

Peer County Review and Evaluation

The CGL team surveyed six peer District Attorney's offices in other judicial districts/counties and gathered Information relative to their operational structure, relationship with the respective counties in which those DA's offices operate, integration of support services between the district attorney's office and their respective counties and the degree of autonomy of each office.

The purpose of this assessment and analysis was to gather an understanding of DA office operations in different judicial districts, the inter-relatedness with counties, identify similarities and differences, understand their staffing challenges in certain areas, and evaluate potential "lessons learned" gathered from their experiences. Clearly each county and judicial district is, and should be, different, as they are focused on the needs of their citizens and constituents.

However, this analysis can assist in evaluating the potential structure and operation of the DA's offices in the new 18th JD and 23rd JD (for example, more integration of support services between the DA's office and respective counties or maintaining a standalone model similar to the existing operations of the DA's office in the 18th JD). These assessments were insightful and assisted in analyzing and making recommendations as set forth in this report.

The assessment included both single county judicial districts as well as multi-county judicial districts. The peer DA offices surveyed were:

- 1st Judicial District - Jefferson County and Gilpin County
- 2nd Judicial District - Denver County
- 8th Judicial District - Larimer County and Jackson County
- 10th Judicial District - Pueblo County
- 17th Judicial District - Adams County and Broomfield County
- 20th Judicial District - Boulder County

As anticipated, there is no "one size fits all". There were operational and structural differences between each DA office, reflective of the inherent authority of each elected DA regarding operations, policies and prosecutorial discretion, as well as differing degrees of interaction with and supervision/authority exerted by each county. However, notwithstanding these differences, there were similarities and as well as desirable practices from which recommendations can be made.

The following tables reflect a summary of the information we received during our survey.³

³ The tables are short summaries of larger, detailed and occasionally nuanced conversations.

1st District – Jefferson County & Gilpin County⁴

Survey Questions:	Survey Answers:
DA autonomous from Counties?	No
DA benefits the same as County?	Yes
HR & IT Staff dedicated to DA office?	Yes – some reliance on county
Other support staff dedicated to DA?	No
Different DA office salary structure/job classifications from similar county positions?	No
Efficiency and effectiveness of DA operation based on current structure?	Lack of autonomy impacts effectiveness and efficiency – working to make appropriate modifications for more autonomy.

2nd District – Denver County

Survey Questions:	Survey Answers:
DA autonomous From County?	Yes
DA benefits the same as County?	Yes
HR & IT Staff dedicated to DA office?	Yes
Other support staff dedicated to DA?	Staff for DA is dedicated to DA – DA does utilize city recruiters and city admin support
Different DA office salary structure/job classifications from similar county positions?	Partial
Efficiency and effectiveness of DA operation based on current structure?	Works Well

⁴ Approximately 99% of the population in the 1st Judicial District is in Jefferson County.

8th District – Larimer County

Survey Questions:	Survey Answers:
DA autonomous from County?	Yes
DA benefits the same as County?	Yes
HR & IT Staff dedicated to DA office?	Yes for HR, No for IT
Other support staff dedicated to DA?	No
Different DA office salary structure/job classifications from similar county positions?	Yes
Efficiency and effectiveness of DA operation based on current structure?	Works well.

10th District – Pueblo County

Survey Questions:	Survey Answers:
DA autonomous from County?	Yes
DA benefits the same as County?	Yes
HR & IT Staff dedicated to DA office?	HR – generally yes but other duties - Hybrid for IT
Other support staff dedicated to DA?	No
Different DA office salary structure/job classifications from similar county positions?	No
Efficiency and effectiveness of DA operation based on current structure?	Works well

17th District – Adams and Broomfield Counties⁵

Survey Questions:	Survey Answers:
DA autonomous from County?	Yes
DA benefits the same as County?	Yes
HR & IT Staff dedicated to DA office?	Yes
Other support staff dedicated to DA?	Yes – admin assistant with other duties
Different DA office salary structure/job classifications from similar county positions?	Yes
Efficiency and effectiveness of DA operation based on current structure?	Works well.

20th District – Boulder County

Survey Questions:	Survey Answers:
DA autonomous from County?	Yes
DA benefits the same as County?	Yes
HR & IT Staff dedicated to DA office?	Yes with county support
Other support staff dedicated to DA?	No
Different DA office salary structure/job classifications from similar county positions?	Partial
Efficiency and effectiveness of DA operation based on current structure?	Needs improvement – working to make appropriate modifications for more autonomy

Autonomy. In the current 18th JD, the DA’s office operates as a separate and independent entity from the four counties (although like all DA offices, it is funded by the represented counties). This model is unique – none of the peer counties surveyed operate as completely separate entities. “Autonomy” as noted in the summary charts above, does not indicate that those offices follow the current 18th DA office model.

⁵ Approximately 88% of the population in the 17th Judicial District is in Adams County.

There are differing degrees of autonomy in the six peer DA offices surveyed. However, the majority have a relatively high level of operational autonomy from their funding County(s) and actual exercise of that autonomy differs between districts and different situations.⁶

A greater level of operational autonomy for the DA offices is desirable and appropriate in allowing the DA to perform his/her responsibilities – this includes dedicated staff for support functions (including HR and IT), personnel decisions, job classifications and compensation. As operational autonomy for the DA office decreases and *specific, detailed* oversight increases⁷, it becomes more difficult for the DA's office to operate efficiently and effectively. To the extent there is a high degree of county oversight, our peer review suggested that steps should be taken to minimize potentially problematic impact on operational issues in the DA's office. We recommend that the elected DAs in both the 18th and the 23rd JDs operate their offices as autonomous as possible.

Employment Status. In each peer county, individuals working in the DA's office were County employees and received their paychecks from the County. They also were part of the same benefits pool and received the same fringe benefits (such as PTO, health insurance and retirement) that other county employees received. This is different from the current DA's office in the 18th JD – individuals are employed by the DA and receive benefits through the DA's office (which are different from the Counties' benefits).

There are efficiencies from including DA office employees as county employees, including providing the same fringe benefits as are currently received by other county employees and eliminating any redundancy in staff or services. The existing 18th JD stakeholders have indicated a desire to absorb employees in the DA's office as county employees (whether immediate or over time), including them within the county pay and benefits structure.⁸ In the event this practice is ultimately adopted within the new 18th and 23rd JDs, considerable attention should be given during transition to the impact of these decisions on existing DA staff.

Maintaining appropriate, experienced staff in the DA's office (not just in the 18th JD, but throughout the country) is increasingly difficult.⁹ In some situations, professional staff are t

⁶ As noted in this report, the elected DA in any judicial district has defined statutory authority over the operations in his/her office as well as the authority to set policies and procedures regarding office operations and exercise prosecutorial discretion regarding case filings. This report does not mean to suggest that any county is in violation of these statutory provisions. Rather, the discussion of "autonomy" is perhaps best described as the degree to which counties are involved in oversight, *specific* funding uses, FTEs, the degree to which some DA support functions are assimilated into county departments and the general overlay/application of county policies, procedures and classifications into the DA's office.

⁷ Oversight is appropriate – the issue is the degree and level of detailed and specific oversight.

⁸ Regarding the 23rd JD, it is recommended that if DA office employees become county employees, all individuals working in the DA's office should become employees of DC – this includes any individuals who are assigned to work in DA offices located in EC and LC.

⁹ Although this discussion includes all staff, its focus is primarily directed to the assistant district attorneys who work in the DA's office. While not ignoring the important and necessary contributions of all staff in the DA office, if there are an inadequate number of attorneys to handle cases, the DA's office cannot fulfill its statutory responsibilities.

transitional, meaning they choose to not spend their careers in the public sector and leave the DA's office after a few years. Public sector employment has traditionally been constrained financially from competing with comparable private sector jobs. In addition, there are currently external, societal factors negatively impacting staff retention in law enforcement (including the DA's office).

Taken together, these factors can significantly and negatively impact the efficient operations of a DA's office. Adding in unique factors and unknowns related to the division of the DA's office in the 18th JD, can result in employees choosing to leave the DA's office throughout the transition. If the DA's office cannot remain properly staffed, that will negatively impact the ability of the elected DA to perform his/her statutory functions.

Therefore, throughout the transition process, it is recommended that the stakeholders take steps to retain DA office employees, professional and support. For example, it is recommended that current assistant district attorneys, as well as other DA office employees in good standing, not be required to apply for their "new" county positions. Also, discussions have occurred regarding the seniority status of assistant district attorneys who become county employees because of this project. It is recommended that these employees maintain their seniority as they transition to employment with the respective counties.

Job Classifications and Salaries. Several of the peer judicial districts have separate salary structures and job classifications, in part or in full, for all or some positions within the DA's office. The work of the DA's office and its employees is distinctively different from other county functions and departments. The practice of having different job classifications and salary structures (especially for professional staff) recognizes that difference. Based on our review, having a separate job classification and salary structure for the DA's office is important to retaining staff and remaining competitive in hiring new staff. For assistant district attorneys, it is especially important to have distinct salary structures allowing for competitiveness in a difficult hiring environment. Therefore, it is recommended that this practice be adopted and utilized in the new 18th and 23rd JDs.

Policies. Generally, the peer DA's offices followed and operated consistent with County policies. However, there are exceptions and situations where the DA's offices had their own separate policies and procedures, consistent with the discretion and authority of the elected DA. Examples include the following:

- Personnel decisions, including hiring and firing, salaries, discipline, promotions/demotions, job descriptions and work environment policies. Even if individuals working in the DA's office are county employees, it is recommended that these types of personnel decisions reside within the authority of the DA's office, not the funding County. We recommend that authority on these matters be with the elected DA.
- Use of illegal drugs, drug screening and related matters. Notwithstanding state statutes, the possession/use of certain drugs remains a violation of federal law. Therefore, many of the peer DA offices had separate policies in this area. Even if individuals working in

the DA's office are county employees, it is recommended that policies related to these types of matters reside within the authority of the DA's office, not the funding County.

- Dress code. DA employees may be unexpectedly required to appear in court or attend meetings. Several of the peer districts had their own dress code policies. Even if individuals working in the DA's office are county employees, it is recommended that these personnel decisions reside within the authority of the DA's office, not the funding County.

Support Staff – HR and IT. This portion of our survey focused on determining whether existing departments within the respective County(s) provided support to DA office functions – and if they did provide support, what was the level of support. “Dedicated” staff refers to whether a specific individual(s) was tasked with only supporting the DA's office (and did not do any related work for county departments).

As seen in the summary above, most peer judicial districts provided some level of dedicated support staff for the DA's office, especially in the areas of HR and IT – the exact level and degree of support was different. Not only does this recognize the unique operations and needs of a functioning DA office, but it also recognizes the “immediacy” and non-stop nature of DA office operations. The DA's office operates 24/7, and any IT downtime impairs its ability to function. In addition, IT issues must be immediately addressed, especially when an assistant DA is in court.

While it is beyond the scope of this report to determine the exact level of support to be provided and the exact job descriptions of dedicated positions, it is recommended that the DA's offices in the new 18th and 23rd JDs have dedicated HR and IT staff whose sole responsibility is focusing on the operations and needs of the DA's office. While the stakeholder counties obviously have their own HR and IT needs and make decisions on how to address those issues, for the continuous operation of the DA's office, individuals should be consistently available for appropriate support.

As noted in the summaries above, some peer counties provided additional support for their respective DA offices. The nature and amount of this support was different. During transition implementation, as the structure of the respective DA offices is being created, it is recommended that the stakeholders remain in discussion regarding other potential support services for the DA's offices.

Number of FTEs – Comparable DA Offices. Of the judicial districts identified above, the DA's offices in the 1st JD (Jefferson County), 2nd JD (Denver) and 17th JD (Adams County) are more comparable peers to Arapahoe County. Conversely, the DA offices in the 8th JD (Larimer County) and the 20th JD (Boulder County) are more comparable peers to Douglas County.

Based on information provided to us as part of our analysis, in 2021 the average number of DA office employees in the judicial districts most comparable to AC was 208. The average number of DA office employees in the judicial districts most comparable to DC was 89.5.

Given that the current 18th JD includes both AC and DC (as well as EC and LC), in order to have a true comparison with the 18th JD from an FTE perspective, it is necessary to add the averages

above from the comparable DA offices – that results in an average of 297.5 DA office employees for these comparable judicial districts. The same point in time FTE calculation used throughout this report (which is based on the DA's organizational chart included in this report) reflects that the 18th JD has 244 FTEs in the DA's office. By this metric, the DA's office in the 18th JD has 53.5 fewer FTEs than the comparable DA offices. If the number of FTEs is currently inadequate for one judicial district, it will remain inadequate for two independent judicial districts, further complicating the allocation of existing FTEs between judicial districts.

It is admittedly problematic to reach a definitive conclusion based on a singular factor. However, evaluating a singular factor can offer perspective and insight into a larger analysis – consideration of current FTEs as well as potential allocation of those FTEs between the two judicial districts.

In this situation, that singular comparison could suggest that the DA's office in the 18th JD is currently understaffed with significantly fewer FTEs than comparable DA offices. Similarly, if currently understaffed for one office, that challenge will likely continue in two separate, independent DA offices. In addition, dividing one operating entity into two separate entities can result in operational inefficiencies.