ORT Vertical Prosecution Grant Program

Local Evaluation Plan

Organized Retail Crime Alameda (ORCA)
Vertical Prosecution Unit

Submitted by:
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Project Background

I. Project Need

Annually, the Alameda County District Attorney's Office (ACDAO) receives thousands of incident reports from 22 arresting agencies for review. When evidence supports the charges alleged and the office can meet the ethical burden to prove the case beyond a reasonable doubt, prosecutorial actions include but are not limited to filing new criminal charges, proceeding with revocation and modification of community supervision.

According to the ACDAO case management system, from 2019 to June 2023 just over 1,800 incidents of theft for conduct alleged under PC 490.4 Organized Retail Theft (ORT); PC 490.2 Petty Theft and PC 182 Conspiracy; and PC 666 Repeat Petty Theft, hereafter referred to as ORT cases, were presented to the ACDAO for review. Of those, 99 specifically alleged PC 490.4.

The top eight arresting agencies for these crimes serve Alameda, Berkeley, Dublin, Fremont, Hayward, Livermore, Oakland, and San Leandro. Each of these cities is home to major retail centers. The ACDAO was able to take action on 1,286 of the ORT cases. From 2019 to June 2023 ORT case outcomes have varied. Of the cases resulting from a new criminal charge, 159 resulted in a conviction or other action taken, 52 were dismissed. Leaving a large pool of pending and unresolved cases.

To this end, in 2022 the ACDAO joined an alliance between bay area prosecutors, law enforcement, and state agencies to combat ORT and pledged a prosecutor position to collaborate and participate in the joint effort. Historically, the ACDAO has not had the resources exclusively devote to ORT.

Prior to this grant investment, all ORT related cases were not specially assigned to Deputy District Attorneys (DDAs) and support staff. ORT cases were handled by the DDAs and Administrative Staff assigned to general prosecution teams as a part of their general misdemeanor and general felony caseloads. These general prosecution DDAs handle all types of criminal cases (excluding sex crimes and domestic violence related crimes, which are the sole existing vertical prosecution teams). Under this model, attorneys and staff were not able to fully utilize all resources and develop the specialized expertise needed to efficiently tackle the complexities of ORT cases.

The ACDAO Organized Retail Crime Alameda (ORCA) Vertical Prosecution Unit is intended to address the identified low rates of action taken on ORT cases, address long average and median length of time to case resolution and create pathways to diversion and restorative justice programing where and when appropriate.

The purpose of this focused investment is to enhance the administration of justice, through all prosecutorial tools available utilizing a major stage vertical prosecution model.

II. Project Scope

Launched in January 2024, the Alameda County District Attorney (ORCA) Vertical Prosecution Unit is responsible for combating ORT crimes in Alameda County (AlCo). The vertical prosecution resources provide critical support to combat ORT. The intent of the ORCA Unit is to address the low ORT case resolution rates and create more opportunities for evidence-based diversion and restorative justice opportunities.

Vertical Prosecution and Multidisciplinary Investigative Model

The newly created ACDAO ORCA unit will utilize major stage vertical prosecution for the cases selected for the focused caseload. The work of the unit will be driven by data analysis and coordination with law enforcement. Cases will be flagged at the intake and charging unit. After the defendant and the circumstances of the case meet the necessary criteria, The same prosecutor makes the first appearance and all significant appearances, such as: preliminary hearing, trial, sentencing, contested motions affecting bail, admissibility of evidence, dismissal of charges, change of venue, motions to sever or consolidate, discovery, setting aside the verdict or motions concerning search warrants. One full time DDA and one full time Inspector II will be assigned to the unit. Their primary roles will be the investigation and prosecution of organized retail theft crimes**.** The Senior Program Specialist will serve the enhanced model through tactical and strategic analysis of crime patterns and organized groups. In addition, the Senior Program Specialist will extract, analyze, and summarize data for performance measures reporting.

Model Approach

The ACDAO engages in a four-prong approach to combat organized retail theft; Dismantle, Disrupt, Deter and Divert. This model approach has been embraced by the California District Attorney's Association, California Chiefs of Police, Californians for Safe Stores and Neighborhoods, League of California Cities and California Retailers Association, and was profiled at the February 23, 2022, meeting of the Committee on the Revision of the Penal Code.

The assigned Deputy District Attorney (DDA), Inspector II, and Senior Program Specialist will aim to dismantle the infrastructure behind these crimes through partnerships with law enforcement agencies throughout the county and prosecutor offices from neighboring counties; through shared data collection, crime analytics, as well as pooled investigative tools to successfully prosecute those involved with organized retail theft schemes. In addition to the shared resources within Alameda and between neighboring counties, the ACDAO will continue to collaborate with local retailers to understand trends, enhance prevention efforts and improve safety for consumers. A key strategy in these efforts is to focus on the drivers of organized retail crimes by investigating money laundering, tax evasion, and fencing stolen goods. In addition, these strategies provide the opportunity to disrupt the digital black market. Partnerships such as the signed Collaborative Agreement announced by Attorney General Rob Bonta with retailers, and online marketplaces ensure that we are all better equipped to combat organized retail crime as they strength efforts to minimize the use of non-criminal online retail platforms for the purpose of fencing. The agreement announced on June 20, 2023, indicates these partnerships will help advance information-sharing and detection regarding loss of items from various stages of the supply chain, which include cargo and retail goods, that may end up for sale in online marketplaces. In addition, Attorney General Bonta has implemented a new online reporting portal to improve reporting of retail crime. The ACDAO ORCA Unit will establish a key point of contact for the Attorney General's (AG) Office initiatives with online retailers and consumers, in order to connect cases and coordinate efforts throughout the county and the state. The vertical prosecution team will work with not only the AG's Office but also regional law enforcement to deter serial theft, including but not limited to PC 490.4 and PC 182**.**

III. Project Area

Alameda County (AlCo) spans a geographically diverse 813 square miles and includes 14 incorporated cities and six unincorporated communities. AlCo has a robust transportation and commerce infrastructure including the fifth largest port in the country, approximately one million daily commuter trips, and is home to Oakland International Airport serving approximately 15 million passengers a year.

AlCo is the seventh most populous county in California and is home to 1.9 million people who are 37.98% White, 31% Asian, 10% Black or African American, 0.7% Native American, 0.8% Native Hawaiian and Other Pacific Islander. Additionally, over 46% of the population speaks a language other than English, 33% are foreign born and 9.4% live below the poverty line.

According to American Community Survey data, median household income in AlCo varies dramatically according to the race/ethnicity of the householder, with non-Hispanic white and Asian median household income outpacing Hispanic/Latino and Black households by significant margins.

Unfortunately, AlCo's position as a center of tourism, entertainment, and economic activity means it is not immune from the harms of Organized Retail Theft.

The ACDAO serves as the lead law enforcement agency for the county and represents the people before the Superior Court of California out of nine locations and at five courthouses across the county.

IV. Project Goals and Objectives

The following four goals have been identified to measure the success of the ACDAO ORT project and to demonstrate the value of using data to ensure the fair and effective administration of justice, (1) Improve the quality, efficiency, and timely disposition of ORT cases with an emphasis on reducing racial and ethnic disparities, (2) Encourage collaboration and formalize existing and emerging cross system law enforcement partnerships to combat ORT, (3) Use technology tools to analyze caseloads and prioritize case review and (4) Increase the capacity of diversion and restorative justice programs to address ORT. Ultimately the work of the ACDAO ORT Unit will increase public safety, consumer safety and reduce recidivism[1].

[1] https://www.bscc.ca.gov/s_recidivism/
Given the term of the grant period a full cohort analysis three years post conviction will not be possible. Alternatively, the ACDAO will track subsequent criminal justice system contact post conviction/diversion at the point of arrest and filing.

Goal 1: To improve the quality, efficiency, and timely disposition of ORT cases with an emphasis on reducing racial and ethnic disparities.

Objectives:

A. Increase the number of ORT cases resulting in resolution
B. Minimize unnecessary punitiveness.
C. Reduce racial and ethnic disparities in the criminal system, whether they stem from victim or defendant identity.

Goal 2: To increase collaboration and formalize existing and emerging cross system law enforcement partnerships to combat ORT.

Objectives:

A. By the end of the project period ACDAO will have held 10 or more County ORT meetings.
B. From the launch of the project law enforcement partners and retail community will have a single key point of contact at ACDAO to facilitate successful investigation and prosecution.

Goal 3: To use technology tools to analyze caseloads and prioritize ORT case review.

Objectives:

A. Increase the use of data to dismantle, disrupt, deter and divert organized retail theft.
B. Increase the use of data to identify evidence-based practice in prosecutorial decision making.

Goal 4: To increase the capacity of diversion and restorative justice programs to address ORT.

Objectives:

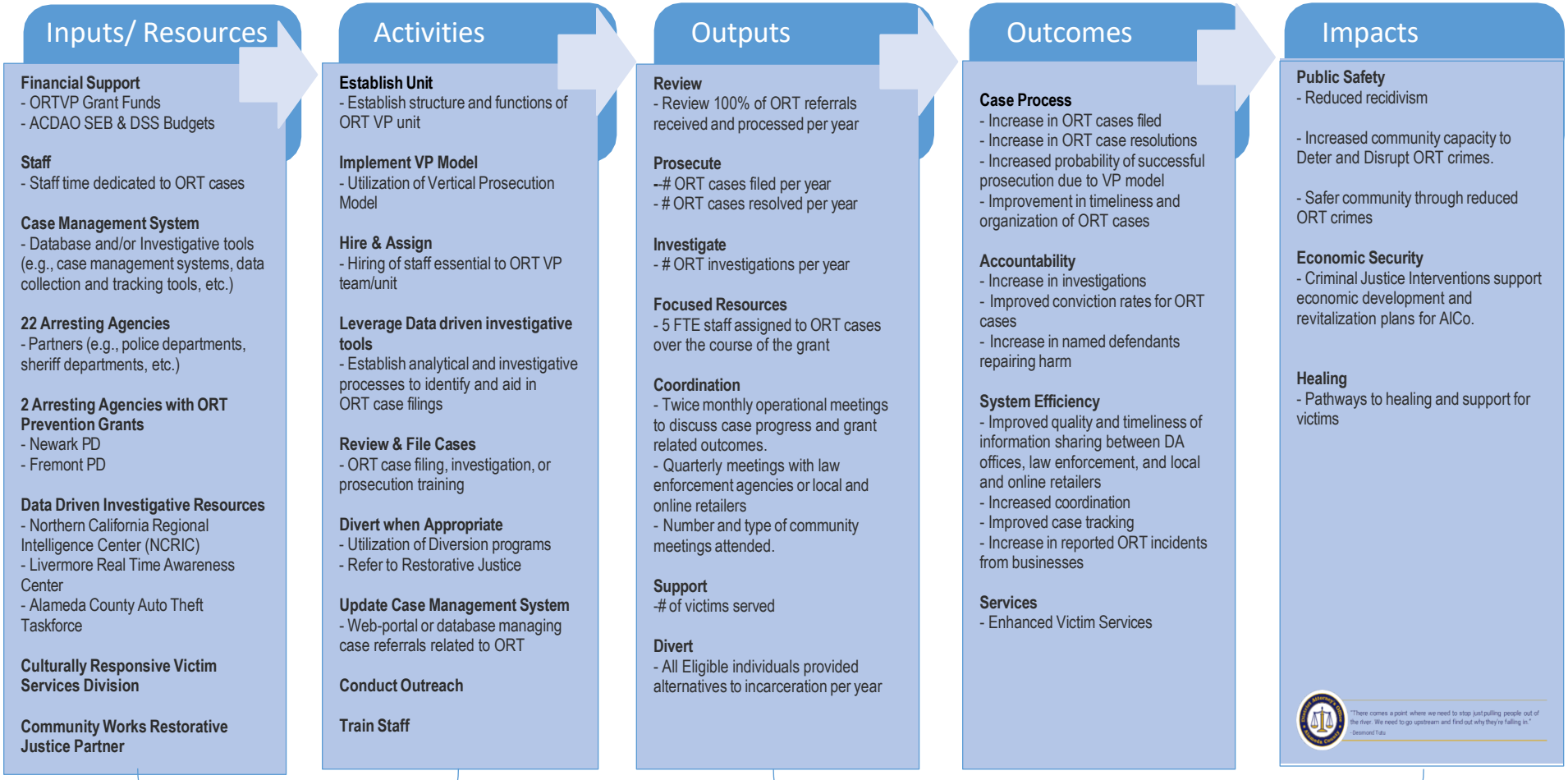
A. Increase the number of ORT cases resulting in successful resolution via restorative justice.
B. Minimize unnecessary punitiveness.
C. Reduce racial and ethnic disparities in the criminal system, whether they stem from victim or defendant identity.

Project Logic Model

The Organized Retail Crime Alameda (ORCA) Vertical Prosecution Unit and expansion of restorative justice as funded by the Board of State and Community Corrections (BSCC) aims to enhance the administration of justice, through all prosecutorial tools available utilizing a major stage vertical prosecution model. A comprehensive breakdown of the inputs/resources, activities, outputs, outcomes, and impacts can be found in the logic model below.

Organized Retail Crime Organized Retail Crime Alameda (ORCA) Vertical Prosecution Unit Logic Model:

Goal 1: To improve the quality, efficiency, and timely disposition of ORT cases with an emphasis on reducing racial and ethnic disparities.
Goal 2: To increase collaboration and formalize existing and emerging cross system law enforcement partnerships to combat ORT.
Goal 3: To use technology tools to analyze caseloads and prioritize ORT case review.
Goal 4: To increase the capacity of diversion and restorative justice programs to address ORT.



Project Oversight Structure & Project Monitoring

I. Management Structure and Decision Making

District Attorney Pamela Y. Price's Executive Leadership Team includes two Chief Assistant District Attorneys (CADA). CADA Otis Bruce Jr leads all matters related to criminal prosecution. The ORCA Vertical Prosecution Team's day to day activities including investigations, enforcement actions and prosecution fall under the direction of CADA Bruce. The District Attorney Investigations Bureau reports to CADA Bruce and is led by Chief Inspector Eric Lewis who has over 30 years professional law enforcement experience in planning and managing complex investigation, training and instructions and tactical field operations. Chief Inspector Lewis will provide oversight and support to the ORCA Inspectors for peace officer duties. This management structure accounts for a total of over 60 years' experience in prosecution and law enforcement. All unit decision making will be guided by unit case criteria set during the initial launch phase of the grant period. All decision making will be made in compliance with the Constitutions of the United States and the state of California. Guidelines will be set to comply with the ethical duties of the prosecutor and in accordance with the Racial Justice Act, as defined in PC 745[2].

Interim Head of the ACDAO Civil Rights Bureau, Demarris Evans will oversee the development of the referral process to the enhanced restorative justice programing made possible through the grant funds. Community Works the named service provided retains ownership of the program model and will collaborate with ACDAO on the most optimal referral procedures to ensure participant success.

All project level decisions will be made by CADA Bruce. The day-to-day management of the local evaluation plan will be led by the Assistant Chief of Administration and Operations Tara Anderson. Ms. Anderson will oversee the work of the Senior Program Analyst. The Senior Program Specialist will be responsible for quarterly review of data and completing the process and outcome evaluation outlined in the Local Evaluation Plan.

II. Monitoring and Process Improvement

The ORCA Team will meet two times a month throughout the course of the grant funded program service delivery period. During these meetings the team will provide updates and review process outcomes for the implementation of the vertical prosecution model. The ORCA team will use a major stage vertical prosecution model as described above. The regular team meetings will all staff at all levels to discuss effectiveness of team strategy and adjust accordingly under the direct of CADA Bruce. Additionally, the Senior Program Analyst, under the direction of the Assistant Chief of Administration and

[2] https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=745.

Operations will present the process evaluation on a quarterly basis to the team. Interim Head of the ACDAO Civil Rights Bureau with the support of the Senior Program Analyst and contractor, will report to the ORCA team on a quarterly basis the outcomes of referrals to Restorative Justice Programming. Together these meetings and regular review of data will ensure fidelity to the vertical prosecution model and restorative justice model.

Process Evaluation Method and Design

I. Process Evaluation Research Design

The evaluation will utilize a mixed-methods approach including both quantitative and qualitative elements. Quantitative results may demonstrate trends in case review and prosecution, qualitative data can help explain trends in behavior change through diversion and restorative justice program participation. ORCA team members will be interviewed to determine strengths and challenges associated with implementing an ORT Vertical Prosecution Model.

II. Data Collection & Analysis

Quantitative data and Qualitative data will be used to achieve a cohesive understanding of the implementation of the ORT VP and related programing. Core to the investment is the tracking and review of case processing measures. Data will be extracted from the ACDAO case management system and cleaned for analysis. Excel, R and Python are the likely analytical tools to be used for quantitative analysis. Outputs of the quantitative analysis will include descriptive statistics applied to the data on cases presented for review, ongoing investigations, case filings and case resolutions.

The qualitative data will be collected through survey methods for RJ participants and survey and interviews with the ORCA Unit. The qualitative data will be assessed to identify themes for system improvement. The collection of qualitative data will be focused on understanding the following topics:

- Effectiveness of identification, screening, and referral to Restorative Justice and Diversion programs
- Fidelity to proposed RJ program models, including services delivered and staff competencies
- Perceptions of service providers' cultural responsiveness and ability to provide services
- Implementation successes and challenges
- Participant satisfaction

Interviews with RJ service providers' staff, ORCA Unit, and ACDAO leadership will focus on: (1) successes, challenges, and lessons learned in identification, referral, engagement, and (2) system coordination, and vertical prosecution implementation.

III. Process Evaluation Matrix

Input/Resource/Activity/Output	Data Element(s)	Data Source(s)	Unit of Analysis	Frequency of Data Collection
20 ORT prosecutions resolved per year of the grant	# of ORT prosecutions resolved	RD3 Case management system	Court Number	Each time a case is resolved. Review Quarterly by Dispo Count Date.
40 ORT investigations per year of the grant	# of ORT investigations initiated and ongoing	RD3 Case management system, Investigative Software	CJB #/Police Incident Report number	Each time an action/event occurs throughout duration of case investigation. Review Quarterly by intake date.
5 FTE staff assigned to ORT cases over the course of the grant	# of staff assigned to ORT	Employment records, RD3 Case management system	Project specific Job codes	Annually throughout duration of grant.
Hiring of staff essential to ORT VP unit	When staff has been hired	Employment records	Project specific vacant job codes	Annually throughout duration of grant
Web-portal or database managing case referrals related to ORT	# of case referrals	RD3 Case management system	Police Incident Number	Each time a case referral occurs throughout duration of grant. Review Quarterly by review date.
Utilitarian of Restorative Justice (RJ) Programs	# of individuals referred to RJ	RD3 Case management system	Collaborative Court Number paired with unique person identifier	Each time an individual is provided RJ throughout duration of grant.
Utilization of Diversion programs	# of individuals diverted, provided alternatives to incarceration	RD3 Case management system	Collaborative Court Number paired with unique person identifier	Each time an individual is provided alternative to incarceration throughout duration of grant.
50 ORT cases filed per year of the grant	# of ORT cases filed	RD3 Case management system	Court Number	Each time a case is filed. Review Quarterly by filed date.
Reduced time to case resolution	# of cases resolved	RD3 Case management system	Court Number	Each time a case is resolved. Review Quarterly by Dispo Count Date compared to Filing Date.
Improved conviction rates for ORT cases	# of ORT prosecutions and # of ORT cases filed	RD3 Case management system	Court Number	Review Quarterly by Dispo Count Date.

Outcome Evaluation Method and Design

I. Outcome Evaluation Design

ACDAO aims to examine the success of the ORT VP investment in terms of the following outcome evaluation questions:

(1) Did the Vertical Prosecution Model intervention;
Improve the quality, efficiency, and timely disposition of ORT cases with an emphasis on reducing racial and ethnic disparities?

- Increase the number of ORT cases that are prosecuted and convicted of ORT in accordance to the relative ORT penal codes?
- Reduce the time between filing and Case Resolution?
- Were appropriate accountability outcomes achieved?
- Increase collaboration and formalize existing and emerging cross system law enforcement partnerships to combat ORT?
- Improve the ability to connect cases by arresting agencies appropriate for ORT filing?

(2) Did the grant investment increase the capacity of diversion and restorative justice programs to address ORT?

-Were referrals to diversion and restorative justice increased?
-Were appropriate accountability outcomes achieved?
-Did victims report Satisfaction with the Restorative Justice Process?

(3) Did the use of technology tools to analyze caseloads support investigation and prosecutions?

-Was there an increase in collaboration between agencies in gathering information and evidence to file ORT cases?

NOTE: ACDAO will track project performance for all the sub-contractor/sub-grantee over time, including both implementation and impacts, for the implementation of Restorative Justice Programing. All data gathered and subsequent analysis will be used to inform policy and practice change as appropriate.

II. Outcome Data Analysis

Quantitative data and Qualitative data will be used to achieve a cohesive understanding of the potential impact of the ORT VP and related programing. Core to the investment is the tracking and review of case processing measures. Data will be extracted from the ACDAO case management system and cleaned for analysis. Excel, R and Python are the likely analytical tools to be used for quantitative analysis. Outputs of the quantitative analysis will include descriptive and potentially inferential statistics applied to the data on cases presented for review, ongoing investigations, case filings and case resolutions. The ACDAO is further assessing which statical model is most appropriate

for group to group comparison on prosecution of ORT cases. Further assessment of data availability, data quality, frequency of ORT cases, and ORT case characteristics carried by the vertical and non-vertical prosecution teams is required. The ACDAO aims to make this determination no later than June 2024.

III. Outcome Evaluation Matrix

Outcome	Definition	Data Source(s)	Unit of Analysis	Frequency of Data Collection
Increase in ORT prosecutions	Increases in the number of ORT cases that are prosecuted and convicted of ORT in accordance to the relative ORT penal codes	RD3 Case management system	Court Number	Each time a case is resolved. Review Quarterly by Dispo Count Date.
Increase in ORT cases filed	Increase in the number of ORT cases filed	RD3 Case management system	Court Number	Each time a case referral occurs throughout duration of grant. Review Quarterly by review date.
Improved conviction rates for ORT cases	Increase in the number of ORT convictions in relation to the number of ORT cases filed.	RD3 Case management system	Court Number	Each time a case is resolved. Review Quarterly by Dispo Count Date and Dispo reason.
Improved quality and timeliness of information sharing between DA offices, law enforcement, and local and online retailer	Increase in collaboration between agencies in gathering information and evidence to file ORT cases	RD3 Case management system	Police Incident Report Number by Arresting Agency	Each time a case referral occurs throughout duration of grant. Review Quarterly by review date.
Improvement in timeliness and organization of ORT cases	Increase in the number of ORT cases filed and decrease in the amount of time a case goes through the court process.	RD3 Case management system	Court Number	Each time a case is resolved. Review Quarterly by Dispo Count Date compared to Filing Date.
Enhanced Victim Services and Reduced Recidivism through Restorative Justice	100% of eligible cases and people referred.	Contractor Quarterly Reports to ACDAO RD3 Case management System	Police Incident Report Number, Court Number, and unique person identifier	Each time a case is referred. Review Quarterly. Subsequent criminal justice system contact (arrest, and filing). Review Quarterly.