

Frequently Asked T-CAP QUESTIONS

1. Is an extension to the August 21st deadline possible?

Answer: Voluntary counties are required to reply before August 21st, 2017 at 8:30am. There will be no extension to that deadline.

“Targeted” Counties were provided an additional timeline. However, “Targeted” counties must still submit an MOU by August 21st at 8:30am indicating they are requesting a deadline extension. “Targeted” counties should refer to the email sent to all “Targeted” county court administrators dated 8/10/17 from Chris Galli regarding the process to request an extension.

2. Is a County required to use some of the T-CAP grant funds to pay the Sheriff for incarceration of F5 offenders?

Answer: No, there is no requirement to use any of the funding for a per diem to the Sheriff. If the county plan is to use the funding in other ways, that is acceptable.

3. Can the county use T-CAP grant funds on other felony offenders? Can T-CAP grant money be used for Pretrial Services personnel and PSI writers?

Answer: Yes. The county can use the funding to provide services for ANY community correction population including misdemeanors if it so chooses. For example, the county could choose to start a treatment program. The treatment program could serve both felony and misdemeanor offenders. It can use the funds to hire any type of personnel (i.e. Pre-trial officers, contract for PSI writers, caseworkers, treatment facilitators, etc.) to work with either the felony or misdemeanor population.

4. What happens to the funding if a County chooses not to participate in the T-CAP grant?

Answer: DRC may use some of the funds in counties who choose to be a voluntary county and indicate they are willing to consider other felony populations for additional diversions (see question 5 on the MOU). As a reminder, DRC’s budget is predicated on an average prison population of 49,104 in FY18 and 47,538 in FY19. DRC may be required to seek Controlling Board approval to transfer the funds not utilized from the 407 line for the T-CAP program to the prison operations line if these required prison population averages are not realized.

5. Are we penalized for TCAP defendants sent to prison before the implementation date?

Answer: No. The effective date of the grant is the first date that the grant will be reduced if a T-CAP population offender is sentenced to a DRC prison. This will only apply to counties in FY18. After July 1, 2018, the restriction to sentence T-CAP population F5s applies to all voluntary and targeted counties. Therefore, the \$72/day reduction to the grant is no longer needed.

6. Are we penalized for T-CAP offenders sent to prison if we do not submit an MOU to be a voluntary county in FY18?

Answer: No, the penalty only applies to voluntary counties who submit an acceptable MOU.

7. If a county chooses not to participate in the grant will it affect any of the other grant funds it receives or applies for with DRC?

Answer: No, when evaluating grant applications DRC does not make its determination of approval based upon whether or not a county chose not to participate in a prior grant. DRC does consider the amount of funds it provides to counties in total and the overall balance of funding versus potential impact when reviewing grant applications. However, if DRC's prison population does not average 49,104 in FY18 and 47,538 in FY19 and it is decided to build another prison, all community correction funding could be in jeopardy. DRC cannot afford to build a prison and continue to provide the current level of community correction funding.

8. Can judges consecutively stack F-5 sentences that total over 12 months, thus avoiding the "12 months or less" TCAP designation? There are cases where an offender may have ten or more F-5 charges with ten or more crime victims. Will there be a grant penalty if a multiple F-5 offender is sentenced to more than 12 months in prison?

Answer: The "T-CAP population" only includes the specific F5 offenders who are sentenced to prison for 12 months or less. If a "T-CAP" F5 is sentenced to more than 12 months, there is no grant penalty as that offender is outside of the F5 "T-CAP" restriction. However, if DRC's prison population does not reduce to the averages indicated above DRC may discontinue the T-CAP grant.

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9. Is an F-5 charge sentenced concurrently to a higher degree felony sentence in the same case a T-CAP offender? If there are companion cases – one TCAP-eligible and the second an ineligible F-5 Assault, can the offender be sentenced currently to prison on the T-CAP case?

Answer: One of the exceptions to the T-CAP F5 change in 2929.34(B)(3)(d)(iv) is if the person's sentence is required to be served concurrently to any other sentence imposed for a felony required to be served in a DRC prison. Therefore, in both of the above circumstances, the offender is eligible to serve a prison sentence and hence is not a T-CAP offender.

10. If an offender is unsuccessfully terminated from our local CBCF, can that offender be sentenced to prison without a grant penalty?

Answer: No. If a county participates in the T-CAP grant, during FY18 (Sept. 18, 2017 to June 30, 2018) the grant will be charge \$72 per day per offender for any "T-CAP population" offender sent to prison for any reason.

11. Will a county be penalized for APA commitments of PRC violators?

Answer: No. The T-CAP grant only applies to County Common Pleas Court sentenced "T-CAP population" felonies of the fifth degree.

12. Will DRC conduct a full criminal history check to determine whether F-5s sentenced to prison have no prior felonies of violence or prior felony sex offenses? Are we required to notify the DRC of prior disqualifying offenses?

Answer: For voluntary counties in FY18, DRC will provide a list to each county of all T-CAP population F5s who are sentenced to prison. The county will then review the list and provide DRC with the case number of any prior adult violent or sex offense conviction in the offenders past. DRC will then remove those offenders from the list. For any remaining offenders (those who do not have a prior adult conviction of violence or sex offense), DRC will charge the grant \$72/day.

14. On and after July 1, 2018, what will happen when a sentenced F-5 TCAP offender is transported to prison to serve a sentence?

Answer: DRC will be unable to admit the offender into one of its institutions by law.

15. When do we start counting jail bed day per diems? On the day of sentencing? Do we also include pretrial detention days in the calculation?

Answer: The law change only effects where a prison sentence is permitted to be served for the T-CAP population. Therefore, DRC believes the per diem would start on the first day the offender is sentenced to serve a term of incarceration in the jail. However, Counties and Sheriffs can consider agreeing to a fixed amount of funding to cover anticipated incarceration costs over the grant term instead of going through the administrative hurdles of counting the number of offenders in jail on a daily basis, invoicing the Court or County and then creating a payment etc.

16. Will there be a “grace period” to allow a judge to judicially release a TCAP offender from prison before the penalty is imposed?

Answer: No. However, DRC will only charge the grant for the number of days the offender actually serves in prison. For example, if the offender is given a 10 month sentence, but the offender is granted a judicial release after 5 months, the grant will only be charged for 5 months.

17. How would the T-CAP money be deposited to the county (Meaning - Is it deposited into the County General Fund or does a special line item need to be created for the money, which would assist in tracking how the money comes in and how it is spent)? Are T-CAP funds paid to the county auditor just like your CCA grant funds?

Answer: The funding will be provided to the county through an electronic fund transfer (EFT) to the same county office as all other DRC grants. If the county does not currently receive a grant from DRC, after the MOU is submitted, DRC will communicate with the county to get the correct EFT location. Yes, the grant guidelines require that the T-CAP financial records be maintained separately from other funds. Please work with your county auditor to determine the appropriate process.

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18. Who is the 4th Person who has to sign the MOU? Is it the Warden of the Jail or the Sheriff who is responsible for incarcerating inmates? (Note: There is currently no jail in our County. Our County currently houses inmates in the Regional Jail under an agreement.

Answer: The MOU requires signatures from the County Commissioners office, the Common Pleas Court Administrative Judge, and the County Sheriff and “an official from any municipality operating a local correction facility in the county to which courts of the county sentence offenders.” Therefore, if there is no correctional facility in your county, there is no requirement for this person to sign the MOU. If the MOU is signed by the regional jail administrator, this is also acceptable.

19. How/when will the grant dollars be paid to the county?

Answer: In FY18, the county will receive three (3) equal payments totaling approximately 35 to 45 percent of the total grant amount. The first payment is scheduled for September 2017, the next two will come in January and April 2018. In FY19, the county will receive four (4) equal payments totaling the remaining percentage of the grant. The FY19 payments are scheduled to be received in July 2018, October 2018, January 2019 and April 2019.