

City of Carson City  
Agenda Report

Item # 17B

Date Submitted: October 23, 2009

Agenda Date Requested: November 5, 2009

Time Requested: 5 Minutes

To: Mayor and Supervisors

From: Max Cortes, Court Administrator  
Chief Rory Planeta, Department of Alternative Sentencing

**Subject Title:** Action to approve the Department of Justice, Office of Justice Programs Grant Award of \$329,032 for the period of (9/1/2009 – 8/30/2012) for the Western Regional DUI Court. (Max Cortes/Chief Rory Planeta)

**Staff Summary:** In collaboration with the Carson City Department of Alternative Sentencing the District Court applied for the Drug Court Discretionary Grant Program for the Western Regional DUI Specialty Court. The Grant Award is \$329,032 for three years. The first year award is \$105,057.00, the second year award is \$109,607.00 and the third year award is \$114,368.00. (Max Cortes/Chief Rory Planeta)

**Type of Action Requested:** (check one)

Resolution  Ordinance  
 Formal Action/Motion  Other (Specify)

**Does This Action Require A Business Impact Statement:**  Yes  No

**Recommended Board Action:** I move to approve the Department of Justice, Office of Justice Programs Grant Award of \$329,032 for the period of (9/1/2009 – 8/30/2012) for the Western Regional DUI Court.

**Explanation for Recommended Board Action:** The Western Regional DUI Offender Specialty Court is comprised of a Specialty Court Judge, the Carson City District Attorney's Office, the State Public Defender, and the Departments of Alternative Sentencing in Carson City and Douglas County. The grant will allow for the hiring of a sworn peace officer to supervise and monitor convicted third time DUI offenders in Carson City and Douglas County. In addition, the grant will also pay for training, drug and alcohol testing, and treatment for indigent offenders.

**Applicable Statute, Code, Policy, Rule or Regulation:** NRS 484.37941 Evaluation and treatment for alcohol or drug abuse: Application by third-time offender to undergo program of treatment; sentencing of offender and conditional suspension of proceedings; requirements to participate in program of treatment; certain previous convictions preclude offender from participating in program of treatment.

1. An offender who enters a plea of guilty or nolo contendere to a violation of NRS 484.379 or 484.379778 that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484.3792 may, at the time he enters his plea, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 3 years if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, or a clinical alcohol and drug abuse counselor who is licensed, pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners; and

(b) The offender agrees to pay the costs of the treatment to the extent of his financial resources.

↪ An alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor or a physician who diagnoses an offender as an alcoholic or abuser of drugs shall make a report and recommendation to the court concerning the length and type of treatment required for the offender.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter and other information before the court.

**4. If the court determines that an application for treatment should be granted, the court shall:**

**(a) Immediately, without entering a judgment of conviction and with the consent of the offender, suspend further proceedings and place him on probation for not more than 5 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.**

(b) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for not more than 5 years and during treatment he may be confined in an institution or, at the discretion of the treatment facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a treatment facility, or if he fails to complete the treatment satisfactorily, the court will enter a judgment of conviction for a violation of paragraph (c) of subsection 1 of NRS 484.3792. Any sentence of imprisonment may be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, the court will enter a judgment of conviction for a violation of paragraph (b) of subsection 1 of NRS 484.3792.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence or set aside the conviction upon the election of treatment, except as otherwise provided in this section; and

(b) May enter a judgment of conviction and proceed as provided in paragraph (c) of subsection 1 of NRS 484.3792 for a violation of a condition ordered by the court.

6. To participate in a program of treatment, the offender must:

(a) Serve not less than 6 months of residential confinement;

(b) Install, at his own expense, a device for not less than 12 months;

(c) Not drive any vehicle unless it is equipped with a device;

(d) Agree to be subject to periodic testing for the use of alcohol or controlled substances while participating in a program of treatment; and

(e) Agree to any other conditions that the court deems necessary.

7. An offender may not apply to the court to undergo a program of treatment for alcoholism or drug abuse pursuant to this section if he has previously applied to receive treatment pursuant to this section or if he has previously been convicted of:

- (a) A violation of NRS 484.3795;
- (b) A violation of NRS 484.37955;
- (c) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955;
- (d) A violation of paragraph (c) of subsection 1 of NRS 484.3792;
- (e) A violation of subsection 2 of NRS 484.3792; or
- (f) A violation of law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a), (b), (c) or (d).

8. As used in this section:

- (a) "Device" has the meaning ascribed to it in NRS 484.3941.
  - (b) "Treatment facility" has the meaning ascribed to it in NRS 484.3793.
- (Added to NRS by 2007, 1058)

**Fiscal Impact:** No fiscal impact.

**Explanation of Impact:**



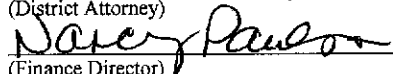
**Funding Source:**

**Alternatives:**

**Supporting Material:**

**Prepared By:**

**Reviewed By:**

  
 \_\_\_\_\_  
 (City Manager)  
  
 \_\_\_\_\_  
 (District Attorney)  
  
 \_\_\_\_\_  
 (Finance Director)

Date: 10-27-09  
 Date: 10-27-09  
 Date: 10/27/09

**Board Action Taken:**

Motion: \_\_\_\_\_ 1) \_\_\_\_\_ Aye/Nay  
 2) \_\_\_\_\_ \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 (Vote Recorded By)



**Department of Justice**  
**Office of Justice Programs**

*Washington, D.C. 20531*

**GRANT AWARD NOTICE**  
**IMPORTANT**

<b>FAX TRANSMISSION NUMBER:</b>	(775) 684-5683
<b>To:</b>	The Honorable Jim Gibbons
<b>Attn:</b>	Ryan McGinness (775) 684-5670
<b>From:</b>	Department of Justice, Office of Justice Programs, Office of Communications
<b>For more information, please contact:</b>	Sarah Matz
<b>Phone Number:</b>	(202) 107-0703
<b>Fax Number:</b>	(202) 514-5958
<b>SUBJECT:</b>	FY 09 Drug Court Discretionary Grant Program: Implementation



**Department of Justice**

Office of Justice Programs

Office of Communications

Washington, D.C. 20531

<b>GRANT NOTIFICATION</b>		Grant Number: 2009-DC-BX-0118	
Name & Address of Recipient:		City Of Carson City 201 N Carson St	
City, State & ZIP:		Carson City, Nevada 89701-4264	
Recipient Project Director/Contact: Larry Werner City Manager			
Phone: (775) 887-2121			
Title of Program:		FY 09 Drug Court Discretionary Grant Program: Implementation	
Title of Project:		FY 09 Drug Court Discretionary Grant Program: Implementation	
Amount of Award:		\$ 329,032	Date of Award: 09/23/2009
Awarding Agency:		Bureau of Justice Assistance Kathy Mason	
Supplement:		No	
Statutory Authority for Program: 42 U.S.C. 3797u(a) (BJA - Drug Courts)			
Impact/Focus:		Local	CFDA Number: 16.585
<p><b>Project Description:</b></p> <p>The Drug Court Discretionary Grant Program is designed to assist states, state courts, local courts, units of local government, and Indian tribal governments in developing and establishing drug courts for substance-abusing adult and juvenile offenders. Drug court programs funded by the Drug Court Discretionary Grant Program are required by law to target nonviolent offenders. The program supports the following activities: adult drug court implementation, single jurisdiction drug court enhancement, statewide drug court enhancement, and planning efforts.</p> <p>The city of Carson City in collaboration with the Carson City District Attorney's Office, the State Public Defender, local treatment providers and the Departments of Alternative Sentencing in Carson City will use Drug Court Enhancement funds to design and implement a DUI Court.</p> <p>CANCF</p>			
For more information about this grant, contact the Office of Justice Program's Office of Communications at 202/307-0703.			