



**Justice Center**

THE COUNCIL OF STATE GOVERNMENTS

# **Prosecutorial Diversion Programming Collaboration: Early Intervention through Reentry**

November 9, 2022 | The Association of Prosecuting Attorneys

# Presentation Outline

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I. Welcome and Introductions

II. Overview

- i. The Council of State Governments (CSG)  
Justice Center
- ii. Bureau of Justice Assistance (BJA)
- iii. The Association of Prosecuting Attorneys

III. Presentation

IV. Panel Discussion

V. Questions and Answers

# Introductions

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- David LeBlanc, *Staff Attorney, Association of Prosecuting Attorneys*
- Todd Williams, *District Attorney, Buncombe County, NC*
- Shawna Ohle, *Jail Diversion Case Mgr., Buncombe County, NC*
- Evan Namkung, *Intensive Forensic Services Supervisor, Deschutes County Behavioral Health*

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# The Council of State Governments Justice Center

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We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.

# How We Work

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- We bring people together
- We drive the criminal justice field forward with original research
- We build momentum for policy change
- We provide expert assistance

# Justice and Mental Health Collaboration Program

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The Justice and Mental Health Collaboration Program (JMHCP) promotes innovative cross-system collaboration and provides grants directly to states, local governments, and federally recognized Indian tribes. It is designed to improve responses to people with mental illnesses and substance use disorders who are involved in the criminal justice system.

# The U.S. Department of Justice Bureau of Justice Assistance

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**Mission:** BJA's mission is to provide leadership and services in grant administration and criminal justice policy development to support state, local, and Tribal justice strategies to achieve safer communities. BJA works with communities, governments, and nonprofit organizations to reduce crime, recidivism, and unnecessary confinement, and promote a safe and fair criminal justice system.





# The Association of Prosecuting Attorneys

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The Association of Prosecuting Attorneys (APA) is a national non-profit whose mission is to support prosecutors in their efforts to create safer communities through a more just and equitable legal system. Through publications, training and technical assistance (TTA), and legislative analysis, we serve as a forum for collaborating with our criminal justice partners across the globe; and an advocate on behalf of prosecutors on emerging issues related to the administration of justice.



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# Prosecutor-Led Diversion (PLD)

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Non-traditional means to resolve criminal cases through treatment program alternatives in which the prosecutor is the primary entity responsible for the following:

- 1) Determining the eligibility criteria for the program
- 2) Deciding if a particular case will be offered diversion or prosecuted through traditional means
- 3) Setting program conditions and evaluating if an individual has successfully completed the program to avoid prosecution

# Prosecutor-Led Diversion

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- PLD has existed in some form since the 1940s and grew in popularity in the 1960s.
- Recent shift in criminal justice reform
  - Prosecutors lead and guide the effort
  - Authentic engagement with community and criminal justice partners

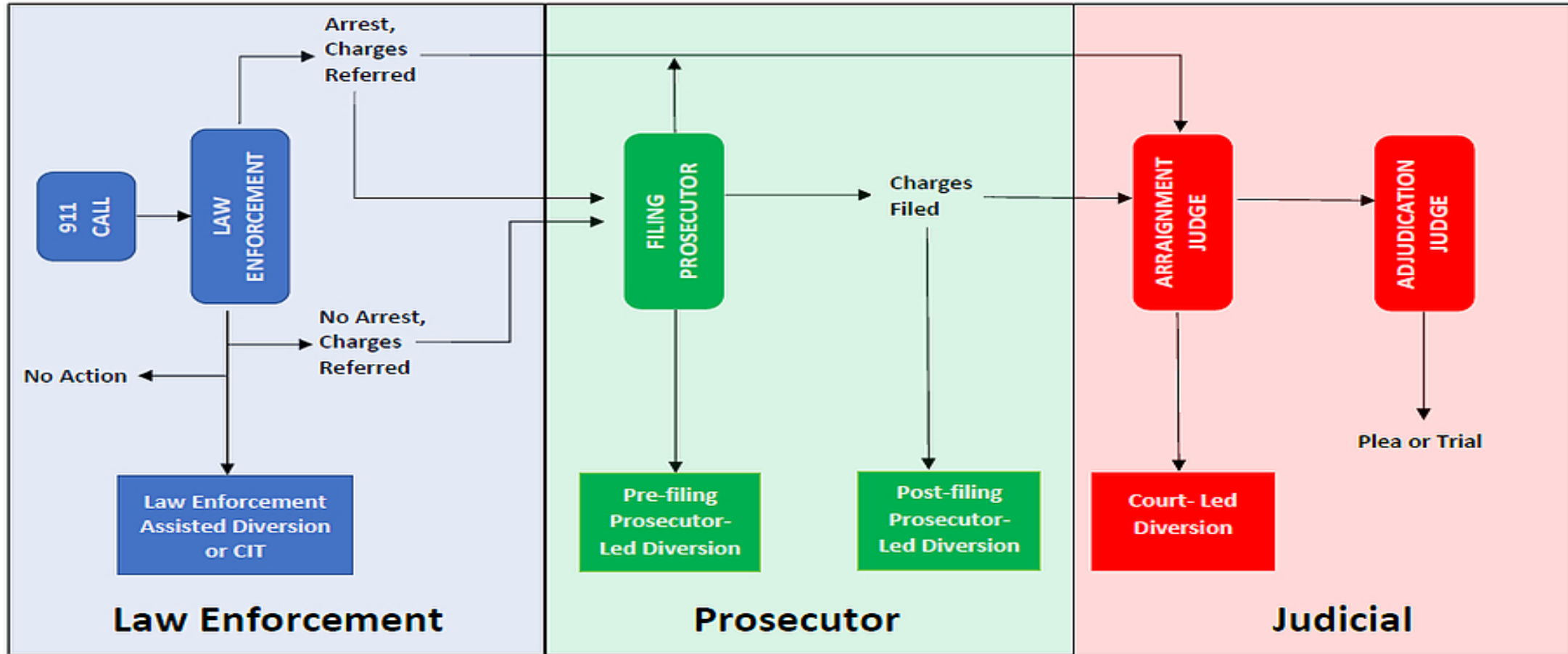
# Prosecutor-Led Diversion Programs: Collaborations

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1. Defense Counsel
2. Judiciary
3. Social Services
4. Pretrial and Probation
5. Law Enforcement
6. General Public

# Special Considerations

Sequential Intercept Model for Various Diversion Models



# Benefits

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- Earlier diversion in the criminal legal process for individuals with mental and/or behavioral health needs
- Accelerate engagement with community-based treatment services
- Avoid collateral consequences
- Prevent further mental/behavioral health harms caused by incarceration
- Improve use of criminal legal, mental, and/or behavioral health systems resources

# Building Successful Collaborations

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- Identify and begin to work with cross system partners immediately
- Develop shared mission and goals
- Assign clear roles and responsibilities
- Create clear policies and procedures
- Meet often
- Be willing to adapt and readjust



# Collecting Data

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- Who are your clients?
- What are the data points that address the mission and goals to support your clients?
- Who has authority over these data points?
- How/is the data accessible?
- How is the data collected and where will it be stored?
- How often are you evaluating the data?
- What information/story will your data need to tell to champion the work?

# Sharing Data Considerations

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- Is the information shareable?
- What policies and procedures are in place to obtain clients' information?
- What policies and procedures are in place to share information amongst partners?
- What security measures are in place?
- How and how often will the data be shared?
- Are there policies and procedures around publicly sharing data?

# Key Considerations for Financial Sustainability

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1. Design a sustainable initiative
2. Develop a sustainability committee
3. Prioritize strategies to demonstrate impact
4. Determine budget needs
5. Identify existing resources
6. Maximize funding resources

# Buncombe County, NC Jail Diversion and Reentry Program

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## Jail Diversion and Re-Entry Services

Todd Williams, District Attorney,  
Buncombe County, NC

Shawna Ohle, Jail Diversion Case  
Mgr., Buncombe County, NC

# Jail Diversion and Re-Entry Services

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- The program provides case management, treatment planning, and evidence-based group programming at the detention facility.
- Case managers provide information to the courts and serve as resources to law enforcement.
- The program seeks to increase engagement with community-based services and reduce the likelihood of re-arrest.

# Purposes of Jail Diversion and Re-Entry Services

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- To prevent unnecessary incarceration of individuals with mental illnesses and co-occurring disorders
- To reduce jail time (length of stay) for people with mental illness who may be better served in the community with therapeutic supports
- To link individuals to appropriate mental health and community-based services upon release from jail

# Jail Diversion Eligibility

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- Anyone housed at the Buncombe County Detention Facility is eligible to participate in jail-based programming and reentry planning.
- Individuals with primary substance use issues or severe mental illness may be eligible for diversion to community-based treatment.

# Referral Process

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Anyone can refer someone in custody for Jail Diversion and Re-entry Services.

- This includes self-referrals, jail staff, attorneys, providers, judges, and family members.



# Jail Diversion Specific Programs

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- Substance Use Diversion
- JUST (Justice United in Support of Treatment)
- Reentry
- Familiar Faces Task Force

# Jail Diversion Specific Programs

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- Substance Use Diversion (SUD) program offers an opportunity for individuals to enter a comprehensive treatment plan at a residential level from custody on pretrial while awaiting their court date.
- Approved SUD clients' bonds are unsecured to attend treatment once a bed becomes available and resecured to custody when treatment is complete. However, bonds can be modified to continue treatment if the participant is treatment compliant and meets pretrial's expectations. This will allow treatment to continue in the community or at another residential facility.

# Jail Diversion Specific Programs

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## Justice United in Support of Treatment (JUST)

- The JUST Program is a post-booking jail diversion program that serves individuals with serious and persistent mental illnesses whose untreated mental health has led to involvement with the criminal justice system.
- The goal of the JUST Program is to divert individuals with mental health needs from the Buncombe County Detention Facility to therapeutic services within the community.

# Jail Diversion Specific Programs

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## Community Reentry Services

- Individuals that do not meet legal or clinical criteria for SUD or JUST but identified with some level of behavioral health needs are referred for Community Reentry Services.

# Jail Diversion Specific Programs

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## Familiar Faces Task Force

- Familiar Faces refers to a population defined as individuals who are frequent utilizers of Buncombe County Detention Facility and who have mental illness and/or substance use disorder.
- These individuals experience instability in many aspects of their lives and are familiar to the various service providers and crisis systems.

# Jail Diversion Specific Programs

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The vision for Familiar Faces puts the client at the center of a care team that includes the flexibility to address the level of care and specific needs of the individual, regardless of payer, to achieve the following outcomes:

- Improved health status
- Improved housing stability
- Reduced criminal justice involvement/recidivism
- Reduced avoidable hospital emergency department use

# Justice Resource Center Diversion Programs

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- Felony Drug Diversion
- Adult Misdemeanor Diversion

# Buncombe County Justice Resource Center

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## Strategies

- Ensure accountability while addressing issues that lead to criminal behavior and activity.
- Without duplication of services, bridge gaps in the existing community resources.
- Create seamless linkages with systems that people navigate—including health care, housing, education, workforce, family services, law enforcement, and the courts.
- Take a holistic approach to facilitating individual, family, neighborhood, and community wellness.



# Jail Diversion Specific Programs

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- Felony Drug Diversion
  - Peer Support Model
- Our goal is to minimize consequences of current system involvement and deter individuals from future criminal justice involvement by engaging in evidence-based models to motivate change of high-risk behaviors.

# Jail Diversion Specific Programs

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## Adult misdemeanor diversion

- Offers individuals an opportunity for a voluntary dismissal by the Office of the District Attorney on certain charges.
- Program length varies from 3 to 9 months and includes educational classes, volunteer service hours, and restitution (as required).
- Participants of the program will have access to Justice Resource Center case managers to connect them with additional community resources.

# Buncombe County Re-entry Council (BCRC)

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The BCRC provides supportive services and resources for individuals in the following four areas:

- Employment
- Education
- Transportation
- Housing

# Purpose of BCRC—Successful Reentry from Incarceration Back into the Community

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- Improve the reintegration of people who have committed offenses into the community.
- Improve the community's ability to absorb them.
- Secure and retain full-time employment.
- Increase community safety.

# Deschutes County Behavioral Health

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Intensive Forensics Services  
Team

Evan Namkung, Intensive  
Forensic Services Supervisor,  
Deschutes County, OR

# Intensive Forensic Services

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- **Purpose:** Provide high-quality mental health care for individuals with severe and persistent mental illness who are involved in the criminal justice system.
- **Goal:** Stabilize and provide treatment to people with severe mental illness who are found “unable to aid and assist” (aka incompetent to stand trial), while protecting public safety and reducing recidivism.

# Intensive Forensic Services

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**Longer-term Goal:** Find ways of identifying these individuals earlier in the process, ideally before they are found by the court to be unable to aid and assist, and begin attempting wraparound treatment. If successful, goal would be to persuade the DA to drop/dismiss charges. This would be a true diversion model, where we can prevent people with mental illness from entering the criminal justice system.

# Eligibility

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- Both felonies and misdemeanors, no limitations on charges
- Legal process is “paused” while competency is addressed, once competent individuals move forward with entering a plea
- 95%+ are on Medicaid



# Referral Process

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- **Step 1:** Defense attorney identifies mental health issues that may be impacting individual's ability to aid and assist in defense and raises these to court.
- **Step 2:** Court orders a forensic evaluation; if evaluation finds that individual is unable to aid and assist, court orders our team to assess for placement in the community or state hospital.
- **Step 3:** Our team works with the individual in the community, or coordinates with the state hospital, to provide competency restoration.

# Care Coordination and Referral to Outside Resources

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- Our behavioral health clinic has an embedded primary care clinic and pharmacy, making it easier to coordinate holistic health needs.
- Primary outside resources that are used include residential treatment facilities, shelters, food stamps and food banks, social security, Medicaid.

# Care Coordination and Referral to Outside Resources

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- Our team has developed relationships with contact points within each of these resources, putting significant investment in the relationships in order to have “go-tos” for care coordination.
- Involuntary nature of this legal process makes some aspects easier—for example, for each case, court orders that information be released for the purposes of coordination. Makes sharing information with other agencies smoother and faster.

# Strategies

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- Provide wraparound mental health treatment, case management and resource coordination, and peer support to individuals determined to be unable to aid and assist in their own defense by the court.
- Evaluate most appropriate and safe level of care, whether community, treatment facility, or state hospital.

# Strategies

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- Work closely with the court, DA's office, defense attorneys, and state hospital to coordinate care and facilitate the most appropriate treatment setting for the individual.
- Attempt to reduce state hospital admission backlog by developing alternative community-based options, including contracting with high-barrier shelters and residential treatment programs.

# Strategies

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- Create linkages with other important resources to help stabilize the individual longer term (family, residential treatment, payee, guardianship).
- Work toward ongoing engagement with long-term mental health treatment, which has correlated with reduced recidivism in this population.

# Success Completion

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- Because competency restoration only pauses the normal criminal justice process, individuals who regain the ability to aid and assist still move forward with entering a plea to their charges.
- However, statewide in Oregon only 33 percent of these cases reach a disposition; the other 66 percent are dismissed or charges are dropped, often because so much time has passed awaiting competency restoration.

# Success Completion

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- Our team defines success by how many of these individuals continue to engage with behavioral health beyond the resolution of their case.
- Our data show that individuals who continued to engage with behavioral health for 45 days or more following the resolution of their case were half as likely to recidivate or reenter the competency process, as compared to those who did not continue ongoing engagement.



# Success Completion

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Therefore, while we work on restoration to competency, an equal amount of effort is placed on building a positive relationship and association between the individual and behavioral health.

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# Discussion Themes

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- Collaboration
- Specialized Considerations
- Data Collection/Sharing
- Sustainability

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# Questions and Answers

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# Resources

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- [Integrating Criminal Justice and Behavioral Health Data - CSG Justice Center](#)
- [Selecting a Data Warehouse Vendor for Criminal Justice-Behavioral Health Partnerships - CSG Justice Center](#)
- [Financially Sustaining Behavioral Health-Criminal Justice Programs - CSG Justice Center](#)
- [Financing the Future of Local Initiatives - CSG Justice Center - CSG Justice Center](#)
- [Prosecutor-Led Diversion \(PLD\) Toolkit – Helping to Build the Next Generation of Prosecutor-Led Diversion Programming](#)

## Resources (cont.)

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- [Planning Program Fact Sheet](#)
- [PLD Toolkit: Planning a Behavioral Health PLD Program](#)

# Contact Information

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- Shawna Ohle, *JRC Case Mgr., Buncombe County, NC*,- [Shawna.Ohle@buncombecounty.org](mailto:Shawna.Ohle@buncombecounty.org)
- Evan Namkung, *Intensive Forensic Services Supervisor, Deschutes County Behavioral Health* – [Evan.Namkung@deschutes.org](mailto:Evan.Namkung@deschutes.org)



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For more information, please contact Demetrius Thomas at  
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