

Assessment of the 12th Judicial District Attorney's Office, Colorado



Prosecutors' Center for Excellence

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Assessment of the District Attorney’s Office of the 12th Judicial District of the State of Colorado

Introduction

Overview of the 12th Judicial District of the State of Colorado

Population and Jurisdiction

The 12th Judicial District of the State of Colorado (the District) encompasses the six counties of the San Luis Valley: Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache. It serves a population of about 47,000 people. Alamosa is the largest county and is the main location for the 12th Judicial District Attorney’s Office (JDAO), which is about a 4-hour drive south of Denver. The JDAO’s satellite offices in the other five counties are about a 30 to 45-minute drive from the main office in Alamosa.

The chart below shows the population demographics and poverty level of the District.

County	Population	White Non-Latino	Latino	Native American	African American	% in poverty
Alamosa	16,233	47.1%	47.6%	5.6%	1.8%	19.1%
Conejos	8,200	45.7%	51.3%	4.0%	1.0%	21%
Costilla	3,887	33.9%	61.2 %	5.3%	2.1%	25.2%
Mineral	769	91.2%	6.2%	1.0%	.03%	9.3%
Rio Grande	11,267	51.9%	44.4%	3.6%	1.1%	14.5%
Saguache	6,824	58.1%	36.4%	3.6%	1.2%	24.6%
Total	47,180					

The Office has jurisdiction over felonies, misdemeanors, traffic offenses that carry a possible jail sentence, juvenile delinquency, and civil commitments for the mentally ill. The Office also handles appeals from misdemeanors and post-conviction motions. The Attorney General’s Office responds to appeals in felony cases.

Crime Issues

Crime rates across the 12th Judicial District vary; some counties have rates lower than the national average, whereas the city of Alamosa ranks considerably higher. By comparison, in 2017, Alamosa City's rate of property crime was almost twice that of Denver and Colorado Springs, though its rate of violent crime was approximately two-thirds that of Denver and 85 percent of Colorado Springs.¹

According to staff in the District Attorney's Office, the property crime rate is holding steady, though there has been an increase in homicides and officer-involved shootings. Whereas prior to 2015, the Office might have seen one homicide per year, it was working on eight such cases during the period of study.

As in much of the nation, drug crime constitutes a significant share of the criminal docket, particular cases of drug addiction. Prosecutors report that drug cases predominantly involve opioids or methamphetamine. Multi-defendant cases often have underlying factors involving drugs.

District Attorney

District Attorney, Robert S. Willett grew up in Missouri and moved to Colorado in 1987. Prior to law school, he served in the military and as a police officer. DA Willett has been a prosecutor in both the JDAO and in Colorado Springs. In January of 2020, DA Willett was selected by the Governor to serve as the District Attorney of the 12th Judicial District after the appointment of DA Crista Newmyer-Olsen to the bench. DA Willett has tried serious felony cases in every county of the District and continues to handle the significant cases in the Office. He has championed adult and juvenile diversion, as well as LEAD, a pre-charging law enforcement diversion program. These programs provide services and treatment, as an alternative to incarceration, for qualifying individuals charged with low level, non-violent crimes.

¹ <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/tables/table-8/table-8-state-cuts/colorado.xls>

The Assessment Project

In October of 2019, the National Training and Technical Assistance Center (NTTAC) approved District Attorney Crista Newmyer-Olsen's request for the Prosecutors' Center for Excellence (PCE) to conduct a holistic study of the 12th Judicial District Attorney's Office, concluding with a report detailing recommendations and best practices in the following general areas: office organization and structure, office culture and environment, management, case processing, and quality of work. Embedded throughout this report is PCE's evaluation of the Office and recommendations for new approaches and additional training.

DA Newmyer-Olsen, and her successor DA Willett, were both very supportive of an office review and provided unfettered access to staff and data. They both demonstrated the willingness to study, adjust, and improve the Office. Throughout the process, both District Attorneys welcomed input from PCE and have made improvements and innovations based on that input.

The Assessment Team

PCE is a national non-profit that works with prosecutors in offices of all sizes to improve the criminal justice system. PCE provides consulting services to prosecutors on a wide variety of issues from policy issues to office efficiency. PCE also supports statewide prosecutor-led Best Practices Committees and national prosecutor meetings that proactively work to develop responses to the difficult criminal justice issues of the day. PCE's executive director, Kristine Hamann, led the assessment team.

Kristine Hamann: PCE was founded by Kristine Hamann, who previously served as a career prosecutor in the Manhattan District Attorney's Office in New York City. As a member of the Office's Executive Staff, among many other duties, she oversaw the Planning and Management Unit that worked to enhance and streamline the Office. In 2013, Ms. Hamann was selected to be a Visiting Fellow at the Department of Justice/Bureau of Justice Assistance. The goal of the fellowship was focused on developing best practices for prosecutors. PCE has continued and expanded upon this mission. Ms. Hamann has traveled to over 30 states to meet with prosecutors as a consultant on prosecution issues, to present on various emerging issues, and to encourage the development of statewide Best Practices Committees for prosecutors. Ms. Hamann is an Adjunct Professor at Georgetown Law School and has received numerous awards for her work as a prosecutor. See also <https://pceinc.org/team/kristine-hamann/>

Jon Gould: The PCE team was supplemented by Jon Gould, Foundation Professor of Criminology, Justice and Law and Director of the School of Criminology and Criminal Justice at Arizona State University, a top-five program in the United States. Previously, he was Professor of Public Affairs and Law and inaugural director of the Washington Institute for Public Affairs Research at American University. An author of four books and more than fifty articles on issues of justice policy and reform, he has also served as Senior Policy Advisor in the U.S. Department of Justice, Director of the Law and Social Sciences Program at the National Science Foundation, and a U.S. Supreme Court Fellow. Over the last twenty years, Professor Gould has conducted numerous assessments of the courts, defense and prosecutors and has led research projects on a variety of prosecution-related topics. See also, <https://pceinc.org/team/jon-gould/>

Assessment Methodology

The PCE team combines data analysis with qualitative interviews and in-person observations. The PCE team interviewed individuals from inside and outside the JDAO and observed the JDAO staff at work.

PCE visited the Office in person in October of 2019, coincidentally on the day that DA Newmyer-Olsen was appointed to the bench. PCE spent three productive days in the Office. The assessment was paused to await the appointment of the new District Attorney and then to allow him to become acquainted with the job. The second visit to the Office was planned for the Spring, however, COVID-19 stopped all travel. The remaining interviews were conducted via Zoom.

The Office was accessible and helpful during the assessment. JDAO staff arranged meetings that the PCE team sought, promptly replied to data requests, and made themselves available to answer multiple questions from the assessment team. They also kept an appropriate professional distance, allowing the assessment team to reach its own conclusions and never seeking to improperly influence these conclusions. Indeed, the JDAO's willingness to allow access to its operations and assist the PCE team without seeking to direct the outcome was an important sign of professionalism.

Persons Interviewed

Between the site visit and Zoom calls, PCE interviewed over 25 individuals connected to the 12th Judicial District criminal justice system. Some individuals were interviewed more than once. In order to encourage candidness and clarity in meetings and interviews, PCE promised anonymity to those individuals it interviewed and did not

interview people at the same time as their supervisors. PCE does not quote from interviewees in this report, in order to protect the identity of prosecutors, police officers, judges, and community members. The interviews included:

- DA Crista Newmyer-Olson and DA Robert Willett
- All JDAO attorneys (as of May 2020)
- All JDAO non-legal staff (as of May 2020)
- All JDAO victim advocates
- All JDAO investigators
- A 12th District judge
- Law enforcement officers from the Alamosa Police Department
- Directors of two social service agencies

Data

The JDAO uses ACTION, a case management system developed by the Colorado District Attorneys Council (CDAC). Both DA Newmyer-Olson and DA Willett have encouraged a more robust use of this program. The data used in this report comes from ACTION and the Office provided all available data that was requested.

Observations

Finally, the PCE team conducted observations both in the JDAO and in various courtrooms. As a result of the pandemic, the PCE team was only able to make one in-person visit to the 12th Judicial District.

Executive Summary

The 12th Judicial District Attorney's Office faces several challenges, but it starts with multiple assets. Its leadership, most notably DA Willett is committed to best practices, as evidenced by the invitation to PCE to conduct this assessment.

DA Willett has adopted many innovative measures, some in conjunction with this assessment, that will assist in the processing of cases and will bring greater safety, efficiency, and justice to the residents of the 12th Judicial District. It is impressive to see DA Willett's openness to PCE's suggestions and his commitment to the implementation of modern best practices.

At the same time, the JDAO leadership confronts multiple challenges, some external but many internal, that stymie their best intentions. In the Executive Summary that follows, PCE describes these challenges and summarizes its recommendations for dealing with them.

Staffing Levels

The JDAO is operating at staffing levels that threaten its continued performance. Attorney caseloads are excessive, and professional staff are stretched. The Office needs more attorney positions. Given drops in public revenue as a result of the COVID-19 crisis, adding positions will be difficult, but the JDAO may still be able to pursue the following priorities:

- To attract and retain capable attorneys, the Office needs to improve salaries, both as they compare to those of public defenders and against other prosecutors' offices in Colorado. A formal study comparing salary and benefits for prosecutors and public defenders in the 12th Judicial District would help underscore the seriousness of these discrepancies.
- The Office should consider employing a part-time attorney, perhaps through remote means, who could handle difficult cases and/or provide guidance to less experienced prosecutors.
- Similarly, the JDAO should consider the engagement of trained interns or volunteers to carry some of the workload.

- It is essential to cross-train office staff so they can fill in for one another when needed. It is particularly important for multiple staff members to be proficient in the Office’s case management system, ACTION, as it is used for such important tasks as tracking cases, discovery, and subpoenaing witnesses.

Efficiencies

To make the most of the resources the Office has, the JDAO can pursue several paths to focus on the most important cases and handle them most efficiently. To do so, the Office should consider the following measures:

- A robust intake process triages cases into the most serious that require additional attention while sorting out weaker matters that can be dismissed or diverted from the criminal justice system. The JDAO should assess whether the non-legal staff can assist lawyers with the intake process, for example by running criminal histories of arrested defendants and obtaining other background information about cases. The intake and triage function also could be assigned to a part-time, experienced lawyer working remotely.
- The Office smartly has prioritized a diversion program that moves cases that can be effectively handled without a criminal sanction to other paths for resolution. Another relatively inexpensive option is a “Neighborhood Court” in which members of the community serve as judges over low-level offenses.
- Alternative approaches to low level crimes that save funds and benefit the community should be considered.
- The Office has a capable investigator, who can help supplement the casework done—or, too often, not accomplished or not done well—by law enforcement agencies in the District. This is especially true in felony cases, where a checklist of needed evidence should be created to standardize and streamline the review. The investigator should be trained in reviewing, preserving and authenticating social media and other internet searches, as this can yield important evidence. The Office’s paralegals should receive similar training.
- The COVID-19 crisis has demonstrated that some activities, especially those requiring court appearances, can be effectively accomplished remotely. The Office should continue to explore remote alternatives to conducting the JDAO’s business.

Training

Given the frequent turn-over of attorneys, training is an ongoing and critical issue. In addition, the heavy caseloads of the new attorneys make it difficult to set aside time for training. However, training is essential to develop and maintain proficiency among attorneys and professional staff.

Even as the pandemic has made in-person training more difficult, there are opportunities to expand remote training by seeking out speakers and experienced attorneys from other prosecutor offices in Colorado. For example, the Colorado District Attorneys Council provides excellent remote training, which could be utilized. The Office should sign up for *Prosecutors Encyclopedia*, which is a free wiki for prosecutors.

Apart from legal training, supervisors would benefit from management training. Remote training should be available that is both affordable and easy to access.

Management

The Office's leadership is effective, and employee morale is good, which is remarkable during the COVID-19 crisis. To maintain best practices, the Office's policy and procedure manual should be updated. In addition, the JDAO should implement a standardized performance review system for legal and non-legal staff that occurs at the same time every year. This will provide an opportunity for feedback between staff and supervisors that can resolve issues and encourage improvement.

Outreach, Coordination, and a Regional Approach

Sharing and coordinating resources throughout the district, and with adjoining districts, can yield cost savings and improvements. In the face of economic pressures resulting from the pandemic, the 12th Judicial District should use the opportunity to consider new approaches to old problems.

The JDAO naturally liaises with many other offices and groups, most particularly law enforcement agencies. To leverage resources and streamline operations, the DA should meet regularly with police chiefs, as well as other county agencies, to collaborate on public safety issues. Using technology to link data between police departments will significantly benefit the community's ability to understand and react to crime.

Given the limited capacity of some law enforcement agencies in the 12th Judicial District, the JDAO should consider a regular, district-wide training program for police officers, which will save resources, improve skills, and professionalize the police. From these interactions, the Office might promote a regional major case squad of elite detectives to respond to the most serious crime in the District.

Repeat and frequent offenders in the 12th Judicial District are well known to all facets of local government, from law enforcement to social service agencies to schools. To maximize system impact and reduce recidivism, the JDAO should convene a multi-agency task force to address the needs of those who repeatedly cycle through the criminal justice system.

The JDAO should expand its outreach to victims and witnesses of crime and to social service providers. Without regular contact and updated contact information, it is easy to lose touch with essential witnesses and create disillusionment among victims. The Office should create a checklist for victim advocates, detailing what questions to ask a victim/witness, what services to offer, and how to track their outreach. Prosecutors, too, should be encouraged to reach out to victims as early as possible in a case. The 12th Judicial District would be well served to do an assessment of available social services and how such services can be coordinated both within and outside the district.

Infrastructure and Technology Needs

JDAO's office space is old, small and cramped. There also appear to be structural issues with the building. Telephone service for the Office as a whole is antiquated, and internet strength is insufficient in some parts of the District.

With the advent of remote work during the pandemic, the JDAO may be able to make do with its current office space, but a modern criminal justice system cannot properly function without adequate internet and phone service. Improvements in both will save significant time for the staff, allow for immediate access to information that is critical to making decisions, and support efficiencies that are appropriate for a modern criminal justice system. The JDAO has recently purchased a new phone system that should improve service.

Finally, the Office should encourage the use of ACTION over paper files, which streamlines case processing and permits the evaluation of workloads. Eventually, ACTION should be electronically connected to the various police departments,

parole, probation, courts, and corrections in the 12th Judicial District to create further efficiencies.

Issues and Recommendations

Funding

As the table below indicates, in 2019, the total budget for the 12th Judicial District Attorney’s Office was \$1,331,722, of which \$993,715 was appropriated by the District’s commissioners. In 2018, total revenues were \$1,226,492, with the commissioners covering \$879,990. Hence, county funds constitute between 70-75% of the JDAO’s total budget. Although county contributions rose 39% between 2017 and 2019, the amount requested for 2020 represented only a 1.7% increase over the prior year.

DAO Budget 2018-2020

Year	Public Revenue	Grant Revenue	Total Budget
2018	879,990	346,502	1,226,492
2019	993,715	338,057	1,331,722
2020	1,010,873 (requested)	244,813 (expected)	1,255,686 (initial)

However, 2020 has played havoc with the JDAO’s budget even before COVID-19, the Office faced a drop-off in grant funding. The diversion program was defunded, and the Office lost external support for its sexual assault investigator (1 FTE) and the restorative justice program (.5 FTE). Since March, public funding throughout all of Colorado has been severely stretched, which puts the operation of the JDAO at further risk. Already facing threats to grant support that covers upwards of a quarter of the JDAO’s annual budget, the Office cannot maintain an adequate level of service if county funds are cut, too. Given that some of the counties within the 12th Judicial District are among the poorest in Colorado, the financial condition of JDAO is precarious.

Limited resources adversely affect the JDAO in multiple ways. As the District Attorney explained to commissioners in her 2020 budget request, the Office was “simply [trying to] maintain what [had] been established over the last two years.” Any cuts, then, would:

result in the provision of less effective, and less efficient representation despite the best intentions and efforts of the staff within the Office of the District

Attorney. People will stay in jail longer than necessary. People who need to be removed from this community may not be, because of limitations in time and ability to adequately investigate, prepare and litigate cases. Community-wide efforts to address the ongoing drug epidemic will not have buy-in from the Office of the District Attorney because we will be unable to participate in the planning process. Many of the new and innovative programs may be discontinued or lose DA participation.

In addition, the Office may lose attorneys or fail to attract qualified applicants. Many individuals interviewed for this report, including attorneys, staff and judges, noted that the JDAO pays relatively low salaries. Coupled with the geographic isolation of the 12th Judicial District, many lawyers who initially join the Office eventually jump to legal positions in the Denver or Colorado Springs metropolitan areas.

These salary disparities extend to comparisons between the prosecutors and public defenders who serve the 12th Judicial District. Within Colorado, the Office of the State Public Defender has stated its support for “adequate funding of both the prosecution and defense functions.”² There is good reason for this position: public defenders and prosecutors perform similar roles. Both must assess the strength of cases, make recommendations and decisions about the resolution of matters and, where cases go to trial, advocate zealously in court. However, despite these similarities, public defenders earn a 15 percent higher salary. Analyzing data available from 2017, the seven deputy public defenders in the 12th Judicial District were paid \$58,000, whereas their counterparts in the District Attorney’s Office earned \$50,000. To add to this confusion, the public defenders averaged 0.8 years of legal experience at the time, yet the deputy district attorneys had 1.5-2 years of experience. In short, prosecutors in the 12th Judicial District are paid less to perform an analogous function to those on the opposite side of the courtroom who have less legal experience than them.³

Unfortunately, the situation has not improved over the last three years. Although the current District Attorney has been able to increase the starting salary for prosecutors, there is still considerable attrition, as attorneys often depart after two years of service for jurisdictions that pay more. Attorneys and staff also complain about pension and medical plans that pale against those offered for the public defenders, who are state, not county, employees. “I can make a bigger impact as a prosecutor” than as a defense attorney, noted a former deputy district attorney, “but with a \$30,000 hit,” it’s not sustainable. Indeed, as a respected member of the 12th Judicial District legal

² <http://www.coloradodefenders.us/wp-content/uploads/2018/02/2017-DA-OSPD-Survey.pdf>

³ *Id.*

community reported, “If I had a magic wand, I would raise salaries [for prosecutors] to get people to stay. This will lead to needed stability” in the Office.

Caseload

In 2002, long before the opioid crisis hit the 12th Judicial District and cases exploded, the American Prosecutors Research Institute suggested that a prosecutor should not handle more than 150 felonies or 400 misdemeanors per year.⁴ Nearly two years ago, the Colorado State Office of the Public Defender sought to reduce the average case load for public defenders to 260 cases per attorney. By contrast, in 2018, the prosecutors of the JDAO were carrying 551 criminal cases per attorney. This number is both unreasonable and unsustainable.

The JDAO provided PCE its caseload numbers for 2019, which appear in the table below. By far, traffic cases were the most numerous and juvenile matters the smallest, whereas felony and misdemeanor numbers were relatively similar. All together in 2019, the Office handled 4,286 cases among these four categories of crime.

Considering that each of the eight attorneys⁵ in the Office in 2019 carried a mix of cases, the caseload for prosecutors in 2019 was 535 cases per attorney. These numbers do not even include civil obligations, probation revocations, misdemeanor appeals, or the evaluation of referred cases and warrants, which makes the caseload simply overwhelming and contravenes the administration justice.

JDAO Caseload 2019

County	Traffic	Misdemeanor	Felony	Juvenile
Alamosa	753	443	416	24
Conejos	221	137	159	6
Costilla	321	94	84	5
Mineral	167	18	6	1
Rio Grande	447	300	205	11
Saguache	261	107	91	9
Total	2170	1099	961	56

⁴ <http://www.jmijustice.org/wp-content/uploads/2019/12/NDAA-APRI-How-Many-Cases.pdf>

⁵ In addition to the elected District Attorney and a grant-funded fellow, the JDAO employed six other deputy district attorneys.

How, exactly, do such high caseloads affect case processing? When a prosecutor is responsible for several times more cases than professional bodies recommend and when the JDAO carries twice the caseload of its counterpart the Public Defender, how can justice be done effectively? Prosecutors cannot investigate cases as thoroughly as desired, they do not have sufficient time to take cases to trial and instead must offer plea deals that defendants find acceptable, they cannot devote adequate attention to the needs of victims, and they cannot mark out boundaries between work and personal life that make the pace sustainable for more than a few years before burnout. For that matter, excess caseloads stymie the recruitment of qualified attorneys: why would top law graduates come to the 12th Judicial District to take on a job paying significantly less than other prosecutors' offices and lower than public defenders to face a crushing caseload twice as high as that recommended by the Office of Public Defender? Prosecution is a profession, and new prosecutors need training, supervision and an opportunity to learn how to "do things right." Faced with a caseload over 500 per person, this is nearly impossible.

The two most recent District Attorneys have been acutely aware of the consequences of the crushing caseload. The current District Attorney alone had been carrying six homicide cases before having to step in to cover the work of a departing attorney. With such high caseloads, Office leaders cannot adequately attend to other important duties, like managing the staff, policy decisions, and coordination with outside agencies.

The obvious solution is the hiring of more attorneys, but with finances tight this may not be possible. Instead, the JDAO must consider other measures, including alternative approaches to traffic cases, diversion of some misdemeanor cases, remote delegation of cases to third-year law students or retired prosecutors, and greater use of technology. Each of those possibilities is discussed in greater length throughout this report and warrants consideration. What is clear, though, is that the JDAO cannot continue to operate effectively when its attorneys' caseloads are so high.

Lessons Learned from the Pandemic

General

Prior to the pandemic, the JDAO had experience with virtual court proceedings, as some courtrooms of the 12th District include remote capabilities. Since the pandemic, the JDAO has been able to upgrade its laptops, and the use of remote court proceedings has accelerated. In addition, the pandemic spurred the JDAO to use ACTION to create a fully paperless system and subpoena most officers electronically through ACTION.

Issue

Since the 12th Judicial District covers six counties, it requires prosecutors and judges to drive from county to county to attend court proceedings ranging from minor to significant. The commuting time can be from 30 to 45 minutes one way. In a jurisdiction with limited resources, this travel time can be spent more productively on substantive matters. Continuing and expanding remote court proceedings can save hours of time for all parties, prosecutors, defense attorneys, and judges.

Unfortunately, there are a variety of technical challenges to conducting virtual court proceedings. Some jurisdictions have poor wi-fi capability so that video conferencing is not possible, and proceedings have to be conducted by phone. In other courtrooms, there are insufficient electrical outlets, or the acoustics for virtual proceedings are difficult. In one case, an appeal is pending because of the electronic court recorder.

Recommendation – Continue Remote Proceedings

The pandemic has demonstrated that there are efficient and appropriate alternatives to conducting the JDAO's business. With a one-time investment in robust internet connectivity, the 12th Judicial District can realize significant savings in personnel hours and improve the quality of the criminal justice system by freeing up time for all parties to focus on important matters. The 12th Judicial District should apply for federal and state emergency funding for improved wi-fi and infrastructure improvement, such as needed electrical outlets in courthouses.

The courts, prosecutors and defense should form a task force to develop systems for remote proceedings that can continue past the pandemic. A creative approach to using the ever-improving remote technology will save the 12th Judicial District significant funds.

Examples of possible improvements include:

- Designate the matters that can be done completely remotely, for example, simple adjournments to a new date, resolving motions, addressing traffic matters, and taking of pleas.
- Create a hybrid model for cases where some parties can be in the courtroom, while others are not, such as a preliminary hearing where the defendant appears from jail and the witness and prosecutor appear from the District Attorney's Office.

- Calendar all remote proceedings on one day.
- Improve access to case-related information in the courtrooms.
- Provide means for defendants to speak remotely to their attorneys from jail.
- Provide central, safe locations for victims and witnesses without the needed technology to speak remotely with police, victim advocates, and prosecutors. Courthouses and police stations could develop such capability.
- Develop ways to allow for remote signature and notarization of legal documents.
- Equip police departments with needed technology so that they can create a paperless system, provide needed paperwork to the prosecutor electronically, and receive court notifications remotely.

Staff

General

The JDAO is funded for seven attorneys,⁶ including the District Attorney and 14 non-legal staff. The Office has one Assistant District Attorney, who is the second in command and can stand in for the DA if he is unavailable. The remaining attorneys are called Deputy District Attorneys. The non-legal staff cover a variety of positions, including receptionist, paralegal, diversion coordinator, office coordinator, financial officer, clerical assistant, investigator, and victim advocate. Four non-legal positions are currently open and may be difficult to fill due to funding constraints. Occasionally, college interns and volunteers provide free services to the Office.

Legal Staff

General

The attorneys are assigned to a specific county within the 12th Judicial District and some spend most of their time in an office in that county. The senior lawyers in each county carry everything from traffic tickets to murders, while the junior lawyers will only handle the lower level cases. The District Attorney assigns the most difficult and complex cases to himself and the Assistant District Attorney.

⁶ At the time of this review, the Office also had a grant-funded fellow, who handled cases.

The lawyers generally work from about 7:30am to 5pm, though they frequently must work in the evenings and on the weekends, too, to keep up with their large caseloads. Although a workload study was not done by PCE, the attorneys approximated that they worked about 50 hours a week. Some reported being exhausted by the amount of work.

The Office has a policy and procedure manual that provides useful guidance to the staff.

Issue - Recruitment and Retention

One significant issue facing the Office is recruitment and retention. This is a common dilemma for rural prosecutor offices. A variety of factors contribute to the problem including few lawyers in the region, low pay, long hours, less amenities in the area, and little opportunity for socializing with other professionals. The JDAO benefits from a fellowship program sponsored by the Colorado District Attorneys Council that seeks to place law students in prosecutors' offices in rural districts. This program has sent a number of talented young lawyers to the JDAO, along with funding for their work. However, even with this program, it is difficult to recruit attorneys. Unfortunately, due to COVID-19, the fellowship is dissolved and the JDAO had to return some of the funding received. The possibility of future placement under the program is bleak.

While recruitment is difficult, retaining attorneys is an equal challenge. After a few years and just as they are fully trained, many of the lawyers leave for other offices with better pay and lower caseloads. Since PCE's visit to the Office in October of 2019, four of the seven attorneys in the Office have left due to the low salaries, high caseloads, and better opportunities elsewhere. The new attorneys hired since October have very little experience and did not come through the fellowship program.

Recommendation – Temporary or Part-Time Prosecutors

Recruitment and retention will continue to be an issue for the JDAO as long as the pay is low, and the workload is extreme. As a result, the Office could benefit from the assistance of temporary (or part-time), experienced prosecutors. Such lawyers could handle a variety of tasks, depending on the greatest need. This is especially true now that working remotely has proven to be a viable option. Some offices have used a temporary attorney to handle complex homicide cases that would otherwise absorb the time of the DA. In other instances, a temporary attorney can assist with supervision and training of young lawyers or updating policies and procedures. One jurisdiction in Missouri uses a part-time prosecutor to handle traffic matters remotely from home. Temporary lawyers may not need fringe benefits, and since they are part time, they are less expensive than hiring a full-time prosecutor.

The concept of a temporary prosecutor is already embraced by the Office, which employs the father of the Assistant District Attorney – an experienced criminal defense attorney – for occasional assistance. However, additional help is needed.

Another approach is to create a relationship with a nearby prosecutor office, allowing for mentorship opportunities should the JDAO encounter a difficult issue not previously seen. Although this may be done informally, more connections can be made, such as sponsoring joint, remote training programs, sharing procedures and protocols, and designating a mentor on a specific case.

Issue – Legal Training

Given the frequent turn-over of attorneys, training is an ongoing and critical issue. The heavy caseloads of the new attorneys make it difficult to set aside time for training. As a result, most new attorneys simply shadow a seasoned prosecutor for a few weeks and then learn on the job. There is a general concern that the Office's young prosecutors are quite inexperienced and need much more training.

Recommendation – Legal Training

Prior to the pandemic, DA Willet continued and expanded upon the training developed in the Office. In some instances, he would give a lecture and in others he would assign a young prosecutor a topic to teach during a monthly meeting. Although many of the prosecutors are inexperienced, this assignment forced them to collect information and learn about the assigned topic.

Even as the pandemic has made in-person training more difficult, there are opportunities to expand remote training. Given new familiarity with video conferencing, the Office could arrange training sessions with talented speakers and experienced attorneys from other prosecutor offices in Colorado. This should be a priority.

The Office should sign up for *Prosecutors Encyclopedia*, which is a free wiki for prosecutors. It contains a wide variety of materials including all cases going back to 1950, expert transcripts, curated pages on specific topics, a policy library, and CLE videos. Prosecutors can request an account at www.MyProsecutor.com

The Colorado District Attorneys Council provides excellent remote training as well, which should be utilized.

Issue- Policy and Procedure Manual

It is commendable that the Office has a policy and procedure manual, however it has not been updated lately.

Recommendation – Policy and Procedure Manual

The policy and procedure manual should be updated to reflect new procedures triggered by the pandemic and increased use of ACTION.

Non-Legal Staff

General

The JDAO has 14 non-legal staff, including victim advocates and investigators. Although there has been some turn-over in staff, the non-legal staff has been in the Office longer than most of the attorneys. Recently a long-time staff member retired. Fortunately, the use of ACTION automated much of her work, so that the office can fill this position with a person who can address other tasks.

In addition to supporting the general casework of the prosecutors, the support staff also run the various diversion programs spearheaded by the Office.

Issue

The Office is dependent on one highly skilled employee. She is widely seen as indispensable, handling the administration of ACTION, training on ACTION, overseeing diversion, orienting new staff, engaging in community outreach, reviewing cellphone records, listening to jail calls, acting as the office manager, assisting with IT issues, updating the website, and filling in for others when they are out.

If she leaves the Office there will be a huge gap in the Office's ability to handle day-to-day, case-related and administrative issues. Understandably, it will be difficult to find an employee as qualified and dedicated as she is.

Recommendations – Cross Training

The Office should do as much cross-training as possible, so that staff can fill-in for one another when needed. It is particularly important for multiple staff members to be proficient in ACTION, as it is used for essential tasks such as tracking cases, discovery, and subpoenaing witnesses.

Recommendation – Interns and Volunteers

Adams State University is in Alamosa. The Office should recruit interns from the university, as well as other volunteers. The interns and volunteers can help with the many administrative tasks in the Office, including the input of information into ACTION, preparation of traffic cases, scanning of files, and closing out cases. There may be some retired law enforcement members who would be happy to contribute some time to assist the Office.

Investigators

General

The Office has one full-time investigator. The full-time investigator is an experienced, well-respected retired police officer who is an excellent resource for the Office. The office had a part-time investigator focused on sexual assault cases, particularly of children. He received specialized training for this work and is highly regarded by the local Child Advocacy Center. However, due to current budget constraints he had to be let go.

Issue – Inadequate Police Investigations

Many of the police in the JDAO are poorly paid and poorly trained. As a result, cases can be sent to the 12th JDAO with inadequate investigation or insufficient evidence needed to prove a criminal charge.

Recommendation – Early Review of Evidence and Social Media Training

In significant felonies, the investigator can assist with reviewing the evidence submitted by the police. The review can determine if there is sufficient evidence and, if not, what additional steps need to be taken. Although this is also the prosecutor's job, the attorneys are often too busy to conduct such a review early in a case. Felony cases will be significantly strengthened by this early review, as additional evidence can be recovered when it is still available. A checklist of needed evidence should be created to standardize and streamline the review.

The investigators should be trained in reviewing, preserving, and authenticating social media and other internet searches, as this can yield important evidence. The Office paralegals should receive similar training. Although some police departments do these types of searches not all have the capability, and so it is best that the JDAO have the capacity to do this type of work as well. Internet searches can yield significant evidence that will assist with the evaluation and prosecution of a case.

Victim Witness Advocates

General

The Office has two victim advocates who are assigned to three of the six counties covered by the 12th Judicial District, and one open position. The advocates are usually the main contact with a crime victim and typically keep the prosecutor apprised of their work with the victim or witness. The advocates primarily work with victims, but when needed for a trial, the advocates will also contact civilian witnesses.

The current process requires that advocates reach out to a victim after a case is charged, stay in touch over the course of the case, comply with the statutory requirements for victims, schedule meetings with the prosecutor, and work with the victim/witness when they need to come to court. The advocates also arrange for travel should a victim/witness from outside the jurisdiction have to appear in court. When a case goes to trial, the advocates usually stay with the witness in the courtroom and take measures to enhance their safety, if needed. Since the pandemic, the advocates have all received Zoom accounts so they can reach out to victims and witnesses remotely. Each advocate reaches out to about 20 to 25 victims a day.

Issue – Outreach to Victims

The victim advocates provide excellent support for the district's victims, however, the work could be coordinated, enhanced, and better integrated with the prosecutors and through ACTION. Greater attention can be given to witnesses as well. The office has no written protocols for what the advocates can say to a victim or what information to collect from a victim. The advocates do not receive training in how to deal with difficult or angry victims and witnesses.

Colorado has a victim rights statute that mandates outreach to victims of serious cases. The victim advocates focus on these cases, sometimes to the detriment of victims in other types of cases. For example, victims of burglaries are not always promptly contacted by the victim advocates or the prosecutors.

There are no protocols for when a prosecutor should speak with a victim or witness, and as a result, they often do not speak with a victim/witness until a case is set for trial.

Recommendation – Coordination of Outreach to Victims and Witnesses

The JDAO should create a checklist for the victim advocates, detailing what questions to ask a victim/witness, what services to offer, and how to track their outreach. This list should be created collaboratively with the victim advocates, prosecutors, and

investigator. The list can include: collecting robust contact information, entering contact information into ACTION, telling victims about available services and statutory rights, explaining the upcoming process, options for restitution, and scheduling meetings with the prosecutor. At its most fundamental level, there should be a standard practice for law enforcement, prosecutors, advocates, paralegals and receptionists collect victim/witness contact information, update the information and enter it into ACTION. It is especially important to stay in touch with victims/witnesses in serious felonies, as it may take years for a case to go to trial. Without regular contact and updated contact information, it is easy to lose touch with essential witnesses. A checklist will standardize and improve the work of the advocates. The checklist and form letters for victim/witnesses should be added to ACTION to simplify and trigger regular contact by the advocates.

The advocates can continue to use video conferencing to effectively stay in touch with victims and witnesses remotely. Needless to say, the advocates should take victim safety into account when reaching out remotely, as it is difficult to know who may be listening to the call.

The DA should arrange for regular meetings with the victim advocates to provide training on new initiatives and to ensure that there is a common approach to the work. The advocates should receive training in how best to speak with victims and witnesses of all cultures and how to deal with angry or difficult people. The lawyers should also be trained on the work of the advocates as they may not know what the advocates can do and when.

At the very least, prosecutors should be required to have early contact with victims and witnesses in serious felony cases. Without this direct contact, the prosecutor's assessment of a case cannot be complete.

Updated brochures for victims that include information about available social services can be developed and posted on the Office's website.

Recommendation - Coordination with Local Service Providers

The DA should host meetings with the local service providers, the advocates and the prosecutors so that relationships are formed, common issues discussed, and the legal and non-legal staff become familiar with their resources. In advance of the meeting, the advocates can be tasked with developing a list of available services in the 12th Judicial District.

Intake Process

General

Prosecutors rotate being on call every few months to provide guidance to the police on a wide variety of issues including emergency warrants. The local police do not have their own legal staff. In very serious cases, the prosecutor may go to the scene of the crime.

Prosecutors are assigned to a specific county and are also tasked with reviewing and charging cases referred to them by their local police. On average, the prosecutors review about five cases a day, some of which are sent back to the police if additional information is needed. The expression used is “you catch it, you clean it,” meaning that once a prosecutor has reviewed and charged a case, that prosecutor will keep the case until disposition. This is commonly referred to elsewhere as vertical prosecution. Vertical prosecution is considered a best practice, as the prosecutor has a greater stake in the outcome from the beginning and information is not lost due to the transfer of the case to another prosecutor. However, given the inexperience of some of the prosecutors, the most serious cases are re-assigned to the District Attorney or the Assistant District Attorney.

In warrantless arrests where the suspect is taken immediately into custody, the case must be charged within 48 hours. In other matters, there are ideally about 7 to 10 days between arrest and charging, however, this can take much longer. Once charged, the defendant must be notified of the charge and a court date is set for advisement. If the defendant cannot be immediately found, the time between charging and the first court date (advisement) can be months or years.

The advisement is often done remotely, a practice that existed even prior to the pandemic.

Issue – Guidance for Police

The number of times police call the prosecutor for guidance is not tracked. The DA should meet with police to encourage these calls, as they will lead to improved cases.

Issue- Intake Process

The prosecutors struggle with the intake function of their job, as they are pulled away by court proceedings and other pending matters. Many prosecutors are attempting to do intake during breaks in court proceedings and are rushed. This does not allow for a

thorough assessment of the case that could assist with weeding out unprovable cases, mistaken arrests, or inappropriate conduct by the police.

Recommendation

A robust intake process can make a significant impact on the office by reducing caseloads. An effective intake process triages cases into categories: serious cases that require early additional attention, weak cases that can be dismissed, and diversion cases that can be moved out of the criminal justice system. Enhancing intake triage and increasing diversion will provide real savings to the JDAO and benefit those arrested.

The Office should assess whether the non-legal staff can assist the lawyers with the intake process, for example by running criminal histories of arrested defendants and obtaining other background information about the case. The intake and triage function can be assigned to a part-time, experienced lawyer who can do the work remotely.

Felonies/Traffic Offenses/Diversion

Felonies

General

The Office currently has six pending homicide cases (with two more under consideration), whereas five years ago there was only one. There also has been an increase in officer-involved fatalities. The District Attorney or the Assistant District Attorney handles the most serious cases, and they will usually go to the crime scene of serious cases. The Colorado Bureau of Investigation (CBI) conducts the forensic crime scene investigation in homicides and other serious violent crimes and provides some assistance to the local police departments who do not have the expertise for complex cases. CBI does not take the lead in these cases.

Issue

Homicide cases and officer-involved fatalities are time consuming and complex. DA Willett and the Assistant District Attorney do not have time to manage the Office and handle so many serious cases.

Recommendation

As discussed in this report, the Office could benefit from a temporary prosecutor or partnership with another prosecutor's office to assist with the most serious cases. DA Willett and the Assistant District Attorney would benefit from working with an

experienced prosecutor to assist with vetting the evidence, preparing the case for trial, or actually trying the case.

Traffic Offenses

Issue

About 50% of the Office's cases are traffic offenses. Although these cases are usually resolved quickly, they absorb a large amount of the prosecutors' time. In an under-resourced office, traffic cases can distract from more important work. State and local law, as well as local tradition, can stand in the way of developing efficient ways to resolve these matters to benefit victims, the public, the JDAO and the accused.

Recommendation

To provide some relief to overworked prosecutors, traffic matters could be handled by a special part-time attorney or trained interns (in part). The continuation and expansion of remote court proceedings should spur creativity about alternative methods for resolving traffic tickets. Although there may be impediments in state and local laws, the Office could advocate for new laws or regulations that allow for the administrative resolution of most traffic matters outside of the criminal justice system. In the meantime, the Office's diversion program for traffic matters should be encouraged and expanded.

Diversion

General

DA Willett is committed to diverting low-level cases in a number of ways. The Office received funds from the city of Alamosa to support the LEAD program, in which the police deflect cases prior to charging. The grant is in effect through 2022. These funds were initially utilized to support an attorney position, however the grant was reconfigured to support a non-legal liaison position. The LEAD liaison works collaboratively with participating law enforcement agencies as well as the Center of Restorative Programs. The Office has also developed its own adult and juvenile diversion programs covering a variety of charges including domestic violence, other non-violent misdemeanors, and traffic cases such as careless driving. The programs are a priority for the Office and are administered by a collective effort of four non-legal staff members.

Issue

Since the pandemic, both adult and juvenile diversion funding has been significantly cut. DA Willett has demonstrated his commitment to diversion, as well to the employees supported by the grant, by not filling an open position and using those savings and the JDAO's general fund to continue the program. Given the decreased funding and increased duties of the staff, the Office can only provide diversion in low-risk cases that require little support or services.

Recommendation – Increase Diversion

Diversion programs have a variety of benefits: they provide an opportunity for rehabilitation, reduce the jail population, give defendants a second chance, and shrink the overwhelming caseload of the Office. The Office should be commended for keeping the programs alive despite the challenges posed by the pandemic. Increased diversion will ultimately save money for the 12th Judicial District.

Recommendation – Neighborhood Court

A relatively inexpensive way to conduct a diversion program is to develop a “Neighborhood Court” whereby members of the community serve as judges over low-level offenses. Cases are referred to the Neighborhood Court before charging. The accused appears before trained community members who decide the outcome, which can range from restitution to community service. In other jurisdictions, prosecutors have championed this concept and trained the community members. See an example from Yolo County, California: <https://yoloda.org/progressive-programs/neighborhood-court/>

Management

Issue

During PCE's visit to the JDAO, it found that the morale of the Office was quite high and for the most part the staff had a good working relationship with one another. There was one point of contention between two members of the non-legal staff. In a small office, this tension can be toxic and draw too much energy from the work needed to be done. Under DA Willett, this issue appears to have subsided.

The Office has conducted some performance reviews, most recently with the non-legal staff. However, it is not done consistently or at set times of the year. Neither the legal nor non-legal supervisors have received management training.

Recommendation

The Office should implement a standardized performance review system for legal and non-legal staff that occurs at the same time every year. This will provide an opportunity for feedback between staff and supervisors that can resolve issues and encourage improvement.

Management training for supervisors is encouraged, as it will further improve the workings and productivity of the small staff. Remote training should be available that is both affordable and easy to access.

Case Management System - ACTION

General

The Office uses ACTION, the case management system developed by the Colorado District Attorneys Council. Since DA Willett took office, the Office has moved to a paperless system through ACTION. The system is used for many purposes, including case tracking, discovery, subpoenaing police officers, and updating contacts with witnesses. The Office's ACTION administrator is in close contact with the CDAC regarding needed updates and tweaks. ACTION is connected to some of the police departments in the District. Five police departments share both electronic reports and media (such as body worn cameras) through ACTION, four departments share only reports, while the remaining departments physically drop off reports and media to the JDAO. ACTION is electronically connected with the court system, through which probation information can also be received.

Issue

Prior to the robust use of ACTION, the Office followed various time-consuming processes that required the full-time work of a secretary and other staff. Once ACTION was implemented, the work could be done in a fraction of the time. The Office should study how ACTION can be used to further reduce the workload of the legal and non-legal staff. Although ACTION is helpful in many ways, it needs various enhancements to improve the collection of information and ease of navigation.

Recommendations - ACTION

Long-term, ACTION should be electronically connected to the various police departments, parole, probation, courts, and corrections in the District. This will reduce duplicate data entry, allow for accurate reporting, and ultimately save personnel costs as chokepoints in the process can be identified. Although this requires

a coordinated district-wide effort across agencies, it will improve the understanding of crime trends and yield efficiencies across the criminal justice system.

Based on conversations with the staff, there are a number of specific areas where ACTION can be improved. Most of these upgrades have to be made by CDAC. They include:

- Ability to store body worn camera footage.
- Development of a document retention policy within ACTION to identify warm, cold, and current storage protocols.
- Develop a global search by person, so that someone who is both a defendant and a witness/victim can be found in one search.
- Improve the way that cases are closed, without disappearing from the screen.
- Filter out bench warrants that otherwise appear in a prosecutor's pending caseload.
- Allow a prosecutor to charge a case using ACTION – include the needed legal language in ACTION.
- Create a note feature that is easier for lawyers to use.

Recommendation – Develop Regular and Standard Reports

The JDAO should generate standard reports on various aspects of the workload, including caseloads, speed of disposition, backlog, and frequent offenders who are driving crime trends. The reports should clearly indicate what items were counted and their meaning. These reports will assist in management, prioritizing of cases, coordinating with the police, and developing crime prevention plans. The reports should be shared with staff and will allow for the tracking of improvements and improved transparency of Office operations. Once the Office generates reliable and complete reports, some of the Office's data can be posted on the Office's website.

Infrastructure

General

PCE had an opportunity to tour the JDAO's facilities in Alamosa. The office space is old, small, and cramped. There also appear to be structural issues with the building.

In October of 2019, there was some hope of moving to a more appropriate space. However, with the advent of the pandemic and the increased acceptance of working from home, such a move may no longer be possible or needed, if working from home becomes a more standard practice.

Issue - Internet and Phones

In October 2019, PCE learned that there was poor internet in the Rio Grande office, as well as in other courthouses outside of Alamosa, that significantly impedes the ability to work. Some of this has been corrected through the Office's purchase of stronger bandwidth in Rio Grande. However, there remain areas of the 12th Judicial District where there is insufficient internet strength. Although PCE did not survey these infrastructure issues directly, some interviewees mentioned that there are courtrooms that do not have sufficient electrical outlets and that many court computers are outdated. This is a major impediment to system efficiency while also preventing parties from accessing needed information.

In addition, the Office's phone system is antiquated. It is reported that the phone can disconnect up to four times during a single phone call. Since PCE's visit to the JDAO, a new phone system has been ordered and should be installed shortly.

Recommendation

The Office, the courts, and the criminal justice system cannot properly function in this day and age without adequate internet and phones. Improvements in both will save significant time for the staff, allow for immediate access to information that is critical to making decisions, and support efficiencies that are appropriate for a modern criminal justice system. Although there may be an initial cost to the various upgrades needed, the cost will be offset by benefits to public safety and savings in personnel costs.

Community Initiatives

General

The role of the modern prosecutor has evolved and broadened. Prosecutors no longer passively accept cases from the police, but instead take a more proactive approach that considers how to prevent crime and build community trust. Through its support of the LEAD program and commitment to diversion, the JDAO is engaging in programs that foster these goals. However, more can be done.

Issue – Community Outreach

The Office does some community outreach, primarily by non-legal staff and the District Attorney. The events include National Night Out, job fairs, high school groups, the Victim Compensation Board, Emergency Service Team, and the Immigrant Resource Center. However, the Office does not have a plan for what community outreach should be done, who should do it and when.

Recommendation – Strategy for Community Outreach

It would be helpful for the Office to identify community partners, social service resources, and opportunities for community outreach or trainings. Many prosecutors find community outreach work to be very satisfying, so this work can also assist with morale. Discussing the role of the prosecutor and crime issues in schools and at community meetings is an excellent way to connect with the community, develop community trust, and keep the Office attuned to local concerns.

The Office has an attractive, updated website. A bio for DA Willett should be included. When ACTION is able to produce reliable reports on the work of the Office, these reports can be posted on the website as well.

Consideration should be given to forming a Community Advisory Board that is composed of respected community residents. The board can meet regularly with the District Attorney to provide input on office policies and learn about the challenges of the Office.

To further community engagement, many prosecutors have partnered with the courts, the public defender, and the community to hold joint expungement/sealing events for the public. These events can be held at a community center or church and provide “one-stop-shopping” for those who wish to expunge or seal eligible cases.

Outside Agencies

Courts

General

The District Court is Colorado's trial court of general jurisdiction. It has original jurisdiction of felony, civil, juvenile, mental health, and probate cases. About 40% of its work is devoted to felony criminal cases. The court has appellate jurisdiction in connection with appeals from County Court. The four District judges cover the six counties in the 12th Judicial District and serve full-time. They have to drive from court

to court. Judge Michael Gonzales is the Chief Judge of the District Court. In each courtroom, there is usually one prosecutor and two defense attorneys assigned. In some low-level matters, such as unlicensed driving, the accused is not represented and deals with the prosecutor directly.

The County Court is a trial court of limited jurisdiction, which hears felony complaints, misdemeanors, infractions, traffic matters, civil cases, and small claims cases. Criminal cases (felonies, misdemeanors and infractions) are 55% of the court's work, and traffic matters absorb 30% of the work. The county judges serve part-time based on the size of their case load; these judges are not required to be an attorney.

Together, the courts hear about 40 criminal trials a year. The trials in County Court tend to last about a day, while the more serious cases in District Court can last anywhere from two days to two weeks.

The 12th Judicial District has a Felony Drug Court for high-risk, high-need felony offenders. It has about 14 participants at any given time and about five or six participants have graduated in the last five years. Upon completion of the program, the participants receive a conviction on their record, but they do not go to prison. The County Court has a misdemeanor Driving Under the Influence (DUI) Court that follows a model similar to the felony Drug Court in District Court. It is often used for repeat Driving While Intoxicated offenders. The JDAO receives federal funds to maintain the DUI court prosecutor.

Issue

Judges are concerned by the lack of experience among prosecutors and public defenders. The inequity of salary between prosecutors and public defenders was also raised as a significant issue. These issues are discussed in greater detail above.

Police

General

The JDAO deals with 20 police departments, as well as CBI. Some departments have less than 5 officers. The Alamosa Police Department is the largest in the District with 27 officers and 31 total staff. The CBI assists the 12th Judicial District with the serious cases, including homicides and officer involved fatalities, though they are not directly responsible for the investigation. Colorado State Patrol does primarily traffic and collision related enforcement activities and provides assistance to local agencies upon request.

When DA Willett took office, he requested the police departments to use the electronic subpoena system through ACTION. This allows officers to indicate their availability for court with a click on the computer. There had been resistance to this system, in part because some police computers are not compatible with ACTION. One police department is using this system.

Issues

The issues facing the police in the 12th Judicial District are similar to those in the JDAO. They have few resources, insufficient training, little upward mobility, and have difficulty recruiting talented staff. New officers in the Alamosa Police Department earn \$18 an hour. In some of the smaller departments they earn \$14 or \$13 an hour and the police chief will earn as little as \$30,000. Not surprisingly, there is much turnover in the rural police departments.

Many officers have no investigative experience, no training on how to interact with victims, and do not know what is needed for a prosecution. They are unfamiliar with testifying, and some complain that they are insufficiently prepared to testify by the prosecutors. There is standard, district-wide training for all the departments either by the police or the prosecutor.

The number of officer-involved fatalities has increased from none in the recent past to four in the last two years. There is some movement in the state to have the Attorney General handle these cases, however, this is not resolved.

The record management systems of the police departments are not connected to each other, so it is difficult to track crime that crosses jurisdictions in real time, or to study crime trends.

Recommendations – Training and Testifying

A regular, district-wide training program for all police should be developed. This will save resources, improve skills, and professionalize the police. Also, though police training is primarily a police function, the police could benefit from training by the prosecutors. DA Willett, who used to be a police officer, is well positioned to train the officers, though his time is limited. Investigators and victim advocates from the JDAO could also conduct training, particularly with regard to investigating cases and interacting with witnesses. Ideally, as cases are being charged, the prosecutors should provide immediate feedback to the police regarding any shortcomings in their investigation and evidence gathering. Given the increase in officer involved shootings in the 12th Judicial District, de-escalation training for police should be a priority.

It would also be beneficial if the prosecutors spent more time with the officers preparing them to testify. When called to court, it has been reported that the officers are uncertain of the process and procedures.

Recommendation – Regional Major Case Squad

A Major Case Squad made up of qualified, motivated detectives from the 12th Judicial District, as well as surrounding districts, could be developed. Regional squads like this have formed in rural jurisdictions in other parts of the country. The squad could receive specialized training to respond to major events in their jurisdictions. This collaboration would allow the best officers to gain needed experience, enhance the investigative resources in the region, and provide a professional goal for talented officers. At the very least, the squad could learn how to preserve a crime scene until the arrival of the CBI.

Recommendation - Identify the Crime Drivers and Coordinate Solutions

The District Attorney should have regular meetings with the 12th Judicial District's police chiefs, as well as other county agencies, to collaborate on public safety issues. They can work together to identify those individuals who are driving crime in the community and coordinate on strategies to prevent crime. Those who are frequently involved in crime may benefit from targeted social services, as discussed below, while individuals who pose a danger to the community can be prioritized for prosecution. ACTION collects information on frequent offenders that can be used to inform this collaboration.

Social Services

General

The JDAO works primarily with two non-profit social services groups: Tu Casa and the Center for Restorative Programs (CRP). The District also has a Child Advocacy Center. Counseling services and substance abuse treatment is provided by the Behavioral Health Department. As a result of the pandemic, these programs have all lost some funding.

Tu Casa: Tu Casa works mostly with adult women who are victims of domestic violence, sexual assault, or human trafficking. They had about 300 to 400 new clients every year. Tu Casa is a crisis intervention program that has an emergency shelter, 24-hour hotline, temporary financial assistance, access to SANE nurses, and serves as a liaison to other supportive services. Tu Casa is part of a 12th Judicial District Victim Response Team that is prepared to respond to victims with the Sheriff. They do not

do counseling for victims; instead victims are referred to the Behavioral Health Department, DV prevention, substance abuse, and mental health issues. Tu Casa's services have been reduced due to recent funding cuts.

Child Advocacy Center: A Child Advocacy Center (CAC) is located on the same floor as Tu Casa. They do case reviews for the District. The DA's part-time investigator, who primarily works on child abuse cases, attends regular multi-disciplinary meetings and serves as a liaison to the JDAO. Before the pandemic, the CAC saw about 130 to 200 children a year.

Center for Restorative Programs: The Center for Restorative Programs (CRP) has a staff of 14 people that work on diversion, mediation, counseling, educational programs, restorative justice, and the LEAD program. They interact with adults and juveniles. Some years ago, Alamosa was designated as a pilot project for a pre-filing restorative justice program for juveniles. Although an earlier DA was not supportive of these programs, both DA Newmyer-Olsen and DA Willett have fully supported the various diversion programs run by CRP. During the pandemic, CRP has been conducting restorative justice programs by Zoom.

Issue

Since the pandemic, domestic violence and homeless shelters have closed, and the diversion programs have been significantly curtailed due to lack of funding. A few people in need of shelter have been placed in hotels, but a "tent-city" is growing as people have nowhere to stay. Even before the pandemic, there was no family justice center for domestic violence victims.

There is little coordination between the various service providers in the District.

Recommendation - Coordination of Services for Crime Drivers

The District frequent offenders are well known to all facets of local government, including law enforcement, hospitals, social services, mental health facilities, children's services, and schools. This group of people absorb a large percentage of the District's resources, often with little coordination between agencies. Modern prosecutors are adopting the role of problem solver. As the lead law enforcement agency in the 12th Judicial District, the District Attorney should consider convening a multi-agency task force to address the needs of those who repeatedly cycle through the criminal justice system in a consistent and mutually beneficial way. The goal should be to reduce recidivism. This approach is particularly effective in rural jurisdictions, as it is more likely that the members of such a task force and the offenders are known to each other and can collaborate more easily, especially if there is a coordinated approach.

Public Defenders

The Public Defender in the 12th Judicial District is part of the Office of the Colorado State Public Defender. PCE reached out to the Public Defender's office covering the 12th Judicial District to request an interview, however, the lead Public Defender indicated that they required permission from headquarters before agreeing to speak with PCE. PCE has followed-up to seek an interview but has not heard back from the public defender.

The state funds public defender services across Colorado, and as such, public defenders in the 12th Judicial District are better funded than the prosecutors. Not only are salaries higher and benefits more extensive, but there are routinely two public defenders in court for every one prosecutor. During a trial it is not uncommon for the trial to be handled by one prosecutor and possibly a victim advocate, while a defendant will often be represented by two defense attorneys, an investigator, and a paralegal. Despite the higher salaries and greater staff numbers, the public defender in the 12th Judicial District is primarily staffed with young, inexperienced attorneys. Public defenders handle about 75% of the criminal cases in the district. Private defense counsel have been in the jurisdiction for a longer period of time and tend to be more experienced.

DA Willett has a collegial relationship with the public defenders and most of the private defense bar.

Recommendations for Future Study

The focus of this assessment is primarily the functioning of the JDAO. However, in the course of the assessment, additional significant issues became clear. These issues are worthy of future study.

Study Discrepancies in Public Defender and Prosecutor Salaries

PCE recommends that a study be undertaken to determine the discrepancies in salaries and benefits between the public defenders and the prosecutors. Improved funding for the prosecutors will encourage both recruitment and retention of talented prosecutors. Proper staffing of a prosecutor's office is essential to ensuring that justice is done for the victim, the community, and the defendant.

Regional Approach to Chronic Issues

In this time of limited resources, an obvious solution is to pool resources and work collaboratively. The 12th Judicial District is a large geographic area that will benefit from consolidating and coordinating its assets.

One example of the benefits of this approach is addressing frequent users of the criminal justice system. Law enforcement and prosecutor agencies and prosecutors across the country are studying these frequent users and when the data is analyzed, it shows a strong correlation between individuals in need of mental health care or drug treatment and their revolving participation in the criminal justice system. In the 12th Judicial District there are few resources to address these chronic problems. It is this combination of a persistent problem and limited resources that calls strongly for analysis of cases involving defendants with mental illness and drug addiction. PCE recommends that JDAO should convene a regional, multi-agency task force to address the needs of the District's frequent offenders, who are often mentally ill, or drug addicted, so that their issues can be addressed in a consistent and mutually beneficial way. Future study can assess the extent of the problem, recommend new approaches and evaluate the effectiveness of new initiatives. This analysis is worth the investment of time and money, as it can prevent crime, help families, and address one of the revolving doors of the criminal justice system in the 12th Judicial District.

Sharing and coordinating resources throughout the district, and with adjoining districts, can yield cost savings and improvements in other areas as well. In the face of economic pressures resulting from the pandemic, the 12th Judicial District should use the opportunity to consider new approaches to old problems. Some of the following suggestions are discussed earlier in the report and require further study:

- Develop technology to link police departments to one another and the prosecutor's office so that crime can be accurately tracked and information shared in real time. This type of technology is used in other parts of the country.
- Catalogue and coordinate social services and treatment providers, inside and outside the district, and develop procedures for how and when they should be used.
- Develop a multi-jurisdictional police squad to respond to the most serious crimes.

- Assess lessons learned from the pandemic and work with the courts and the defense to explore time-saving technical approaches to court proceedings, working from home, and community outreach.
- Study alternative ways to address low-level crime and offenses, such as traffic offenses and petty offenses. In some instances, legislation may be required, but in others, diversion programs, restorative justice, or community-led courts can provide a process for resolving these matters in a manner that benefits the prosecutor and the accused, and saves money for the district.