R.S., requires the submittal of a summary report of the activities of the program in the annual presentation by the Department of Local Affairs to the committee of reference.



Since the program began July 1, 2018, activities to date have included:

- monitoring of collections toward the launch goal of establishing \$500,000 or after December 31, 2019. Between July 1, 2018 and June 30, 2019, \$206,894 were collected and since July 1, 2019, \$121,563 has been collected.
- depositing proceeds to the fund with an approximate balance of \$328,000 for grants and administration to date.

Administratively, the Department has not launched the program nor the committee while waiting for a reasonable amount of capital (\$500,000) to be collected into the fund. Additionally, if \$500,000 is not collected, to ensure no loss of funding to appropriation restrictions, the program will launch the committee and policy work after December 31, 2019.



**COLORADO**  
**Department of Local Affairs**  
Division of Local Government

# 2019 Seizure and Forfeiture Activity Report C.R.S. 16-13-701 (8)

December 31, 2019

To:

The Honorable Jared Polis  
Governor of Colorado

The Honorable Phil Weiser  
Colorado Attorney General

Members of the Senate and House Judiciary Committees  
Colorado General Assembly

## Table of Contents

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Overview.....	3
Summary of Reporting .....	4
Table I: Type, approximate value, and disposition of all property seized for the prior fiscal year ....	4
Table II: Approximate amount of forfeiture proceeds received by the state and any subdivision of the state for the prior fiscal year .....	5
Recommendations to improve statute and reporting compliance.....	6
Exhibit A: List by Reporting Agency of the approximate amount of forfeiture proceeds received by the state and any subdivision of the state for the prior fiscal year .....	7
Exhibit B: List by Reporting Agency of categorized accounting of all forfeiture proceeds expended by the state and any subdivision of the state for the prior fiscal year .....	9
Exhibit C: List of Reporting Agencies reporting no proceeds, no expenditures, and no retained proceeds .....	13
Appendix: 1313 Task Force Report Dated December 1, 2017.....	17

## Overview

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The Colorado Department of Local Affairs is providing this 2019 Seizure and Forfeiture Activity Report to the Governor, the Attorney General, and the Judiciary Committees of the Senate and the House of Representatives pursuant to 16-13-701(8) C.R.S. (2019). This report is the Department's first under the Civil Forfeiture Reform Act.

The Civil Forfeiture Reform Act, HB17-1313, was enacted on August 9, 2017 and requires State and local agencies authorized to effect civil forfeitures biannually report:

- Specified information, if known, about forfeiture cases resulting in proceeds for the agency
- The amount of proceeds received from such cases
- A categorization of the expenditure of proceeds
- The retained balance of the forfeiture proceeds

The reporting process is online with public access to all reported information available on the Department's website.

### Confidential Reporting

The Act does not require law enforcement agencies to report any information that

"is likely to disclose the identity of a confidential source; disclose confidential investigative or prosecution material that could endanger the life or physical safety of any person; disclose the existence of a confidential surveillance or investigation; or disclose techniques or procedures for law enforcement procedures, investigation, or prosecutions..."

As a result, while all proceeds from a forfeiture case are required to be reported, some information regarding the type of case and the type of assets in that case may not be reported.

### Changes to Reporting in the Fiscal Year

Based on recommendations from the Governor's HB1313 Task Force December 1, 2017 report, the subsequent passage of HB18-1020 modified certain aspects of the reporting process as originally defined in HB17-1313. The Act's reporting process was modified to:

- Expand the scope of reported assets and cases to include those forfeited pursuant to "any local public nuisance law or ordinance"
- Refine expenditure categories by adding "Disbursements" to itemize forfeiture proceeds disbursed or transferred to other agencies belonging to a multi-jurisdictional task force
- Clarify the statutory reference for agencies required to report forfeiture information from "Seizing Agency" to "Reporting Agency"

As a result, forfeiture reporting changed mid-fiscal year and is noted within the summary tables.

Following are summary tables of forfeiture activity for the prior fiscal year and the Department's recommendations to improve future reporting. Further details on reporting agencies' forfeiture proceeds and expenditures may be found in the exhibits section in this report. Individual agency reports may be obtained from the Departments website. For the purpose of this report, all dollar amounts have been rounded to the nearest dollar.

## Summary of Reporting

State and local agencies authorized to effect Civil Seizure and Forfeiture are required to report forfeiture information for the reporting period in which the disposition of the case and associated assets is completed and a federal, state, or local forfeiture is awarded.

Below in Table (I) is a summary of the reports received, the number of cases disposed, the value of assets forfeited, and the forfeiture proceeds received by reporting period in the prior fiscal year. For the fiscal year, 379 agencies filed a report, 54 (14%) agencies reported forfeiture information while 325 (86%) agencies reported no proceeds, expenditures, or retained balances of proceeds in the fiscal year. For further detail by agency, see Exhibit A.

<b>Table (I): Number of reports and cases; type, approximate value, and disposition of all property seized for the prior fiscal year; and the amount of forfeiture proceeds received.</b>			
Agency Reporting Period	January 1, 2018 to June 1, 2018	July 1, 2018 to December 1, 2018	Fiscal Year Totals
Report Due Date	December 1, 2018	June 1, 2019	
Number of Reports Received	345	379*	724
Agencies reporting no proceeds, no expenditures, and no retained proceeds	284	313	597
Forfeiture Cases Reported:	415	283	698
Federal Cases:	87	52	139
State Cases:	293	220	513
Local Cases:	0	6	6
Unknown:	9	0	9
None:	26	5	31
Type of Assets Forfeited			
Currency Assets:	674	398	1072
Non-Currency Assets:	415	283	698
Value of Assets:	\$9,205,082	\$2,811,972	\$12,017,056
Totals Forfeiture Proceeds Received:	\$2,491,846	\$877,940	\$3,369,789

\* HB18-1020 expanded the scope of reported assets and cases to include those forfeited pursuant to “any local public nuisance law or ordinance”. Prior to its enactment, Reporting Agencies with no law enforcement were exempt from the reporting requirements.

State and local agencies are also required to report a categorized accounting of all forfeiture proceeds expended for the prior fiscal year and total balance of retained forfeiture proceeds. For further detail by agency, see Exhibit B.

**Table II: Categorized accounting of all forfeiture proceeds expended by the state and any subdivision of the state for the prior fiscal year and total balance of retained forfeiture proceeds.**

Agency Reporting Period	January 1, 2018 to June 1, 2018	July 1, 2018 to December 1, 2018	Fiscal Year Totals
<b>Category of Expenditure</b>			
(A) Prevention Programs	\$120,289	\$0	\$120,289
(B) Victim Services:	\$0	\$0	\$0
(C) Informant / Controlled Buys:	\$15,018	\$13,066	\$28,084
(D) Employee Compensation:	\$265,661	\$28,165	\$293,826
(E) Professional Services:	\$65,465	\$236,170	\$301,635
(F) Travel and Training:	\$470,373	\$723,997	\$1,194,370
(G) Operating Expenses:	\$72,686	\$533,469	\$606,155
(H) Capital, Vehicles, Equipment:	\$893,283	\$1,123,637	\$2,016,920
(I) Other Expenditure:	\$327,885	\$48,158	\$376,043
*Transfers/Disbursements to Partner Agencies:	\$0	\$309,542	\$309,542
<b>Total Expenditures Reported</b>			<b>\$5,246,864</b>
<b>Total Retained Proceeds - End of Fiscal Year Balance</b>			<b>\$17,525,475</b>

\* Per 1313 Task Force Report Dated December 1, 2017 (see Appendix). Transfers/Disbursements were reported as Other Expenditure for the reporting period January 1, 2018 to June 1, 2018

## Recommendations to improve statute and reporting compliance

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No Recommendations for this report:

Although not making any recommendations, while preparing this report, DOLA staff observed inconsistencies in a few agencies reporting of the data indicated as confidential. Reporting agencies are instructed to refrain from including any confidential information in their reports as it becomes published information when submitted to DOLA. As a result, DOLA will be evaluating and adjusting online reporting instructions and will contact those agencies that appear to be reporting information which may not have been intended for publication.

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**Exhibit A - Agency details for number cases; type, approximate value, and disposition of all property seized for the prior fiscal year; and the amount of forfeiture proceeds received.**

<b>Agency:</b>	<b>Case Count</b>	<b>Asset Count</b>	<b>Asset Type (Currency)</b>	<b>Asset Type (Property Other than Currency)</b>	<b>Total Asset Value</b>	<b>Forfeiture Proceeds Received</b>
18th Judicial District Attorney's Office	32	68	\$259,463	\$280	\$259,743	\$69,310
1st Judicial District Attorney's Office	24	44	\$78,979	\$29,704	\$108,683	\$10,375
2nd Judicial District Attorney's Office	82	82	\$767,830	\$6,202	\$774,032	\$373,437
4th Judicial District Attorney's Office	8	10	\$36,343	\$0	\$36,343	\$1,794
8th Judicial District Attorney's Office	37	37	\$67,928	\$14,349	\$82,277	\$7,392
Alamosa, City of	1	2	\$4,011	\$10,370	\$14,381	\$6,406
Arapahoe County	8	12	\$102,423	\$6,025	\$108,448	\$103,567
Arvada, City of	6	6	\$2,580	\$0	\$2,580	\$8,715
Avon, Town of	7	7	\$36	\$0	\$36	\$36
Bayfield, Town of	9	11	\$8,546	\$855	\$9,400	\$8,039
Boulder County	2	4	\$434,457	\$0	\$434,457	\$30,369
Boulder County Drug Task Force	8	8	\$113,908	\$0	\$113,908	\$96,681
Colorado Department of Law, Colorado Attorney General's Office	5	11	\$499,064	\$949	\$500,013	\$28,633
Colorado Parks and Wildlife	19	69	\$1,800	\$51,222	\$53,022	\$20,163
Colorado Springs Metro Vice, Narcotics and Intelligence Division Taskforce	7	21	\$35,306	\$0	\$35,306	\$16,716
Colorado Springs, City of	4	4	\$69,515	\$2,249	\$71,764	\$25,490
Colorado State Patrol	48	50	\$2,329,444	\$373,328	\$2,702,772	\$831,960
Denver, City And County of	90	90	\$1,110,402	\$6,202	\$1,116,604	\$527,639
Douglas County	22	52	\$178,738	\$23,748	\$202,486	\$72,056
Douglas County Impact Unit	9	65	\$744,052	\$0	\$744,052	\$93,409
Durango, City of	9	11	\$8,546	\$855	\$9,401	\$8,039
El Paso County	1	1	\$60,615	\$0	\$60,615	\$3,375
Elbert County	6	6	\$162,986	\$0	\$162,986	\$7,946
Englewood, City of	20	96	\$242,830	\$27,555	\$270,385	\$52,988

Agency:	Case Count	Asset Count	Asset Type (Currency)	Asset Type (Property Other than Currency)	Total Asset Value	Forfeiture Proceeds Received
Golden, City of	1	1	\$0	\$779	\$779	\$779
Greenwood Village, City of	5	5	\$7,455	\$0	\$7,455	\$7,455
Ignacio, Town of	8	9	\$7,612	\$427	\$8,039	\$8,039
Jefferson County	1	1	\$0	\$1,113	\$1,113	\$1,113
La Plata County	10	14	\$39,497	\$63,847	\$103,344	\$66,225
Longmont, City of	1	2	\$520	\$5,360	\$5,880	\$520
Monte Vista, City of	1	1	\$150,000	\$0	\$150,000	\$9,000
Montezuma County	20	44	\$0	\$0	\$0	\$530
North Metro Task Force	45	45	\$645,092	\$21,280	\$666,372	\$324,081
Northern Colorado Drug Task Force (NCDTF)	40	46	\$103,987	\$14,349	\$118,336	\$7,307
Parker, Town of	2	2	\$305,901	\$0	\$305,901	\$93,533
Pueblo County	13	24	\$482,656	\$470,050	\$952,706	\$68,852
Pueblo, City of	32	52	\$1,287,900	\$139,094	\$1,426,994	\$157,937
Thornton, City of	1	1	\$1,990	\$0	\$1,990	\$493
University of Colorado - Colorado Springs Police Department	6	8	\$0	\$870	\$870	\$830
Weld County Drug Task Force	3	3	\$36,957	\$0	\$36,957	\$36,957
West Metro Drug Task Force	32	32	\$177,122	\$90,486	\$267,607	\$168,974
Westminster, City of	13	15	\$89,019	\$0	\$89,019	\$12,629
<b>Grand Total</b>	<b>698</b>	<b>1,072</b>	<b>\$10,655,510</b>	<b>\$1,361,548</b>	<b>\$12,017,056</b>	<b>\$3,369,789</b>

**Exhibit B: Detailed categorized accounting of all forfeiture proceeds expended by the state and any subdivision of the state for the prior fiscal year**

Agency	A	B	C	D	E	F	G	H	Ia	Ib	Totals
	Prevention Programs	Victim Services	Informants/ Controlled Buys	Employee Compensation	Professional Services	Travel and Training	Operating Expenses	Capital, Vehicles, Equipment	Other Expenditure	Transfers to Partner Agencies	
10th Judicial District Attorney's Office	-	-	-	-	-	-	-	\$400	-	-	\$400
18th Judicial District Attorney's Office	-	-	-	\$52,571	-	-	-	\$137,728	-	-	\$190,299
1st Judicial District Attorney's Office	-	-	-	-	-	-	-	\$19,962	-	-	\$19,962
2nd Judicial District Attorney's Office	\$58,144	-	-	-	\$65,855	\$356,189	\$8,535	\$117,660	\$16,726	\$15,947	\$639,056
4th Judicial District Attorney's Office	-	-	-	\$1,421	-	-	-	-	-	-	\$1,421
8th Judicial District Attorney's Office	-	-	-	\$7,392	-	-	-	-	-	-	\$7,392
All Crimes Enforcement Team (ACET)	-	-	-	-	-	-	-	\$3,753	-	-	\$3,753
Arapahoe County	-	-	-	-	-	-	-	-	\$36,314	-	\$36,314
Arvada, City of	-	-	-	-	-	\$14,946	-	-	-	-	\$14,946
Bayfield, Town of	-	-	-	-	-	-	-	\$10,124	-	-	\$10,124
Boulder County	-	-	\$15,000	-	-	\$7,529	\$4,051	-	\$5,380	-	\$31,960
Boulder County Drug Task Force	-	-	\$12,000	-	\$13,700	\$119	\$1,829	-	\$5,612	-	\$33,260
Brush, City of	\$4,000	-	-	-	-	-	-	-	-	-	\$4,000
Canon City, City of	-	-	\$98	-	-	-	\$18	-	-	\$1,000	\$1,116

Agency	A	B	C	D	E	F	G	H	Ia	Ib	Totals
	Prevention Programs	Victim Services	Informants/ Controlled Buys	Employee Compensation	Professional Services	Travel and Training	Operating Expenses	Capital, Vehicles, Equipment	Other Expenditure	Transfers to Partner Agencies	
Colorado Department of Law, Colorado Attorney General's Office	-	-	-	-	-	\$79,505	-	\$23,634	\$21,250	-	\$124,390
Colorado Springs Metro Vice, Narcotics and Intelligence Division Taskforce	-	-	-	-	\$2,500	\$4,252	\$60	-	\$22,558	-	\$29,369
Colorado Springs, City of	-	-	-	-	\$50,000	-	\$25,980	\$222,810	-	\$33,934	\$332,724
Colorado State Patrol	-	-	-	\$186,442	-	\$121,629	\$7,285	\$145,728	-	-	\$461,084
Crestone, Town of	-	-	-	-	-	\$158	\$1,000	-	\$986	-	\$2,144
Denver, City And County of	\$58,144	-	-	-	\$65,855	\$495,653	\$10,474	\$284,790	\$16,726	\$15,947	\$947,590
Douglas County	-	-	-	-	-	\$67,769	\$13,501	\$98,729	-	-	\$179,998
Douglas County Impact Unit	-	-	-	-	-	\$7,938	\$3,568	\$47,600	-	\$232,792	\$291,898
Eagle County	-	-	-	-	\$5,000	-	-	-	\$7,185	-	\$12,185
Edgewater, City of	-	-	-	-	-	-	-	\$4,700	-	-	\$4,700
El Paso County	-	-	-	-	-	\$2,306	-	\$33,934	-	-	\$36,239
Englewood, City of	-	-	-	-	-	-	-	\$133,923	-	-	\$133,923
Erie, Town of	-	-	-	-	-	-	-	\$6,341	-	-	\$6,341
Greeley, City of	-	-	-	-	-	-	-	-	\$5,344	-	\$5,344
Greenwood Village, City of	-	-	-	-	-	-	-	\$32,537	-	-	\$32,537

Agency	A	B	C	D	E	F	G	H	Ia	Ib	Totals
	Prevention Programs	Victim Services	Informants/ Controlled Buys	Employee Compensation	Professional Services	Travel and Training	Operating Expenses	Capital, Vehicles, Equipment	Other Expenditure	Transfers to Partner Agencies	
Ignacio, Town of	-	-	-	-	-	-	-	\$10,899	-	-	\$10,899
Jefferson County	-	-	\$77	-	-	\$1,316	-	-	\$56	-	\$1,449
La Plata County	-	-	-	-	-	-	-	\$41,077	-	-	\$41,077
Lakewood, City of	-	-	-	-	-	-	-	\$1,000	\$3,333	-	\$4,333
Longmont, City of	-	-	-	-	-	-	\$762	\$4,892	-	-	\$5,654
Monte Vista, City of	-	-	-	-	-	-	-	\$9,000	-	-	\$9,000
Montezuma County	-	-	-	-	-	-	-	-	-	\$5,000	\$5,000
North Metro Task Force	-	-	-	\$6,000	\$8,574	\$2,311	\$197,407	\$25,972	\$6,138	\$4,923	\$251,325
Northern Colorado Drug Task Force (NCDTF)	-	-	\$909	-	\$2,505	\$1,048	\$7,053	\$19,639	\$20,021	-	\$51,175
Olney Springs, Town of	-	-	-	\$40,000	\$6,650	\$200	\$3,700	-	-	-	\$50,550
Palisade, Town of	-	-	-	-	-	\$6,526	-	-	-	-	\$6,526
Parker, Town of	-	-	-	-	-	-	-	\$79,474	-	-	\$79,474
Prowers County	-	-	-	-	-	-	-	\$8,268	-	-	\$8,268
Pueblo, City of	-	-	-	-	-	-	\$48,703	\$368,078	-	-	\$416,781

Agency	A	B	C	D	E	F	G	H	Ia	Ib	Totals
	Prevention Programs	Victim Services	Informants/ Controlled Buys	Employee Compensation	Professional Services	Travel and Training	Operating Expenses	Capital, Vehicles, Equipment	Other Expenditure	Transfers to Partner Agencies	
Summit County Committee on Disposition of Forfeited Property (Fifth Judicial District Task Force)	-	-	-	-	-	-	-	\$14,234	-	-	\$14,234
Weld County	-	-	-	-	\$8,636	\$4,654	\$13,601	\$4,551	-	-	\$31,442
Weld County Drug Task Force	-	-	-	-	-	-	-	\$55,257	-	-	\$55,257
West Metro Drug Task Force	-	-	-	-	\$49,500	\$20,324	\$258,627	\$23,652	\$208,414	-	\$560,517
Westminster, City of	-	-	-	-	\$22,859	-	-	-	-	-	\$22,859
Wheat Ridge, City of	-	-	-	-	-	-	-	\$26,575	-	-	\$26,575
<b>Totals</b>	<b>\$120,289</b>	<b>\$0</b>	<b>\$28,084</b>	<b>\$293,826</b>	<b>\$301,635</b>	<b>\$1,194,371</b>	<b>\$606,155</b>	<b>\$2,016,920</b>	<b>\$376,043</b>	<b>\$309,542</b>	<b>\$5,246,864</b>

**Exhibit C: List of Reporting Agencies reporting no proceeds, no expenditures, and no retained proceeds for the prior fiscal year**

<b>List of Reporting Agencies: January 1, 2018 - December 31, 2018</b>		
13th Judicial District Attorney's Office	Bayfield, Town of	Chaffee County
14th Judicial District Attorney's Office	Bennett, Town of	Cheraw, Town of
15th Judicial District Attorney's Office	Bent County	Cherry Hills Village, City of
16th Judicial District Attorney's Office	Berthoud, Town of	Cheyenne County
17th Judicial District Attorney's Office	Bethune, Town of	Cheyenne Wells, Town of
19th Judicial District Attorney's Office	Black Hawk, City of	Clear Creek County
20th Judicial District Attorney's Office	Blanca, Town of	Coal Creek, Town of
21st Judicial District Attorney's Office	Blue River, Town of	Cokedale, Town of
3rd Judicial District Attorney's Office	Boone, Town of	Collbran, Town of
5th Judicial District Attorney's Office	Boulder, City of	Columbine Valley, Town of
7th Judicial District Attorney's Office	Bow Mar, Town of	Commerce City, City of
Adams County	Branson, Town of	Conejos County
Adams State University Police Department	Breckenridge, Town of	Cortez, City of
Aguilar, Town of	Brighton, City of	Costilla County
Akron, Town of	Brookside, Town of	Craig, City of
Alamosa County	Broomfield, City and County of	Crawford, Town of
Alamosa, City of	Buena Vista, Town of	Creede, City of
All Crimes Enforcement Team (ACET)	Burlington, City of	Crested Butte, Town of
Alma, Town of	Calhan, Town of	Cripple Creek, City of
Antonito, Town of	Campo, Town of	Crook, Town of
Arapahoe Community College Police Department	Carbonate, Town of	Crowley County
Archuleta County	Carbondale, Town of	Crowley, Town of
Arriba, Town of	Castle Pines, City of	Custer County
Ault, Town of	Castle Rock, Town of	Dacono, City of
Auraria Campus Police Department	Cedaredge, Town of	De Beque, Town of
Aurora, City of	Centennial, City of	Deer Trail, Town of
Baca County	Center, Town of	Del Norte, Town of
Basalt, Town of	Central City	Delta County

**Exhibit C: List of Reporting Agencies reporting no proceeds, no expenditures, and no retained proceeds for the prior fiscal year**

<b>List of Reporting Agencies: January 1, 2018 - December 31, 2018</b>		
Delta, City of	Frisco, Town of	Hotchkiss, Town of
Dillon, Town of	Front Range Task Force	Hudson, Town of
Dinosaur, Town of	Fruita, City of	Huerfano County
Dolores County	Garden City, Town of	Hugo, Town of
Dolores, Town of	Garfield County	Idaho Springs, City of
Dove Creek, Town of	Genoa, Town of	Iliff, Town of
Eads, Town of	Georgetown, Town of	Jackson County
Eagle County	Gilcrest, Town of	Jamestown, Town of
Eagle, Town of	Gilpin County	Johnstown, Town of
Eaton, Town of	Glendale, City of	Julesburg, Town of
Eckley, Town of	Golden, City of	Keenesburg, Town of
Elizabeth, Town of	GORE Range Narcotics Interdiction Team (Granite)	Kersey, Town of
Empire, Town of	Granada, Town of	Kim, Town of
Erie, Town of	Granby, Town of	Kiowa County
Estes Park, Town of	Grand County	Kiowa, Town of
Evans, City of	Grand Junction, City of	Kit Carson County
Fairplay, Town of	Grand Lake, Town of	Kit Carson, Town of
Federal Heights, City of	Greeley, City of	Kremmling, Town of
Firestone, Town of	Green Mountain Falls, Town of	La Jara, Town of
Flagler, Town of	Grover, Town of	La Junta, City of
Fleming, Town of	Gunnison County	La Salle, Town of
Florence, City of	Gunnison, City of	La Veta, Town of
Fort Collins, City of	Gypsum, Town of	Lafayette, City of
Fort Lewis College Police Department	Haswell, Town of	Lake City, Town of
Fort Lupton, City of	Haxtun, Town of	Lake County
Fort Morgan, City of	Hayden, Town of	Lakeside, Town of
Fountain, City of	Hillrose, Town of	Larimer County
Fowler, Town of	Hinsdale County	Larkspur, Town of
Foxfield, Town of	Holly, Town of	Las Animas County
Fraser, Town of	Holyoke, City of	Las Animas, City of
Frederick, Town of	Hooper, Town of	Leadville, City of
Fremont County	Hot Sulphur Springs, Town of	Limon, Town of

**Exhibit C: List of Reporting Agencies reporting no proceeds, no expenditures, and no retained proceeds for the prior fiscal year**

<b>List of Reporting Agencies: January 1, 2018 - December 31, 2018</b>		
Lincoln County	Mountain Village, Town of	Platteville, Town of
Littleton, City of	Mt. Crested Butte, Town of	Poncha Springs, Town of
Lochbuie, Town of	Naturita, Town of	Pritchett, Town of
Log Lane Village, Town of	Nederland, Town of	Prowers County
Logan County	New Castle, Town of	Pueblo Community College Police Department
Lone Tree, City of	Northglenn, City of	Ramah, Town of
Louisville, City of	Norwood, Town of	Rangely, Town of
Loveland, City of	Nucla, Town of	Raymer, Town of
Lyons, Town of	Nunn, Town of	Red Cliff, Town of
Manassa, Town of	Oak Creek, Town of	Red Rocks Community College Police Department
Mancos, Town of	Olathe, Town of	Rico, Town of
Manitou Springs, City of	Olney Springs, Town of	Ridgway, Town of
Manzanola, Town of	Ophir, Town of	Rifle, City of
Marble, Town of	Orchard City, Town of	Rio Blanco County
Mead, Town of	Ordway, Town of	Rio Grande County
Meeker, Town of	Otero County	Rockvale, Town of
Merino, Town of	Otis, Town of	Rocky Ford, City of
Mesa County	Ouray County	Romeo, Town of
Metro Gang Task Force	Ouray, City of	Routt County
Miliken, Town of	Ovid, Town of	Rye, Town of
Mineral County	Pagosa Springs, Town of	Saguache County
Minturn, Town of	Palisade, Town of	Saguache, Town of
Moffat County	Palmer Lake, Town of	Salida, City of
Moffat, Town of	Paoli, Town of	San Juan County
Monte Vista, City of	Paonia, Town of	San Luis, Town of
Montezuma, Town of	Parachute, Town of	San Miguel County
Montrose County	Park County	Sanford, Town of
Montrose, City of	Peetz, Town of	Sawpit, Town of
Monument, Town of	Phillips County	Sedgwick County
Morgan County	Pierce, Town of	Sedgwick, Town of
Morrison, Town of	Pitkin County	Seibert, Town of
Mountain View, Town of	Pitkin, Town of	Severance, Town of

**Exhibit C: List of Reporting Agencies reporting no proceeds, no expenditures, and no retained proceeds for the prior fiscal year**

List of Reporting Agencies: January 1, 2018 - December 31, 2018		
Sheridan, City of	Walsh, Town of	
Silver Cliff, Town of	Ward, Town of	
Silver Plume, Town of	Washington County	
Silverthorne, Town of	Wellington, Town of	
Silverton, Town of	Westcliffe, Town of	
Simla, Town of	Western Colorado Drug Task Force	
Snowmass Village, Town of	Westminster, City of	
South Fork, Town of	Wiggins, Town of	
Southwest Drug Task Force	Wiley, Town of	
Springfield, Town of	Williamsburg, Town of	
Starkville, Town of	Windsor, Town of	
Steamboat Springs, City of	Winter Park, Town of	
Stratton, Town of	Woodland Park, City of	
Sugar City, Town of	Wray, City of	
Summit County	Yampa, Town of	
Superior, Town of	Yuma County	
Swink, Town of	Yuma, City of	
Teller County		
Timnath, Town of		
TRIDENT Task Force		
Trinidad, City of		
Two Buttes, Town of		
University of Colorado - Colorado Springs Police Department		
University of Colorado Anschutz Police Department		
University of Colorado Boulder Police Department		
University of Northern Colorado Police Department		
Vail, Town of		
Victor, City of		
Vilas, Town of		
Vona, Town of		
Walden, Town of		
Walsenburg, City of		

# 1313 Task Force Report

Recommendations related to the passage of HB 17-1313 “Civil Forfeiture Reform” (Herod & Humphrey/Neville & Kagan)

2017 Report to:

The Honorable John Hickenlooper  
Governor of Colorado

Members of the Senate and House Judiciary Committees  
Colorado General Assembly

December 1, 2017

**Table of Contents:**

**Letter of Transmittal.....Page 3**

**Executive Summary.....Page 4**

**Task Force Members.....Page 4**

**Statement of Purpose.....Page 5**

**1313 Task Force Process.....Page 6**

**Task Force Recommendations.....Page 7**

    Recommendation #1 - Create Definition of “Reporting Agency” .....Page 7

    Recommendation #2 - Add New Field in DOLA Reporting Form.....Page 8

    Recommendation #3 – Clarification Regarding Enforcement of Fining Provisions.....Page 8

    Recommendation #4 – Guidelines For How Law Enforcement Agencies May Utilize Federal Equitable Sharing Proceeds.....Page 9

    Recommendation #5 – Apply Reporting Requirements to Forfeitures Effected Under Local Public Nuisance Ordinances.....Page 10

    Recommendation #6 – Establishment of Grant Programs to Assist Law Enforcement Agencies.....Page 11

**Conclusion.....Page 13**

**Appendix A.....Page 15**

**Appendix B.....Page 17**

**Appendix C.....Page 20**

**Appendix D.....Page 21**

**Appendix E.....Page 22**

December 1, 2017

To: The Honorable John Hickenlooper  
Governor of Colorado

Members of the House and Senate Judiciary Committees  
Colorado General Assembly

We, the co-chairs of the 1313 Task Force, are pleased to present this report pursuant to the Governor's signing letter dated June 9, 2017. The signing letter directed the Colorado Department of Public Safety and the Colorado Department of Local Affairs to form an inclusive Task Force to study and issue recommendations related to the passage of HB 17-1313 "Civil Forfeiture Reform".

Members of the Task Force represent a wide variety of organizations and agencies that are directly impacted by civil asset forfeiture and that actively participated in the legislative process during passage of HB 17-1313. Through four months of discussion on important issues including guidelines for use of forfeiture revenue, enhanced due process, a grant program for impacted law enforcement agencies, and many others, Task Force members were given the opportunity to study, deliberate, and acknowledge differing points of view. Although not all recommendations were unanimously approved, the Task Force is confident that the recommendations in this report represent a good-faith effort to identify well-informed policy related to HB 17-1313.

We would like to extend our appreciation to Governor Hickenlooper and the prime sponsors of HB 17-1313, Representatives Herod and Humphrey and Senators Neville and Kagan, for the opportunity to engage in these important discussions. We also acknowledge that the recommendations only reflect the opinions of the members of the Task Force and that no formal positions have been taken by any outside organizations, including those with representatives on the Task Force. We look forward to remaining involved should the General Assembly choose to implement the Task Force's recommendations.

Sincerely,

Irv Halter  
*Executive Director,*  
*Department of Local Affairs*  
*Co-Chair of the 1313 Task Force*

Stan Hilkey  
*Executive Director,*  
*Department of Public Safety*  
*Co-Chair of the 1313 Task Force*

**Executive Summary:**

During the 2017 legislative session, HB 17-1313 “Civil Forfeiture Reform” was introduced. The bill:

- Requires forfeiture case with assets of \$50,000 or less to go through the state forfeiture system instead of the federal system;
- Requires any forfeiture being processed through the federal system to be related to a criminal case;
- Establishes comprehensive reporting requirements for all seizing agencies;
- Creates a reporting mechanism in the Colorado Department of Local Affairs (DOLA) and requires public access to the information that is reported; and
- Establishes a fine for agencies that do not comply with the reporting requirements.

Governor Hickenlooper signed HB 17-1313 and issued an accompanying signing letter<sup>1</sup> requiring the establishment of a Task Force to consider specific issues pertaining to the legislation. After robust discussion over the course of five Task Force meetings and additional subcommittee meetings, the 1313 Task Force issues the following six recommendations:

- *Recommendation #1* – Create a definition for “reporting agency” to clarify which entities are required to report
- *Recommendation #2* – Add a new field in the DOLA reporting form to make clear when a multi-jurisdictional task force disburses money to member agencies
- *Recommendation #3* – Do not designate a specific state agency as the fining provision enforcement agency
- *Recommendation #4* – Do not issue further guidelines regarding how local law enforcement agencies may utilize federal equitable sharing revenue
- *Recommendation #5* – Require reporting to DOLA for seizures and forfeitures effected under local public nuisance ordinances
- *Recommendation #6* – Establish a non-discretionary grant program to reimburse law enforcement agencies negatively impacted by HB 17-1313 and create a discretionary grant program to assist law enforcement agencies and their communities with important issues including community policing and outreach, substance abuse, technology, and training.

**Task Force Members:**

The following is a list of the official members of the 1313 Task Force:

Name	Department/Organization
Meghan Dollar	Colorado Municipal League (CML)
Director Irv Halter	Colorado Department of Local Affairs (DOLA)
Sergeant Sean Harper	Fraternal Order of Police (FOP)
Representative Leslie Herod	House Sponsor of HB 17-1313

<sup>1</sup> For more information, please see Appendix A.

Name	Department/Organization
Director Stan Hilkey	Colorado Department of Public Safety (CDPS)
Representative Steve Humphrey	House Sponsor of HB 17-1313
Senator Daniel Kagan	Senate Sponsor of HB 17-1313
Denise Maes	American Civil Liberties Union (ACLU)
Nick Mitchell	Denver Office of the Independent Monitor (OIM)
Senator Tim Neville	Senate Sponsor of HB 17-1313
Chief Mike Phibbs	Colorado Association of Chiefs of Police (CACP)
Tom Raynes	Colorado District Attorneys' Council (CDAC)
Brendon Reese	Colorado Department of Revenue (DOR)
Malcolm Seawell	Colorado Criminal Defense Bar (CCDB)
Scott Turner	Attorney General's Office (AG)
Sheriff Lou Vallario	County Sheriffs of Colorado (CSOC)
Art Way	Drug Policy Alliance (DPA)
Commissioner David Weaver	Colorado Counties, Inc. (CCI)

Please note that Executive Directors Irv Halter and Stan Hilkey served as co-chairs of the Task Force.

**Statement of Purpose:**

HB 17-1313 “Civil Forfeiture Reform” (Herod & Humphrey/Neville & Kagan) was signed into law by the Governor on June 9, 2017. During the legislative process, there was significant debate over provisions of the bill including the \$50,000 threshold under which forfeitures must be directed to the state system, compliance by seizing agencies, and reporting requirements. The sponsors’ stated intent of the bill is to direct more forfeitures to the state system which has more stringent due process requirements than the current federal process. Opponents feared that the bill would decrease the activities of multi-jurisdictional Task Forces that are imperative in the fight against drugs, human trafficking, and other forms of crime. Opponents were also concerned that the bill created a burdensome reporting structure that could lead to heavy fines for law enforcement agencies that did not comply.

Ultimately, Governor Hickenlooper signed HB 17-1313 into law with an accompanying signing letter that directed the Colorado Department of Public Safety (CDPS) and the Colorado Department of Local Affairs (DOLA) to convene a task force to make recommendations on the following topics:

- Enhanced due process protections;
- Criteria to determine how best to direct civil forfeiture proceedings to the appropriate authority - federal or state;
- Guidelines for how local law enforcement agencies use funds collected through federal equitable sharing programs;
- Process and timeline improvements for civil asset forfeitures under Colorado law;
- Establishing a State program to provide funds to the current recipients of forfeiture proceeds, thereby keeping law enforcement agencies whole; and
- Identifying an agency, other than DOLA, as the enforcer of reporting requirements.

The purpose of this report is to outline and provide background for the recommendations made by the 1313 Task Force.

### **1313 Task Force Process:**

The Task Force consists of 18 members including the sponsors of HB 17-1313, three state agencies, and members of other organizations that are directly impacted by the provisions of HB 17-1313. Members of the Task Force, as well as other stakeholders, met five times to complete the Governor's charge and identify specific recommendations. The meetings took place on August 10<sup>th</sup>, August 30<sup>th</sup>, October 4<sup>th</sup>, October 26<sup>th</sup>, and November 15<sup>th</sup>.

At the first Task Force meeting, the drafter of HB 17-1313 gave an overview of the bill and its provisions. The Task Force also heard from Tonya Andrews, a representative from the U.S. Attorney's Office, who gave an overview of the federal forfeiture process. Tom Raynes and Jacob Edson, Chief Deputy District Attorney in the 18<sup>th</sup> Judicial District, gave an overview of the state forfeiture process including due process and how forfeiture proceeds are distributed.

Most topics were discussed and considered by the entire Task Force; however, the Task Force did identify three topic areas that required more detailed consideration for which subcommittees were formed:

- **Local Public Nuisance Ordinance Subcommittee** – This subcommittee consisted of Representative Leslie Herod, Meghan Dollar (CML), Denise Maes (ACLU), Malcolm Seawall (CDB), and Nick Mitchell (OIM). The origin of this subcommittee was discussions about enhanced due process protections. The Task Force determined that, through the anticipated result of HB 17-1313 directing more forfeiture cases to the state process instead of the federal process, enhanced due process will happen naturally. However, the Task Force did agree that further study into local public nuisance ordinances and their impact on due process would be appropriate. Therefore, the subcommittee met twice to determine the following:
  - Whether a problem exists with cities using public nuisance ordinances to forfeit property without due process or a conviction; and
  - If so, whether this issue could be addressed in the state forfeiture statute.
- **Grant Program Subcommittee** – This subcommittee consisted of Representative Leslie Herod, Senator Tim Neville, Senator Daniel Kagan, Gabby Reed (CDPS), Daniel Haley (CSP), Sean Harper (FOP), Meghan Dollar (CML), Sheriff Lou Vallario (CSOC), Adeline Hodge (FOP), Allison Daley (CCI), and Frank Cornelia (Colorado Behavioral Health Council). This subcommittee met twice to determine:
  - How to allocate monetary resources from the State to local law enforcement agencies that were negatively impacted by HB 17-1313; and
  - Creation of a new grant program that could be accessed by law enforcement agencies and their communities for community policing and outreach, substance abuse, technology, training, and other important issues.

- **Drafting Subcommittee** – This subcommittee consisted of Representative Leslie Herod, Senator Tim Neville, Tom Raynes (CDAC), Chief Phibbs (CACP) and Jerry Barry (OLLS). The purpose of this subcommittee was to work with the Office of Legislative Legal Services to draft language for consideration by the Task Force and to conduct research on statutory questions raised by the Task Force.

Members of the subcommittees gave progress reports to the Task Force after which the Task Force would discuss each issue as a group and make specific recommendations. The voting threshold for the Task Force to officially support a recommendation was a two-thirds majority vote of the present members.

## **Task Force Recommendations:**

### **Recommendation #1 – Create Definition of “Reporting Agency”**

#### *Full Recommendation:*

Replace the term “seizing agency” with the term “reporting agency” under C.R.S. 16-13-701(2). “Reporting agency” would have the following definition:

#### (c) REPORTING AGENCY MEANS:

(I) ANY STATE OR LOCAL GOVERNMENTAL ENTITY THAT EMPLOYS A PERSON, OTHER THAN A JUDGE OR MAGISTRATE, WHO IS AUTHORIZED TO EFFECTUATE A FORFEITURE OF REAL OR PERSONAL PROPERTY, PURSUANT TO:

(A) PART 3 OF THIS ARTICLE 13, ABATEMENT OF PUBLIC NUISANCE;

(B) PART 5 OF THIS ARTICLE 13, “COLORADO CONTRABAND FORFEITURE ACT”;

(C) PART 6 OF THIS ARTICLE 13, RECEIPT OF FEDERALLY FORFEITED PROPERTY; OR

(D) SECTIONS 18-17-105 AND 18-17-106 OF THE “COLORADO ORGANIZED CRIME CONTROL ACT”; OR

(II) THE OFFICE OF A DISTRICT ATTORNEY;

#### *Background and Justification:*

Under current law, agencies that do not receive forfeiture proceeds are not technically required to report; however, the legislative intent was for all agencies to report regardless of whether they received forfeiture revenue or not. Thus, the Task Force decided there was a need to clarify the definition of “seizing agency” under the HB 17-1313. After discussion, the Task Force determined that a streamlined approach to clarify the definition for purposes of the reporting provisions is to change the term “seizing agency” to “reporting agency” which clearly defines the agencies required to report. The new definition limits reporting to agencies that employ persons who are authorized to effectuate forfeitures under the sections specifically outlined in C.R.S. 16-13-701(3).

#### *Task Force Vote and Actions Needed:*

This recommendation was approved unanimously by the Task Force. Legislative action is necessary to insert the new term and definition.

**Recommendation #2 – Add New Field in DOLA Reporting Form**

*Full Recommendation:*

Add a new field to the DOLA reporting form that reflects disbursements from a multi-jurisdictional Task Force to its member agencies.

*Background and Justification:*

Under current law, DOLA is responsible for collecting reports from seizing agencies in the state and providing a searchable database that the public may use to access the reported information. Since the passage of HB 17-1313, DOLA has been working with stakeholders to develop a reporting form that streamlines reporting and creates a straightforward mechanism for agencies to fully comply with the reporting provisions. Although many components of the reporting requirement were discussed by the Task Force, the issue of duplicate reporting presented a key concern. Specifically, it became clear that forfeitures received from multi-jurisdictional task forces and then distributed to member agencies would be double-counted since each entity would be required to report the forfeiture revenue when it is received *and* when the revenue is expended. In order to alleviate this concern and to provide more accurate data, a separate field will be added to the reporting form to specifically show disbursements from a Task Force to member entities. The multi-jurisdictional task force will be the entity responsible for reporting the disbursement information to DOLA.

*Task Force Vote and Action Needed:*

This recommendation was approved unanimously by the Task Force. No legislative action is required to implement this recommendation; DOLA can incorporate this recommendation into their current stakeholder process as they finalize the reporting form. The final reporting form is required to be available to reporting agencies by December 31, 2017.

**Recommendation #3 – Clarification Regarding Enforcement of Fining Provisions**

*Full Recommendation:*

Maintain current law and do not identify a specific agency to enforce the fining provision under HB 17-1313.

*Background and Justification:*

Current law is silent on which state agency shall levy fines for non-compliance of the reporting requirements. The Task Force spent a significant amount of time discussing the fining provision under HB 17-1313 including possible alternatives to the fine and identifying a state agency to be responsible for enforcing the fining provision. The Task Force discussed the following alternatives to the fining provision:

- Eliminating state grant funding opportunities for agencies that do not comply with the reporting requirements;
- Publicizing a list of agencies that do not submit a report;
- Creating a private right of action against an agency that does not submit a report; and
- Prohibiting non-compliant agencies from receiving state forfeiture proceeds.

Several members of the Task Force voiced concern that all of these options were either too heavy handed, such as eliminating state grant funding opportunities, or were not strong enough, such as publicizing a list of agencies that did not report.

Identifying a state agency that could enforce the fining provision without a conflict of interest proved challenging. The Department of Revenue was considered as a possibility; however, due to the cost to fully develop a system to identify non-compliant agencies and conduct fine collection, the Task Force decided this was not a viable option.

After much debate, the Task Force came to the conclusion that reporting compliance rates will be high and that the corresponding compliance workload will be minimal. Therefore, current language is adequate and no changes are necessary. In addition, the language in HB 17-1313 was drafted based on other parts of statute where similar language exists. An Office of Legislative Legal Services (OLLS) memo was drafted demonstrating examples of similar language<sup>2</sup>. The Task Force agrees that more time is necessary to gauge compliance rates and, after more time has passed and when additional information is available, the need to specifically identify an enforcement agency can be re-evaluated.

*Task Force Vote and Action Needed:*

This recommendation was approved 16-1 by the Task Force with the following organization voting no: Drug Policy Alliance. No legislative action is required to implement this recommendation; current law under HB 17-1313 does not designate an enforcement agency to levy fines.

**Recommendation #4 – Guidelines Regarding How Law Enforcement Agencies May Utilize Equitable Sharing Proceeds**

*Full Recommendation:*

This issue was discussed by the Task Force and no recommendation for action has been made by the Task Force.

*Background and Analysis:*

The Department of Justice (DOJ) presented to the Task Force regarding current guidelines for how law enforcement agencies may utilize equitable sharing proceeds. The DOJ has guidelines in place pertaining to how a law enforcement agency may use equitable sharing proceeds. These guidelines are published in the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*. Under the federal guidelines, forfeiture proceeds may be used for the following purposes, among others:

- Law enforcement operations and investigations
- Law enforcement training and education
- Law enforcement equipment
- Joint law enforcement/public safety operations
- Drug and gang education and other awareness programs
- Support of community-based programs

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<sup>2</sup> Included in Appendix B

Impermissible uses include, but are not limited to:

- Uses contrary to the laws of the state or local jurisdiction
- Personal or political use of shared assets
- Purchase of food and beverages
- Extravagant expenditures
- Petty cash account and stored value cards
- Purchase of items for other law enforcement agencies
- Costs related to lawsuits
- Loans

The Department of Justice regularly conducts audits of state and local law enforcement agencies to ensure that the agencies are utilizing equitable sharing proceeds as prescribed by law. Additionally, most communities around the state have local boards that determine how forfeiture proceeds shall be utilized.

*Task Force Vote and Action Needed:*

This recommendation was approved 16-1 by the Task Force with the following organization voting no: Drug Policy Alliance. No legislative action is required to implement this recommendation.

**Recommendation #5 – Require DOLA Reporting for Seizures and Forfeitures That Occur Under Local Public Nuisance Ordinances**

*Full Recommendation:*

Increase transparency by requiring any seizures and forfeitures that take place under a local public nuisance law or ordinance be included in the DOLA report. The Task Force recommends the addition of the following language to the new definition of “reporting agency” under Recommendation #1 on page seven:

(III) ANY LOCAL GOVERNMENTAL ENTITY CHARGED WITH ENFORCEMENT OF LOCAL LAWS OR ORDINANCES GOVERNING PUBLIC NUISANCES WITHIN ITS LOCAL JURISDICTION THAT OBTAINS PROCEEDS AS A RESULT OF A SEIZURE AND FORFEITURE PURSUANT TO SUCH LAWS OR ORDINANCES.

This language shall be further clarified to exempt abandoned or found property from triggering the reporting requirement.

The following language shall also be added to C.R.S. 16-13-701 (3):

- (3) This section applies to property seized under the following:
- (a) Part 3 of this article 13, abatement of public nuisance;
  - (b) Part 5 of this article 13, “Colorado Contraband Forfeiture Act”;
  - (c) Part 6 of this article 13, receipt of federally forfeited property;
  - (d) Section 18-17-105 and 18-17-106 of the “Colorado Organized Crime Control Act” AND;

(e) ANY LOCAL PUBLIC NUISANCE LAW OR ORDINANCE

*Background and Analysis:*

Denise Maes originally broached the topic of local public nuisance ordinances and their possible impact on due process. There was general concern that some municipalities are using such ordinances to confiscate vehicles, personal property, and cash without a case being filed. As outlined earlier in this report, the Task Force agreed to form a subcommittee to further study the issue. Although the subcommittee was able to identify examples of municipalities that generate noticeable revenue from asset forfeiture; ultimately, it was determined that not enough data is currently available to understand the impact of this practice statewide. Therefore, instead of issuing a recommendation concerning changes to due process relating to seizures and forfeitures effected under local public nuisance laws and ordinances, the subcommittee focused on reporting and transparency. The ultimate recommendation adds seizures and forfeitures that take place under local public nuisance laws and ordinances to the DOLA reporting requirement implemented by HB 17-1313. This will allow data to be collected before taking further action on this issue.

*Task Force Vote and Action Needed:*

This recommendation was approved 13-4 by the Task Force with the following organizations voting no: Colorado Municipal League, Colorado Counties, Inc., Colorado Association of Chiefs of Police, and the Fraternal Order of Police. Legislative action is necessary to insert the proposed language.

**Recommendations #6 – Establishment of Grant Programs to Assist Law Enforcement Agencies**

*Full Recommendation:*

Part 1 – Establish a non-discretionary grant program within CDPS, to assist in reimbursing law enforcement agencies for lost forfeiture proceeds as a result of HB 17-1313. This will be funded through the \$1.5 million placeholder in the Governor’s FY 2018-19 budget. CDPS will develop policies and procedures regarding how to best allocate the funds. Law enforcement agencies that can demonstrate they have received federal equitable sharing revenue for cases under the \$50,000 threshold in the past shall be eligible to receive grant funding. Grants may only be utilized for items outlined as permissible uses under federal equitable sharing guidelines.

Part 2 – Establish a discretionary grant program within DOLA to dedicate additional resources to law enforcement agencies and the communities they serve. Dedicated grant funding will come from changing the state distribution formula (C.R.S. 16-13-311) to the following:

- 50% to the seizing law enforcement agency
- 25% to the local MSO
- 25% to the grant program

A committee will be created to evaluate grant applications and decide which applications to fund. Possible uses of the grant program may include, but are not limited to: community policing and outreach; drug intervention, prevention, treatment, and recovery; technology; and training.

*Background and Analysis:*

The Grant Program Subcommittee was created to determine how best to create a grant program to provide funds to the current recipients of forfeiture proceeds as directed by the Governor's signing letter. The grant subcommittee agreed that the \$1.5 million set aside in the Governor's FY 2018-19 budget should be used solely to reimburse and help "make whole" law enforcement agencies that were negatively impacted by HB 17-1313. It was also determined that this would be best accomplished through a non-discretionary grant program that would be administered by the CDPS. The grant program will require law enforcement agencies to apply for the grant and demonstrate proof of equitable sharing proceeds from cases below the \$50,000 threshold in previous years. Grants will be determined by the average amount of equitable sharing proceeds that each law enforcement agency received annually from cases under \$50,000 prior to the passage of HB 17-1313. Additionally, grants may only be utilized for items outlined as permissible uses under federal equitable sharing guidelines.

The subcommittee also discussed the opportunity to create a separate grant program, to be housed in DOLA, that would be funded through a change to the current 50/50 state distribution formula<sup>3</sup>. Under current law, 50% of remaining forfeiture proceeds go to the seizing law enforcement agency and 50% go to the Managed Service Organization (MSO) in the judicial district where the forfeiture took place. In FY 2016-17, MSOs' received \$448,259.47<sup>4</sup> from this funding source. Under this proposal, the distribution formula would change to the following:

- 50% to the seizing law enforcement agency
- 25% to the local MSO (changed from the current 50%)
- 25% to the new discretionary grant program

Over the past nineteen years, an average of \$1,659,744 in forfeiture revenue has been generated annually by forfeitures under \$50,000 that are processed through the federal system<sup>5</sup>. Under HB 1313, these forfeitures must now be processed through the state forfeiture system. Therefore, the amount of revenue being split between law enforcement agencies and MSOs is expected to increase by a similar amount. Even under the reduced allocation in the formula outlined above, MSOs are projected to receive more revenue from this funding source than they do under current law.

Under the new grant program, a committee would be formed to evaluate grant applications and make decisions as to which applicants receive grants. Both state and local agencies would be eligible to apply for the grants. The committee would consist of the following members:

- A representative of the Colorado Department of Local Affairs who shall chair the committee
- A representative of the Colorado Department of Public Safety
- A representative of a statewide organization representing District Attorneys
- A representative of the Office of the Attorney General
- A representative of a statewide organization representing county Sheriffs
- A representative of a statewide organization representing Chiefs of police

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<sup>3</sup> For more information, please refer to Appendix C.

<sup>4</sup> For more information, please refer to Appendix D.

<sup>5</sup> For more information, please refer to Appendix E.

- A representative of a statewide organization representing law enforcement officers
- A representative of a statewide organization representing municipalities
- A representative of a statewide organization representing counties
- A representative of a drug treatment organization
- A representative of a non-profit that advocates for civil liberties
- Four at-large community members appointed by the Governor who do not directly belong to any of the other organizations listed below
- Two legislative members (one appointed by the Speaker of the House and one appointed by the President of the Senate)

A grant application may be submitted by multiple entities (e.g. a joint application by a sheriff's department and a county human services department); however, each application *must* include at least one law enforcement agency. Being a member of the committee does not preclude that organization from applying for a grant; a recusal process shall be established whereby a member organization can apply without creating a conflict of interest. Grants can be utilized for a wide variety of different uses including, but not limited to: community policing and outreach; drug intervention, prevention, treatment, and recovery; technology; and training. Additionally, DOLA may utilize up to 5% of the grant program for administrative expenses.

*Task Force Vote and Action Needed:*

This recommendation was approved unanimously by the Task Force. Legislative action is required to establish both grant programs and to change the current distribution formula under the state forfeiture law.

## **Conclusion:**

The 1313 Task Force appreciates the opportunity to more closely consider some of the issues that were identified with the passage of HB 17-1313. Over the past four months, the Task Force has taken a close look at the issues outlined in the Governor's signing letter. Specifically, the Task Force has considered and issued recommendations addressing the following issues:

- Enhanced due process protections through the work of the local public nuisance ordinance subcommittee;
- Guidelines for the use of revenue from federal equitable sharing programs through the recommendation to not issue further associated guidelines or restrictions;
- Process and timeline improvements for civil asset forfeitures under Colorado law through discussion of streamlining reporting requirements and adding a definition for "reporting agency";
- Legislation to establish a state program to provide funds to the current recipients of forfeiture proceeds through the work of the Grant Program Subcommittee; and
- Legislation to update HB 17-1313 and remove of DOLA as the enforcer of reporting requirements through the recommendation to maintain current language.

These recommendations are the result of a collaborative process whereby many different parties were able to identify specific methods to alleviate the impacts of HB 17-1313 and assist in successful implementation of the new law.

## Appendix A – Governor’s HB 17-1313 Signing Letter:

## STATE OF COLORADO

## OFFICE OF THE GOVERNOR

136 State Capitol  
 Denver, Colorado 80203  
 Phone (303) 866-2471  
 Fax (303) 866-2003



John W. Hickenlooper  
 Governor

June 9, 2017

The Honorable Colorado House of Representatives  
 General Assembly  
 State Capitol  
 200 E. Colfax Ave.  
 Denver, CO 80203

Dear Members of the Colorado House of Representatives:

*Government should never keep assets seized from innocent people.* We all desire robust law enforcement to keep communities safe, and strong protections for Due Process rights. If the civil asset forfeiture process is to serve these goals, it must operate transparently and with adequate protections for all Coloradans. House Bill 17-1313 is an important first step to address problems inherent in the civil forfeiture laws. For these reasons, today I signed HB 17-1313 into law at 3:31 PM.

In early America, government for profit was the norm, rather than the exception. As Professor Nicholas Parrillo has observed,

Judges charged fees for transactions in cases they heard. District attorneys won a fee for each criminal they convicted. Tax investigators received a percentage of the evasions they discovered. Naval officers were awarded a percentage of the value of the ships they captured plus bounties for the enemy sailors on board ships they sank. . . . Policemen were allowed rewards for recovering stolen property or arresting suspects.

To our ears, these practices sound obsolete, and for good reason: modern government entails a workforce whose incentives are not distorted by the prospect of private gain. But civil forfeiture remains an outlier, a reminder that vestiges of these justifiably abandoned practices endure.

To say so is in no way to cast aspersions on the integrity of those in uniform. Law enforcement officers in Colorado have appropriately exercised their powers under existing law. To reform a system is not to indict the professionals who have, in good faith, operated under that system.

During consideration of House Bill 17-1313 (HB 17-1313), we met with sponsors, proponents, and opponents, and sought input from numerous other stakeholders and citizens. I sign this bill into law because it takes important steps in addressing substantial public policy concerns. But at the same time, we acknowledge that opponents’ concerns have merit, and so I do so with the understanding that it is only part of a larger set of reforms necessary.

First, today I directed the Department of Public Safety (DPS) and the Department of Local Affairs (DOLA) to establish a taskforce to develop further reforms and improvements to civil asset forfeiture in Colorado. The group will present recommendations to the General Assembly to inform

Colorado House of Representatives  
June 9, 2017  
Page 2 of 2

future legislation including: (1) enhanced Due Process protections; (2) criteria to determine how best to direct civil forfeiture proceedings to the appropriate authority - federal or state; (3) guidelines for how local law enforcement agencies use funds collected through federal equitable sharing programs; and (4) process and timeline improvements for civil asset forfeitures under Colorado law.

I have also reached out to bill sponsors, leadership, and members of the Joint Budget Committee about the need to ensure that nothing we do today impairs law enforcement's ability to protect public safety. I therefore sign HB 17-1313 with the understanding that the bill sponsors and proponents will actively support and lead, in coordination with the task force, the following: (1) legislation to establish a State program to provide funds to the current recipients of forfeiture proceeds, thereby keeping law enforcement agencies whole while also removing any perceived or actual pecuniary interest in forfeitures; (2) appropriation of adequate funds to support the program; and (3) legislation to update HB 17-1313 and removal of DOLA as the enforcer of reporting requirements, thereby retaining the collaborative, partnership-based relationship between municipalities and the Department.

Complex policy reform does not happen overnight. Whether the issue is mental health holds or construction defects reform, striking the right balance inevitably takes time. Today, we begin a process of reforming civil asset forfeiture. We stand ready to work with the General Assembly and stakeholders as we continue down this path.

Sincerely,



John W. Hickenlooper  
Governor

## Appendix B – OLLS Memo Concerning HB 17-1313 Fine Collection Language

**OFFICE OF LEGISLATIVE LEGAL SERVICES**  
COLORADO GENERAL ASSEMBLY



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### MEMORANDUM

TO: Representative Herod and Senator Neville  
FROM: Jeremiah B. Barry  
DATE: October 3, 2017  
SUBJECT: Question concerning who collects fines

At the House Bill 17-1313 Task Force meeting, a question arose as to whether it was necessary to specify where money from fines would go. If a statute is silent as to where fine revenue is to be credited, it goes to the general fund.

Also, you asked for examples of other statutes that did not specify who was responsible for collecting fines. Here are some examples:

**19-1-303. General provisions - delinquency and dependency and neglect cases - exchange of information - civil penalty. (4.7) Any person who knowingly violates the confidentiality provisions of this section shall be subject to a civil penalty of up to one thousand dollars.**

**19-2-508. Detention and shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions. (4) (d) (I) Any juvenile arrested and detained for an alleged violation of any article of title 42, C.R.S., or for any alleged violation of a municipal or county ordinance, and not released on bond, shall be taken before a judge with jurisdiction of such violation within forty-eight hours for the fixing of bail and conditions of bond pursuant to subparagraph (IV) of paragraph (a) of subsection (3) of this section. A juvenile may be detained in a jail, lockup, or other place used for the confinement of adult offenders only for processing for no**

longer than six hours and during such time shall be placed in a setting that is physically segregated by sight and sound from the adult offenders, and in no case may the juvenile be detained in such place overnight. After six hours, the juvenile may be further detained only in a juvenile detention facility operated by or under contract with the department of human services. In calculating time under this subsection (4), Saturdays, Sundays, and legal holidays shall be included.

(II) **A sheriff or police chief who violates the provisions of subparagraph (I) of this paragraph (d) may be subject to a civil fine of no more than one thousand dollars.** The decision to fine shall be based on prior violations of the provisions of subparagraph (I) of this paragraph (d) by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with subparagraph (I) of this paragraph (d).

**27-65-105. Emergency procedure.** (2) (a) When a person is taken into custody pursuant to subsection (1) of this section, such person shall not be detained in a jail, lockup, or other place used for the confinement of persons charged with or convicted of penal offenses; except that such place may be used if no other suitable place of confinement for treatment and evaluation is readily available. In such situation the person shall be detained separately from those persons charged with or convicted of penal offenses and shall be held for a period not to exceed twenty-four hours, excluding Saturdays, Sundays, and holidays, after which time he or she shall be transferred to a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation. If the person being detained is a juvenile, as defined in section 19-1-103 (68), C.R.S., the juvenile shall be placed in a setting that is nonsecure and physically segregated by sight and sound from the adult offenders. When a person is taken into custody and confined pursuant to this subsection (2), such person shall be examined at least every twelve hours by a certified peace officer, nurse, or physician or by an appropriate staff professional of the nearest designated or approved mental health treatment facility to determine if the person is receiving appropriate care consistent with his or her mental condition.

(b) **A sheriff or police chief who violates the provisions of paragraph (a) of this subsection (2), related to detaining juveniles may be subject to a civil fine of no more than one thousand dollars.** The decision to fine shall be based on prior violations of the provisions of paragraph (a) of this subsection (2) by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with paragraph (a) of this subsection (2).

**27-81-111. Emergency commitment.** (1) (a) When a person is intoxicated or incapacitated by alcohol and clearly dangerous to the health and safety of himself, herself, or others, he or she shall be taken into protective custody by law enforcement authorities or an emergency service patrol, acting with probable cause, and placed in

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an approved treatment facility. If no such facilities are available, he or she may be detained in an emergency medical facility or jail, but only for so long as may be necessary to prevent injury to himself, herself, or others or to prevent a breach of the peace. If the person being detained is a juvenile, as defined in section 19-1-103 (68), C.R.S., the juvenile shall be placed in a setting that is nonsecure and physically segregated by sight and sound from the adult offenders. A law enforcement officer or emergency service patrol officer, in detaining the person, is taking him or her into protective custody. In so doing, the detaining officer may protect himself or herself by reasonable methods but shall make every reasonable effort to protect the detainee's health and safety. A taking into protective custody under this section is not an arrest, and no entry or other record shall be made to indicate that the person has been arrested or charged with a crime. Law enforcement or emergency service personnel who act in compliance with this section are acting in the course of their official duties and are not criminally or civilly liable therefor. Nothing in this subsection (1) shall preclude an intoxicated or incapacitated person who is not dangerous to the health and safety of himself, herself, or others from being assisted to his or her home or like location by the law enforcement officer or emergency service patrol officer.

**(b) A sheriff or police chief who violates the provisions of paragraph (a) of this subsection (1) related to detaining juveniles may be subject to a civil fine of no more than one thousand dollars.** The decision to fine shall be based on prior violations of the provisions of paragraph (a) of this subsection (1) by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with paragraph (a) of this subsection (1).

## Appendix C – Current State Forfeiture Distribution Formula Overview

Under current law, C.R.S. 16-13-311 outlines how forfeiture proceeds under state law are distributed. Below is an overview of how those funds are distributed:

Property forfeited or proceeds therefrom (via public sale) shall be distributed in the following order:

1. Payment due on any liens left in the property;
2. Compensate innocent partial owners for their interest in the property;
3. Payment to any person who suffers bodily injury, property damage, or property loss as a result of conduct constituting public nuisance;
4. To law enforcement for reasonable fees for maintenance/storage and/or cost of sale of the property;
5. To district attorney for actual and reasonable expenses to prosecute the forfeiture proceeding, not to exceed ten percent value of property;
6. One percent of value of property to clerk of court for administrative fees;
7. Balance left as follows:
  - a. Fifty percent to the seizing law enforcement agency,
  - b. Fifty percent to department of human services for behavioral health programs and services, including mental health and substance abuse

## Appendix D - Forfeiture revenues received by MSOs in FY 2016-17<sup>6</sup>

### Tracking Civil Forfeiture for FY 2016-2017

As required by C.R.S. 16-13-311 (3)(a) (VII) (B) and 16-13-701 (4), the designated Managed Service Organizations allocate monies to substance use disorder treatment and detoxification programs in the judicial districts in which forfeiture proceedings were prosecuted. These monies are in addition to the appropriated funds through the Department's Office of Behavioral Health and the Managed Service Organizations. Figure 8 details the reporting of civil forfeiture funds for FY 2016-2017 by four Colorado Managed Service Organizations, as required by statute. One of the four Managed Service Organizations, Mental Health Partners, did not receive any funds from civil forfeiture.

**Figure 8. Civil Forfeiture, FY 2016-2017**

MSO Provider / Description	Signal	West Slope Casa	Aspen Pointe	Mental Health Partners	Total All	Prior SFY
<b>Beginning Balance</b>	\$199,912.52	\$22,244.40	\$4,932.48	\$3,931.82	\$259,232.41	\$175,929.01
<b>Distribution</b>	\$258,538.57	\$0.00	\$0.00	\$3,931.82	\$262,470.39	\$190,502.16
<b>Revenue Received</b>	\$420,048.28	\$0.00	\$28,211.19	\$0.00	\$448,259.47	\$249,427.61
<b>Ending Balance</b>	\$323,066.62	\$22,244.40	\$33,143.67	\$0.00	\$378,454.69	\$284,854.46

Signal expended \$258,538.67 of forfeiture funds during the year. Of that, \$219,757.78 was expended on treatment and detox services and \$38,780.79 was expended on administrative costs (15 percent of total funds distributed). West Slope Casa had no reported disbursements for services during the year from forfeiture funds. AspenPointe had no reported disbursements for services during the year from forfeiture funds. Mental Health Partners expended \$3,931.82 of forfeiture funds during the year. Of that, \$3,931.82 was expended on treatment and detox services. For FY 2016-17, a combined total of \$448,259.47 in forfeiture revenues was collected and a total of \$262,470.39 was expended on treatment and detoxification services (including administrative charges). The revenue received represents a 79.72% increase in revenue from the previous year.

<sup>6</sup> This information came from Colorado Office of Behavioral Health's *FY 2016-17 Annual Accounting of Forfeited Property Dollars Report (C.R.S.16-13-701)*

## Appendix E - Data Regarding Forfeitures Under \$50,000<sup>7</sup>

HB 17-1313 states that seizing agencies in Colorado can only follow the Federal structure for civil asset forfeiture if the amount seized is worth \$50,000 or more. It's projected that 92 percent of the forfeitures previously filed under the Federal structure amounted to less than \$50,000; therefore, more seizing agencies will likely need to pursue the State process. The table below shows how the 50/50 split would have occurred in the past if all forfeitures at or below \$50,000 were filed under the State process.

Colorado's Value of Forfeitures by Year and Value Category		
	Forfeitures Total Value	
Year	Below \$50,000	Agency / MSO Split
1996	\$363,397	\$181,699
1997	\$823,072	\$411,536
1998	\$1,427,184	\$713,592
1999	\$890,901	\$445,450
2000	\$897,651	\$448,825
2001	\$928,130	\$464,065
2002	\$672,560	\$336,280
2003	\$1,535,644	\$767,822
2004	\$1,582,953	\$791,477
2005	\$1,436,111	\$718,056
2006	\$2,137,405	\$1,068,703
2007	\$2,643,485	\$1,321,742
2008	\$3,027,582	\$1,513,791
2009	\$1,920,083	\$960,042
2010	\$2,600,974	\$1,300,487
2011	\$3,062,271	\$1,531,136
2012	\$2,966,782	\$1,483,391
2013	\$2,494,541	\$1,247,270
2014	\$124,426	\$62,213
Total	\$31,535,151	\$15,767,576

C.R.S. 16-13-311 states that 50 percent of proceeds from forfeitures will go to the General Fund of the government with budgetary control over the seizing agency. The remaining 50 percent is allocated to the Managed Service Organization (MSO) serving the judicial district where the forfeiture occurred. These funds are to be used for detoxification and substance abuse treatment. From 2011-2016, the MSOs received an average of \$271,383 annually. Of this amount, approximately 93 percent was allocated to Signal; 6 percent to AspenPointe; 1 percent to West Slope Casa; and 0 percent to Mental Health Partners. Signal's high allocation reflects the fact that it covers over half of Colorado's 64 counties. From 2011-2015, 13 percent of the total funds allocated to Signal have been used to cover

<sup>7</sup> This data came from the U.S. Department of Justice

administrative costs while the remaining amount has either rolled forward or spent on detoxification and substance abuse services.



**COLORADO**  
Department of Local Affairs  
Division of Local Government

# Gray & Black Market Marijuana Enforcement Grant Colorado Revised Statute 24-32-119(4)

SMART ACT REPORT

December 19, 2019



## Table of Contents

<b>Gray &amp; Black Market Marijuana Enforcement Grant Program.....</b>	
Program Launch .....	3
Program Awards .....	3
Program Effectiveness.....	3
<b>Exhibits.....</b>	
Exhibit A .....	4



## **SMART ACT REPORT**

### **Gray & Black Market Marijuana Enforcement Grant Program**

#### **December 19, 2019**

Section 24-32-119 (4), of the Colorado Revised Statute (C.R.S) requires the Department of Local Affairs, Division of Local Government, provide an update regarding the effectiveness of the Gray & Black Market Marijuana Enforcement Grant program in the Department’s annual report as required by the “State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act” part 2 of article 7 of title 2. This document serves as response to this report requirement.

### **Gray & Black Market Marijuana Enforcement Grant Program**

#### **Program Launch**

In Colorado’s 2017 legislative session, House Bill 17-1221 was passed creating the Gray & Black Market Marijuana Enforcement grant program (GBMJ) in Colorado Revised Statute (C.R.S.) 24-32-119. The program gives grants to Colorado counties and municipalities with the purpose of providing financial assistance to local law enforcement and district attorneys for actual expenses related to investigation and prosecution of unlicensed marijuana cultivation or distribution operations. Annually, approximately \$5.8 million is set aside for grant awards and funds unspent or unencumbered remain in the program for one additional year.

The inaugural appropriation in FY 2017-18 provided \$5.8 million to the Department for the actual grant program. In FY 2017-18, after extensive outreach and stakeholder engagement, only \$1.6 million in grant funding was requested and awarded: 32 applications of a possible 334 eligible entities.

Considering the large amount of funding available and the low level of demand, the Department worked with the State Controller’s Office and interested stakeholders to change the method of financial assistance from a reimbursement model to a formula-based distribution model, similar to that utilized by the Conservation Trust Fund program, which is also managed by DLG, and that reflects the priorities of the original legislation. Under the new model, local governments interested in receiving funds from the GBMJ Program “opt-in” to receive funding and then later provide the Department with information on how the moneys were utilized for investigation and prosecution of unlicensed marijuana.

#### **Program Awards**

In FY 2018-19, using the new model, 46 eligible entities opted in and By June 30, 2019, \$3,306,663 was expended by recipients and \$809,075 was returned to the Marijuana Tax Cash Fund. For the first application awards of FY 2019-20, which occurred in July, 38 communities applied for \$5,809,197.

#### **Program Effectiveness**

Statue requires that this SMART Act report discuss the effectiveness of the program.

The program team believes that during the time the Gray & Black Market Marijuana Enforcement Grant (GBMJ) Program has been established, the effectiveness has been notable. As reported by grantees, their cities and counties have been able to increase law enforcement activities in addressing illegal, unlicensed marijuana cultivation and distribution operations. For a detailed list of types of expenditures funded by the GBMJ awards, please refer to Exhibit A.

Prior to this grant program, the manpower, equipment and training needs by local law enforcement, as well as additional staff hours needed for prosecution by district attorneys’ offices was cost prohibited. Exhibit A breaks down activities undertaken and their costs by city and county law enforcement agencies and district attorney’s offices over the past two years. The effectiveness of this grant program has been defined, to date, by anecdotal conversations from grant fund recipients. However, DOLA will add a section to the quarterly report form to capture the effectiveness of the program directly from each grantee.



**Exhibit A - Uses of Grant Awards: Gray and Black Mark Marijuana Enforcement Grant Program**

Law Enforcement		17-001 -18-211 - reimbursements				DA				
Grant #	Grantee	Personnel, Wages, Investigation	Equipment	Training, Travel	Supplies, Storage, Rental fees, Incarceration, Services	Prosecution and Investigation, Personnel, Wages	Equipment	Training	Supplies, Storage, Rental fees	Total
17-001	Custer County	\$ 3,000.00	\$ 1,823.00							\$ 4,823.00
17-002	Elbert County	\$ 256,482.00	\$ 117,473.00							\$ 373,955.00
17-003	Colorado Springs	\$ 39,102.00								\$ 39,102.00
17-004	La Plata County	\$ 13,049.00								\$ 13,049.00
17-005	Mesa County	\$ 42,707.00								\$ 42,707.00
17-006	Montezuma County	\$ 5,340.00	\$ 1,600.00							\$ 6,940.00
17-007	Yuma County	\$ 25,994.00								\$ 25,994.00
17-008	Eagle County	\$ 37,172.00								\$ 37,172.00
17-009	El Paso County	\$ 10,408.00	\$ 6,407.00							\$ 16,815.00
17-010	Pueblo County	\$ 53,983.00	\$ 3,278.00							\$ 57,261.00
17-011	Trinidad	\$ 16,051.00								\$ 16,051.00
17-012	Boulder County	\$ 44,660.00								\$ 44,660.00
17-013	Otero County	\$ 15,902.00	\$ 10,080.00							\$ 25,982.00
17-014	Huerfano County	\$ 11,577.00	\$ 8,350.00							\$ 19,927.00
17-201	Greeley	\$ 71,483.00								\$ 71,483.00
17-202	Woodland Park	\$ 74,736.00								\$ 74,736.00
17-203	Eagle County	\$ 6,199.00								\$ 6,199.00
17-204	El Paso County	\$ 11,443.00								\$ 11,443.00
17-205	Saguache County	\$ 62,811.00	\$ 717.00							\$ 63,528.00
17-206	Custer County	\$ 1,268.00								\$ 1,268.00
17-207	Elbert County	\$ 30,441.00	\$ 3,725.00							\$ 34,166.00
18-001	Colorado Springs	\$ 72,980.00								\$ 72,980.00
18-002	Arapahoe County	\$ 55,705.00								\$ 55,705.00
18-201	Woodland Park	\$ 100,955.00								\$ 100,955.00
18-202	Granby	\$ 19,693.00								\$ 19,693.00
18-203	El Paso County	\$ 32,191.00	\$ 10,468.00							\$ 42,659.00
18-204	Las Animas County	\$ 29,258.00	\$ 122,522.00	\$ 16,046.00						\$ 167,826.00
18-205	San Miguel County	\$ 27,965.00								\$ 27,965.00
18-206	La Veta	\$ 1,684.00		\$ 587.00						\$ 2,271.00
18-207	Pueblo County	\$ 32,698.00			\$ 2,005.00					\$ 34,703.00
18-208	Elbert County	\$ 21,434.00	\$ 38,900.00							\$ 60,334.00
18-209	Teller County	\$ 26,681.00	\$ 9,260.00	\$ 109.00	\$ 21,156.00					\$ 57,206.00
18-210	Montezuma County	\$ 37,217.00		\$ 6,775.00	\$ 2,342.00					\$ 46,334.00
18-211	Huerfano County	\$ 15,095.00	\$ 7,821.00							\$ 22,916.00
18500	Eagle County					\$ 23,193.00				\$ 23,193.00
18501	Cedaredge	\$ -								\$ - *
18502	Garfield County					\$ 1,433.00				\$ 1,433.00
18503	Costilla County	\$ -								\$ - *
18504	Fremont County	\$ -								\$ - *
18505	Alamosa County	\$ -								\$ - *
18506	Cortez	\$ 3,970.00	\$ 178.00	\$ 2,186.00						\$ 6,334.00
18507	Cripple Creek	\$ 106.00								\$ 106.00
18508	Montrose	\$ 1,506.00	\$ 65,852.00							\$ 67,358.00
18509	La Veta	\$ 2,807.00								\$ 2,807.00
18510	Rangely	\$ -								\$ - *
18511	Ouray	De-ob								\$ - *
18512	Moffat	\$ -								\$ - *
18513	Lamar	\$ 274.00								\$ 274.00
18514	Palmer Lake		\$ 4,403.00							\$ 4,403.00
18515	Delta		\$ 31,475.00							\$ 31,475.00
18516	Lincoln County		\$ 9,105.00							\$ 9,105.00
18517	Saguache County	\$ 10,024.00	\$ 2,674.00							\$ 12,698.00
18518	Douglas County					\$ 44,738.00	\$ 32,493.00			\$ 77,231.00
18519	Aurora	\$ 108,311.00	\$ 535,819.00	\$ 8,555.00						\$ 652,685.00
18520	Arapahoe County		\$ 50,589.00							\$ 50,589.00
18521	Montrose County		\$ 60,018.00	\$ 7,500.00						\$ 67,518.00
18522	Colorado Springs		\$ 643,868.00							\$ 643,868.00
18523	Collbran	\$ 631.00								\$ 631.00
18524	Pueblo County		\$ 195,045.00							\$ 195,045.00
18525	Teller County		\$ 26,861.00							\$ 26,861.00
18526	Boulder County	\$ 656.00	\$ 48,907.00							\$ 49,563.00
18527	Larimer County	\$ 17,528.00	\$ 22,671.00	\$ 652.00		\$ 2,835.00				\$ 43,686.00
18528	Otero County	\$ 1,752.00	\$ 1,291.00							\$ 3,043.00
18529	Huerfano County	\$ 3,850.00			\$ 860.00					\$ 4,710.00
18530	Archuleta County	\$ -								\$ - *
18531	Custer County		\$ 12,332.00							\$ 12,332.00
18532	Elbert County	\$ 12,656.00	\$ 714.00			\$ 9,120.00				\$ 22,490.00





**COLORADO**  
**Department of Local Affairs**  
Division of Local Government

# Defense Counsel on First Appearance Colorado Revised Statute 24-32-123(4)

SMART ACT REPORT

December 18, 2019



## Table of Contents

<b>Defense Counsel on First Appearance Grant Program.....</b>	
Program Launch .....	1
Program Awards .....	3
Program Effectiveness.....	4
<b>Exhibits.....</b>	
Exhibit A.....	5



## **SMART ACT REPORT**

### **Defense Counsel on First Appearance Grant Program**

#### **December 18, 2019**

Section 24-32-123 (4), of Colorado Revised Statute (C.R.S) requires the Department of Local Affairs, Division of Local Government, provide an update regarding the effectiveness of the Defense Counsel on First Appearance Grant program in the Department’s annual report as required by the “State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act” part 2 of article 7 of title 2. This document serves as response to this report requirement.

### **Defense Counsel on First Appearance Grant Program**

#### **Program Launch**

In Colorado’s 2018 legislative session, House Bill 18-1353 was passed creating the Defense Counsel on First Appearance grant program (DCFA) in Colorado Revised Statute (C.R.S.) 24-32-123. The program gives grants to Colorado municipal courts with the purpose of reimbursing in whole, or in part, costs associated with the provision of defense counsel to defendants at their first appearance in municipal courts. Annually, approximately \$1.8 million is set aside for grant awards and funds unspent or ungranted remain in the program for one-year following for spending/re-award.

In June 2018 to launch the program, the Department held stakeholder engagements that were well attended by municipal judges and other interested stakeholders. The program team learned through the engagements that costs for defense counsel vary across the state. As a result, the team and stakeholders agreed to the following programmatic guidelines to equalize the cost and grant requests.

- Annually, the hourly rate of the defense counsel will be set as the state rate for the public defender (currently \$75 per hour).
- The program is to reimburse the cost for provision of first appearances that is broad and could cover many things.
- Municipalities contract with defense counsel for a set number of hours to conduct all defense duties, including first appearances.
- A municipal judge decides whether the defense counsel’s time is actually toward a first appearance that meets the requirements of this program. Per statute, first appearance costs can only be reimbursed when they meet C.R.S. sections 13-10-114.5 which states,

(1) At the time of first appearance on a municipal charge, if the defendant is in custody and the charged offense includes a possible sentence of incarceration, the court shall appoint counsel to represent the defendant for purposes of the initial appearance unless, after a full advisement pursuant to C.M.C.R. 210 and section 16-7-207, C.R.S., the defendant makes a knowing, intelligent, and voluntary waiver of his or her right to counsel.



(2) If the defendant remains in custody, the appointment of counsel continues until the defendant is released from custody. If the defendant is released from custody, he or she may apply for court-appointed counsel, and the court shall appoint counsel if the court determines that the defendant is indigent and the charged offense includes a possible sentence of incarceration.

### **Program Awards**

Since the program began July 1, 2018, grant awards of approximately \$1.2 million or 67% of the total funds were made to thirty Colorado Municipal Courts. For a detailed full list of awards, please review *Exhibit A*.

### **Program Effectiveness**

Statue requires that this SMART Act report discuss the effectiveness of the program.

The team believes this program has been effective and a success not seen in other grant programs in its first year of operation. New grant programs typically require three years for the full burden of demand to hit as communities incorporate the request for funding into their operations. See *Exhibit A* for a full list of all grant awards to date. So far, 67% of the allocation was burdened in the first year of operation. Currently, the program team is analyzing eligible community participation. The list of eligible local governments is long, but how many of those that could actually seek reimbursement is not clear. Program staff has learned that not all municipalities can meet the definition of first appearances as required by C.R.S. sections 13-10-114.5. Upon completion of this review, the team will conduct intense outreach to ensure municipal courts that conduct first appearances as required by statue have the tools they need to make grant requests. If, after completing this review, the team determines there needs to be revision to the definition of first appearances or other programmatic requirements, the Department will seek a cleanup bill. It is anticipated that by increasing program outreach across the state, the Department will increase grant requests made by municipal courts to help offset the costs associated with the provision of defense counsel at first appearance.

**Exhibit A - Grant Awards: Defense Counsel on First Appearance Grant Program**

<b>Award Number</b>	<b>Grantee and Project Name</b>	<b>November 2018</b>	<b>January 2019</b>	<b>February 2019</b>	<b>Total</b>
18A017	Alamosa Court Appointed Counsel	-	\$1,800	-	\$1,800
18A028	Arvada Court Appointed Counsel	-	\$5,400	-	\$5,400
18A024	Aurora Court Appointed Counsel	-	\$98,100	-	\$98,100
18A026	Brighton Court Appointed Counsel	-	\$6,300	-	\$6,300
18-019	Brush Court Appointed Counsel	-	-	\$6,300	\$6,300
18-014	Colorado Springs Court Appointed Counsel	\$52,875	-	-	\$52,875
18-016	Commerce City Court Appointed Counsel	\$18,000	\$23,400	-	\$41,400
18-015	Cortez Court Appointed Counsel	\$13,050	\$9,900	-	\$22,950
18-017	Denver Court Appointed Counsel	-	-	\$243,909	\$243,909
18-009	Englewood Court Appointed Counsel	\$29,934	-	-	\$29,934
18-022	Federal Heights Court Appointed Counsel	-	-	\$1,000	\$1,000
18A020	Fort Collins Court Appointed Counsel	-	\$8,100	-	\$8,100
18-013	Grand Junction Court Appointed Counsel	\$2,196	\$1,062	-	\$3,258
18-018	Greeley Court Appointed Counsel	-	-	\$17,100	\$17,100
18-007	Greenwood Village Court Appointed Counsel	\$2,700	-	-	\$2,700
18-020	Hudson Court Appointed Counsel	-	-	\$15,300	\$15,300
18-021	Lafayette Court Appointed Counsel	-	-	\$31,500	\$31,500
18-004	Lakewood Court Appointed Counsel	\$37,044	\$34,200	-	\$71,244
18-012	Littleton Court Appointed Counsel	\$33,300	\$26,100	-	\$59,400
18A025	Longmont Court Appointed Counsel	-	\$23,400	-	\$23,400
18-001	Loveland Court Appointed Counsel	\$1,440	\$4,680	-	\$6,120
18-008	Northglenn Court Appointed Counsel	\$5,220	-	-	\$5,220
18A021	Palisade Court Appointed Counsel	-	\$1,530	-	\$1,530
18A029	Parker Court Appointed Counsel	-	\$2,250	-	\$2,250
18-002	Pueblo Court Appointed Counsel	\$136,800	\$77,175	-	\$213,975
18-005	Rifle Court Appointed Counsel	\$1,080	\$7,200	-	\$8,280
18-006	Sheridan Court Appointed Counsel	\$18,000	\$18,000	-	\$36,000
18-003	Thornton Court Appointed Counsel	\$33,525	\$28,800	-	\$62,325
18-011	Westminster Court Appointed Counsel	\$34,200	\$34,902	-	\$69,102
18-010	Wheat Ridge Court Appointed Counsel	\$17,190	\$12,600	-	\$29,790
<b>TOTAL</b>		<b>\$436,554</b>	<b>\$424,899</b>	<b>\$315,109</b>	<b>\$1,176,562</b>