



# REMAINING BUDGET NEEDS OF THE JUSTICE REINVESTMENT INITIATIVE

SOCIAL SERVICES AND EXECUTIVE OFFICES AND CRIMINAL JUSTICE APPROP. SUBCOMMITTEES  
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ISSUE BRIEF

## SUMMARY

This brief provides an assessment of funding related to the Justice Reinvestment Initiative (JRI) as of October 2017. It first follows up on the funding provided through the original bill -- [House Bill 348](#), "Criminal Justice Programs and Amendments," 2015 General Session -- for actual expenditures in fiscal year (FY) 2017. It then identifies new funding that has been provided by the Legislature or obtained through other sources since H.B. 348. The brief aggregates remaining funding needs identified by the agencies implementing the legislation, and provides potential offsets and other funding options identified by agencies and staff from the Office of the Legislative Fiscal Analyst (LFA). The next section summarizes LFA recommendations for legislative action.

## LEGISLATIVE ACTION

LFA recommends the Legislature consider the following actions:

1. I move to request that the Department of Corrections and the Commission on Criminal and Juvenile Justice (CCJJ) set aside the approximately \$334,000 in unexpended FY 2017 JRI funds, and that the Executive Offices and Criminal Justice (EOCJ) Subcommittee consider a one-time reallocation of those funds during the 2018 General Session.
  - *CCJJ Response: "The unexpended FY 2017 JRI funds in the Commission on Criminal and Juvenile Justice were \$1,130,727.14. At the April 2017 Commission meeting the Commission members voted to allocate the FY 2017 JRI funds as well as federal funds to continue funding the County Performance Incentive Grants in FY 2018. Authority to use nonlapsing funding was granted to the Commission in Item 8 in HB 3, Current Fiscal Year Supplemental Appropriations of the 2017 General Session. A total of \$2,139,082.46 has been obligated for this purpose, with \$1,117,068 coming from unexpended funds and \$1,022,014.46 from federal funds."*
  - *No agencies submitted a written response indicating concerns with this action.*
2. I move to request that, if the Utah Association of Counties or any other entity submits a funding request for substance use disorder and mental health treatment related to JRI in a future General Session that they, in coordination with the Division of Substance Abuse and Mental Health (DSAMH), provide to the Social Services (SS) Subcommittee an updated estimate of the per-person cost and the number of individuals requiring treatment based on historical data since the start of JRI, as well as describing how changes to the Medicaid program due to [H.B. 437](#) (2016 General Session) impacted that estimate.
  - *No agencies submitted a written response indicating concerns with this action.*

3. I move to request the Drug Offender Reform Act (DORA) Oversight Committee report to both the EOCJ and Social Services SS Appropriations Subcommittees about the demand for and outcomes of the DORA program by the 2018 General Session, in order to provide the Legislature with the necessary information to consider repurposing the funds.
  - *CCJJ Response: "The Utah Substance Use and Mental Health Advisory Council's (USAAV+) DORA Oversight Committee will prepare a report for the Executive Offices and Criminal Justice and Social Services Appropriations Subcommittees that addresses the demand for and outcomes of the DORA program by the 2018 General Session, in order to provide the Legislature with the necessary information to make decisions regarding the DORA funds."*
  - *No agencies submitted a written response indicating concerns with this action.*

**FISCAL NOTE FOLLOW-UP: H.B. 348, 2015 GENERAL SESSION**

Each year, LFA produces a Fiscal Note and Budget Item Follow-Up Report to review the implementation, accuracy, and performance of items funded in previous legislative sessions. Staff have included a follow-up on JRI for the past two years. Below is the follow-up from the 2017 report, updated to reflect year-end FY 2017 actual expenditures, rather than the estimates included in the original report from June 2017. In addition to the narrative description, each element is scored using a red-yellow-green stoplight indicator. All the elements for JRI meet the criteria for "green," or progressing as expected. (More detail on scoring can be found on the last page of the [2017](#) report).

***Description***

In addition to statutory changes found in House Bill 348 from the 2015 General Session, also known as the Justice Reinvestment Initiative (JRI), the Legislature appropriated funds to various state agencies to address recidivism within the state criminal justice system. Affected areas include incarceration, penalties and sentencing guidelines, probation and parole, controlled substance offenses, vehicle offenses, and substance abuse and mental health treatment.

The total appropriation for FY 2017 was \$13,480,000 for the Department of Corrections, the Board of Pardons and Parole, Department of Human Services (Division of Substance Abuse and Mental Health, or DSAMH), and the Commission on Criminal and Juvenile Justice Services (CCJJ). The funding detail was as follows:

- Board of Pardons and Parole: Research/data collection - \$120,800
- Corrections: Access to recovery - \$500,000
- Corrections: Clinical therapists - \$1,805,900
- Corrections: Mental health services - \$1,045,100
- Corrections: Office specialist - \$604,000
- Corrections: Training for AP&P agents/Board of Pardons/county jails - \$200,000

Corrections: Transition specialists - \$893,000  
 Corrections: AP&P treatment agents - \$988,000  
 CCJJ: Researcher - \$120,000  
 CCJJ: Program manager - \$129,500  
 CCJJ: County Incentive Grant Program/screening/assessment - \$2,218,700  
 DSAMH: Training for provider treatment staff - \$150,000  
 DSAMH: 2 FTE and development of web-based system/maintenance - \$225,000  
 DSAMH: Substance abuse/mental health treatment - \$4,480,000

**Implementation**

Implementation of JRI began in FY 2016 and continued in FY 2017 (see the 2016 Fiscal Note and Budget Item Follow-Up Report, page 24: <https://le.utah.gov/interim/2016/pdf/00003034.pdf>). Individual agencies reported the following for FY 2017:

**Board of Pardons and Parole:** "The Board hired a research consultant in August 2015. The researcher has been functioning continuously in this position since that time. "

**Corrections:** "The majority of this funding was used for staffing. The Department created a total of 53 new positions in Programs & Operations, and another 11 positions in Medical Services. These positions include Agents, Licensed Clinical Therapists, Caseworkers, Social Workers, a Psychologist, Registered Nurses, and other support staff. The remaining expenses are being used for expenses to operate the program. The JRI program was implemented by the Department in October 2015. All but one of the Medical positions are currently filled and all but 4 positions in AP&P are currently filled. The 4 positions in AP&P are 3 agents and 1 support positions and have been filled at times during the year. The DOC is not currently experiencing issues in filling these positions."

**CCJJ:** "Funding for the program manager and researcher began July 2015 and is ongoing. The CCJJ is statutorily responsible to coordinate the criminal justice reform measures and report on performance metrics to the legislature. The performance metrics will be used to identify and measure recidivism and the ongoing impact from these reforms. The \$2,218,700 grant funding were awarded to the same six county sheriffs' offices as the previous fiscal year. Grant funds are paying for personnel in the county jails to perform the risk and needs jail screening function at the booking stage and for supplies and equipment. Personnel must have a security and background check when working in the jail facility. One of the county jails continues to experience delays in filling most of the FTE positions due to the hiring process and subsequent back ground checks. We have increased the hourly rate for these positions to attract a broader pool of applicants. Another jail has experienced very low screening numbers and after meeting with the sheriff, the numbers did improve for a short period. Finally, the statewide risk and needs jail screening database was created by the Department of Technology Services (DTS) allowing jail screeners to conduct the interviews and record the information online through a secure connection. However after random shut downs associated with the algorithm at MHS [MHS is Multi-Health Systems, Inc. - the company that licenses all the Level of Service products (i.e., the LSI-SV screen that we're using in the jails, as well as the LSI-SV that Corrections/AP&P uses for full risk assessments)] a modification was needed to the database. The modification required an amendment to the existing contract with MHS, which unfortunately took six months to finalize. The amendment allows the DTS staff to develop the scoring mechanism to run off of the server bypassing the connection to MHS. No further problems have been reported once this change occurred. Additional revisions were made to the Report format that will now be shared with the courts."

**Human Services:** DHS indicated that implementation took place "on varied dates and levels of implementation depending on the area and complexity of the partnerships. Local JRI plans can be viewed

by Local Authority at <https://dsamh.utah.gov/provider-information/local-authoritycounty-area-plans/>." DHS hired two staff people at the Division of Substance Abuse and Mental Health on July 1, 2016 and conducted the following trainings on Moral Reconciliation Therapy (MRT) with clinicians: March 7-10, 2016, April 18-21, 2016, and May 23-26, 2016. Additional trainings have been scheduled for the coming year and materials have been purchased for those trainings. They also created a web-based application to track certifications in FY 2017.

**Accuracy**

Collectively, JRI agencies spent approximately \$12,472,600 of the \$13,480,000 appropriated by the end of FY 2017, or 94 percent of the total. The detail by agency was as follows:

- Board of Pardons and Parole: \$120,800 spent of \$120,800 total appropriated
- Corrections: \$5,715,600 spent of \$6,036,000 total appropriated
- CCJJ: \$1,781,184 spent of \$2,468,200 total appropriated; from FY 2016 nonlapsing funds, expended \$1,337,702 and carried forward \$449,180
- DSAMH: \$4,855,000 spent of \$4,855,000 total appropriated

Individual agency responses were as follows:

**Board of Pardons and Parole:** "The full amount of the appropriation is being expended for this position."

**Corrections:** "The appropriation for Programs & Operations was \$4,990,900, and the Department actually spent \$4,903,700 of this funding in FY2017. Of this original funding, \$3,767,100 went towards personnel. Based on positions being filled, salary increases, overtime, etc., the Department spent the entire amount for personnel in FY2017. The \$87,200 in savings comes entirely from non-personnel related expenses. It is anticipated that with the evolving of the JRI program, that the entire amount appropriated will be spent in the future. The appropriation for Medical Services was \$1,045,100, and the Department spent \$811,900 of this funding in FY2017. The \$233,200 savings in Medical comes primarily from personnel because of delay and difficulty in hiring some of the positions. It is anticipated that the Department will spend the entire amount of this funding in the future. The non-personnel expenses include contracted substance abuse care, drug testing supplies, motor pool costs for agents, and various other current expense items to run the program. All positions are currently filled with the exception of 3 agent positions, 1 Nurse Practitioner, and 1 office support staff."

**CCJJ:** "Expenditures from FY 17 Appropriation included the following: Salt Lake County - \$477,491.17; Cache County - \$33,124.78; Weber County - \$311,023.10; Davis County - \$39,080.16; Utah County - \$173,952.34; Washington County - \$247,543.17; Assessment Tools, Training, and Technology - \$254,038.26; CCJJ Research and Program Manager - \$244,031.21. Due to non-lapsing funds from FY2016, additional 6-month grants were awarded and the following amounts were spent: Salt Lake County Behavioral Health - \$1,000,000; Cache Bear River Mental Health/Substance Use - \$67,420.92; Alpha Counseling & Treatment - \$96,610; Washington County Jail - \$18,612.44; Weber Human Services \$65,700; - Utah County Dept. Drug and Alcohol Treatment -\$78,578.52; Utah County Sheriff's Office \$8,820; and Washington County Sheriff's Office - \$1,960. The CPIP grant funding was removed from CCJJ's FY2018 budget during the last legislative session. Therefore, CCJJ requests the non-lapsing funds be available July 1, 2017 to combine with our federal JAG funds to keep the Risk and Needs Jail Screening program operational for one additional year in an effort to evaluate the progress and determine the value of this information in addition to the PSA-Court instrument that is anticipated to be operational early next year."

**Human Services:** “DHS expended the full appropriation for FY 2017. FY 2017 actual expenditures included: \$242,400 for personnel; \$600 for travel; \$91,600 for current expense; \$78,000 for data processing current expense; \$165,000 admin costs (federally approved cost allocation plan); and \$4,277,000 pass-through to Local Substance Abuse and Mental Health Authorities. As mentioned in the 2016 Fiscal Note and Budget Item Follow-Up Report, subsequent to the passage of JRI, staff from the Office of the Legislative Fiscal Analyst prepared a summary issue brief found here: <https://le.utah.gov/interim/2015/pdf/00004175.pdf>. As part of that brief (see pp. 10-11), the Department of Human Services estimated the cost for treatment associated with the passage of the legislation as \$20.85 million, significantly more than the initial appropriation for treatment of \$4.5 million.”

### **Performance**

CCJJ, which oversees the overall implementation of the program, reported the following FY 2017 results:

"Currently there have been 46,903 risk and needs screenings performed that identify if the offenders booked into jail are in need of further evaluation for substance use (50%), or further evaluation for mental health issues (40.2%). The screens also provides information to jail staff on the percent of offenders who are low-risk (33.7%), moderate-risk (48.7%), or high-risk (17.6%) to reoffend while under supervision. Challenges remain in getting full support from the jail staff in working with the civilian screeners and we continue to educate jail staff on the benefits of using the screening information. Additionally, one jail has stopped the majority of its screening function. Several jails are now offering programming for offenders and the screening data provides needed information on placing the appropriate individual in the right treatment program."

"There is starting to be a slow shift in acceptance from law enforcement and prosecutors in using evidence-based practices and validated instruments. We understood this would be a long-term process and would take several years to see the change in the criminal justice culture. Additional targeted percentage of offenders agreeing to be screened in five of the counties was set at 65%. The FY2017 third quarter reports show the following: Cache at 46%, Salt Lake at 73%, Utah at 34%, Washington at 62%, and Weber at 96% of the performance target."

REMAINING BUDGET NEEDS OF THE JUSTICE REINVESTMENT INITIATIVE

**RECENT FUNDING**

Since the original appropriation for H.B. 348, which was effective in FY 2016, the Legislature has increased and decreased the funding amount based on implementation progress and to balance priorities across the state budget. The Legislature has also appropriated funds for various purposes that are not specific to JRI but support the overall effort and target population. Additionally, agencies have secured funding from federal and other sources to supplement state funding. The original, slightly simplified appropriation is shown in the first row in the table below, followed by funding changes through FY 2018.

Recent Direct and Indirect Justice Reinvestment Initiative (JRI) - Related Funding Items					
Item #	Item Description	Fiscal Year Appropriated	Funding Source	Ongoing	One-time
<b>Original Appropriation</b>					
1	DOC/BoP/CCJ/DHS/Counties - H.B. 348 - Original Appropriation	2016	General Fund	\$13,480,000	
<b>Appropriations and Other Funding since FY 2016</b>					
2	DHS - Forensic Competency Restoration Unit	2017	General Fund	\$400,000	
3	DOC - Office Space for Adult Probation and Parole	2017	General Fund		\$400,000
4	DOC - Unused Jail Contracting Funds	2017	General Fund		(\$3,074,700)
5	DOC & BoP - Unused JRI Funds	2017	General Fund		(\$1,774,900)
6	CCJ - County Performance Incentive Grants	2018	General Fund	(\$2,218,700)	
7	DHS - Jail-Based Forensic Competency Restoration	2018	General Fund	\$3,000,000	
8	DHS/Counties - Behavioral Health Treatment of JRI Population	2018	General Fund	\$6,000,000	
9	DHS/Counties - DOJ Grant for Drug Courts	2018	Federal Funds		\$428,040
10	DHS/Counties - Medicaid Match Funds for Local Mental Health	2018	General Fund	\$6,400,000	
11	DHS/Counties - Medicaid Mental Health Match	2018	General Fund	\$5,000,000	
12	DHS/Counties - STR Grant for Opioid Treatment	2018	Federal Funds		\$5,537,500
13	DOC - Jail Contracting Projected Fewer Beds Needed	2018	General Fund	(\$1,120,000)	
14	DOC - Jail Contracting Rate Increase to Counties	2018	General Fund	\$500,000	
15	DOC - Salt Lake County Jail Bed Funding	2018	General Fund	\$2,420,000	\$427,000
16	DOC - Unused Jail Contracting Funds	2018	General Fund		(\$4,900,000)
17	GOV - Additional Jail Reimbursement to Counties for JRI Population	2018	General Fund		\$1,725,000
18	Salt Lake County - Treatment Funding for Operation Rio Grande	2018	SL County and City		\$5,990,300
19	Various - Operation Rio Grande-Related Funding (appropriated to DWS)	2018	General Fund		\$4,900,000
<b>Net Total</b>				<b>\$33,861,300</b>	<b>\$9,658,240</b>

Figure 1

**REMAINING NEEDS**

Since the passage of H.B. 348, agencies implementing JRI have identified and discussed funding needs that have not been fully addressed by the Legislature or through other sources. The table below lists these remaining needs, as identified by agencies.

<b>Remaining Funding Needs to Support JRI</b>			
<b>Item #</b>	<b><u>Item Description</u></b>	<b><u>Ongoing</u></b>	<b><u>One-time</u></b>
1	<b>Substance Use Disorder and Mental Health Treatment</b> -- In 2015, the Division of Substance Abuse and Mental Health (DSAMH) identified that 21,700 Utahns were uninsured, criminal justice-involved, and in need of SUD/MH treatment. About 15,000 are currently treated by local authorities, leaving 6,700 in a treatment gap. The average cost per case is \$3,100, for a total treatment need of \$20.85 million. The Legislature appropriated \$4.5 million in FY16 and \$6 million in FY18 for this purpose, leaving a remaining need of \$10.35 million. When DSAMH reviewed applications for the new \$6 million in FY18, counties had submitted \$10.9 million in requests.	\$10,350,000	
2	<b>Intensive Supervision Probation (ISP)</b> -- Salt Lake County has implemented a program of intensive supervision for probationers, which has improved treatment engagement and risk score reduction. The cost-per-individual is about \$3,200. The Association of Counties noted that this level of supervision, across other counties as well, may be necessary for the success of JRI. The number of individuals who would need this supervision has not been identified at this time.		
3	<b>County Incentive Grants</b> -- The program provides funding to counties to implement screening tools for drug abuse, mental health, and risk to reoffend at each of the county jails. The program was implemented as a part of JRI to provide preliminary data on offenders who potentially require JRI treatment services. During the 2017 General Session, this funding was eliminated.	\$2,218,700	
4	<b>Data Coordination</b> -- The Legislature provided one-time funding of \$2 million to set up data coordination between JRI-related and other entities. About \$1 million has been spent thus far, and no ongoing funds have been appropriated.		

**Figure 2**

**FUNDING OPTIONS**

In addition to recent direct and indirect funding that could offset remaining funding needs, the table below shows several additional options for funding availability and reallocations.

<b>Options to Fund Remaining Needs of JRI</b>				
<b>Item #</b>	<b>Item Description</b>	<b>Funding Source</b>	<b>Ongoing</b>	<b>One-time</b>
1	<b>Unspent and Unobligated 2017 JRI Funds</b> -- This amount reflects the unspent and unobligated FY 2017 JRI funds that could be reallocated to other purposes, from CCJJ and the Department of Corrections.	General Fund		\$334,000
2	<b>Unspent and Obligated 2017 JRI Funds</b> -- This amount reflects the unspent FY 2017 funds from county incentive grants, that CCJJ plans to expend during FY 2018 using their nonlapsing authority.	General Fund		\$1,117,000
3	<b>Unspent Data Coordination Funds</b> -- This amount reflects funds appropriated for FY 2017 that have not yet been spent on data coordination efforts.	General Fund		\$1,069,000
4	<b>Drug Offender Reform Act (DORA)</b> -- The goal of the program is to shorten the time from conviction to beginning substance abuse treatment for criminal offenders. Some research of the program shows that both the implementation of the program and its effectiveness are lacking. Though the money addresses a similar population as does other JRI treatment funds, repurposing the funds could produce better outcomes and improve program efficiency.	General Fund	\$2,747,100	
5	<b>Law Enforcement Services Grants</b> -- These grants assist communities to hire additional law enforcement officers if the city contains a halfway house or a parole violator center, due to the potential public safety issues resulting from a disproportionately high number of former offenders living in the area. Repurposing funding to focus offender treatment, instead of increased law enforcement, could potentially improve public safety. Money for the grants are collected via statutory surcharge allocation and would require statutory change.	Law Enforcement Services Account	\$617,900	
6	<b>Jail Reimbursement</b> -- The Legislature appropriated \$15,692,100 to Jail Reimbursement in FY 2018. Jail Reimbursement is a program that covers: 1. Those charged with felonies, but in lieu of prison time, serve up to a year in jail as a condition of probation (COP); 2. Violators of probation or parole who are in jail on a 72-hold; and 3. Those who are in jail due to a sanction imposed by JRI-related violation for up to 3 business days. Jail Reimbursement money is currently appropriated based on a formula, but only as much as is approved by the Legislature. The funding is based on the input of reported housing needs of those whose jail time is eligible for reimbursement. As JRI focuses on outputs, this money could be repurposed to focus on outcomes as well.	General Fund	\$15,692,100	
7	<b>Federal Medicaid Dollars for Substance Use Disorder and Mental Health Treatment</b> -- HB 437 (2016 GS) extended Medicaid coverage to certain special populations, which would include a portion of the uninsured, criminal justice-involved population. The federal government has not yet approved the waiver, but state funds have already been appropriated. No county match will be required. The remaining treatment need is for 6,700 individuals, but it is unknown what portion of them will qualify. Although the special populations include those who are involved in the criminal justice system, the income requirement is narrow, at <5% Federal Poverty Level.	Federal Funds		
8	<b>State Medicaid Dollars for Substance Use Disorder and Mental Health Treatment</b> -- The same funding source as above, except from state dollars that were already appropriated with HB 437 (2016 GS).	General Fund		

**Figure 3**