



OFFICE OF THE DISTRICT ATTORNEY

JOHN KELLNER, DISTRICT ATTORNEY

18TH JUDICIAL DISTRICT

SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

August 5, 2022

Dear Honorable Commissioners and Budget Staff,

Thank you for the opportunity to address and communicate our budgetary needs for 2023.

In this budget request I will address the following topics:

- 2023 operations
- Transitioning to a new 18th and the creation of the 23rd Judicial District
- ARPA funding

2022 is a unique year for my office and this budget request. We are facing a situation similar to other District Attorney's Offices along the front range, encountering a significant shortage of attorneys applying to be prosecutors to join our commitment to seeking justice. As I draft this request, our office and 4 neighboring offices have prosecutor vacancies totaling 52 positions. These offices are competing more actively for a smaller pool of candidates by increasing salary offers.

As you know, we have been actively developing a plan for 2025, to establish two separate district attorney's offices. This has been a time consuming and somewhat overwhelming task and to commit to its ultimate success and to continue operating at the same high capacity, we are going to need additional financial support.

I want to thank you again for supporting our office with ARPA funding to address the backlog of cases created by the pandemic. Because of the shortage of prosecutor applicants, our operating plan to spend the funding has changed. We have been able to address the new courtroom requirements in Douglas County, change operations with increased body camera data, implement weekend court operations, and caught up on over 8,000 cases in six months. Currently we have added 3 prosecutors, a paralegal, victim witness assistant, and 5 discovery technicians. We planned to hire 5 additional prosecutors, but we have not been able to fill those positions given the current recruiting market, so we are removing appropriate tasks from our current prosecutors' workload and adding support staff to help address the case backlog.

I look forward to continuing dialogue on these topics in the coming months to address any questions or concerns you have with our request.

I have broken out our 2023 budget requests into several categories and provide a description and support for each.

2023 Budget Packages (\$2,849,317, 10.6% increase)

Arapahoe County – \$1,766,019

Douglas County – \$994,790

Elbert County – \$73,064

Lincoln County – \$15,263

Market Adjustments and related taxes and 401k contributions

Total Request \$1,125,885

- Increase County Court DDAs starting salaries to \$85,000 from \$73,000
- Increase District Court DDAs starting salaries to \$93,500 from \$82,500
- Increase Senior Deputy DDAs starting salaries to \$123,000 from \$105,000
- Increase Chief Deputy DDAs starting salaries to \$141,000 from \$133,000
- Increase Diversion Case Manager starting salaries to \$59,000 from \$45,000
- Increase Diversion Counselor starting salaries to \$70,000 from \$55,000
- Increase IT technician starting salaries to \$48,000 from \$43,000
- Taxes and 401K match for preceding salary adjustments \$137,489

Arapahoe County – \$697,872

Douglas County – \$393,108

Elbert County – \$28,873

Lincoln County – \$6,032

Description: The Douglas County Sheriff's Office has set a precedent for law enforcement agencies and currently has a vacancy rate of 1%, in part by paying very competitive wages and enhancing retirement benefits. In a press release on July 22, DCSO stated they are paying \$10,000 above the City and County of Denver's starting salaries. Our vacancy rate for prosecutors on July 1st was nearly 10%. This request will allow us to recruit and retain the best prosecutors. <https://original.newsbreak.com/@heather-willard-1592376/2675431159810-creative-recruiting-incentives-boost-dougco-sheriff-s-office-staffing>.

The City of Aurora also recently announced their plan to better attract and retain their public safety employees. Their proposal contains an 11% increase in salaries over 2023 and 2024. https://denvergazette.com/news/local/aurora-police-firefighter-pay-to-rise-around-11-in-2023-and-2024/article_0bd8629e-0e9b-11ed-8314-c75254513fe7.html

Finally, the Denver District Attorney's office shared a new range and step format for their office. We also included their structure as additional support for the changes we are requesting.

So far in 2022, 11 prosecutors have left employment with our office and 55% joined other government attorney's office within the State of Colorado. Most of them identified compensation as being the major factor in their departure. In comparing our salary structures with the market, we determined our average pay for prosecutors fell below the average for the 17 government employers responding to a recent Gallagher survey of various district attorney's offices and government legal offices. We also fell behind the median (50th percentile) as calculated in the survey. We pay less than the average of DA's offices along the front range. We are requesting funding to better align our prosecutor salaries with those of other government attorneys along the front range.

Rationale:

In 2022 the Office participated in several salary surveys, the results were evaluated to determine market ranges for several positions within the office. In March of 2022, Gallagher released the results of a survey conducted on behalf of the Colorado State Attorney General's Office. 17 different governmental entities responded on the salary benchmarks for 5 classifications of attorneys, ranging from management (elected DA or county attorney) to entry level attorneys. Annually we also participate in a salary survey conducted through the Colorado District Attorney's Council (CDAC), this survey is completed by 8 of the largest DA's offices in the state. Finally, as part of the discussion for the transition plan for the 23rd judicial district we obtained job descriptions and salary ranges for positions with similar titles and job responsibilities from Arapahoe and Douglas counties.

We found similar results comparing data with other front range District Attorney's offices. The below chart shows the comparison of each survey and the salary ranges for Arapahoe and Douglas County. We are requesting to adjust our average pay to the midpoint of the Gallagher survey.

Entry level Attorney/County Court	Minimum	Maximum	Midpoint	Average Pay
Douglas County	\$ 76,977	\$ 115,466	\$ 96,222	
Arapahoe County	\$ 89,549	\$ 143,103	\$ 116,326	
Gallagher	\$ 72,801	\$ 102,699	\$ 87,742	\$ 81,315
CDAC	\$ 72,000	\$ 110,509	\$ 91,255	\$ 80,773
18th	\$ 73,000	\$ 85,000	\$ 79,000	\$ 75,025
Intermediate Attorney/District Court	Minimum	Maximum	Midpoint	Average Pay
Douglas County	\$ 76,977	\$ 115,466	\$ 96,222	
Arapahoe County	\$ 89,549	\$ 143,103	\$ 116,326	
Gallagher	\$ 82,077	\$ 121,284	\$ 101,666	\$ 96,217
CDAC	\$ 76,500	\$ 140,275	\$ 108,388	\$ 97,000
18th	\$ 82,500	\$ 130,000	\$ 106,250	\$ 91,582
Senior Level Attorney/Senior Deputy	Minimum	Maximum	Midpoint	Average Pay
Douglas County	\$ 103,522	\$ 155,283	\$ 129,403	
Arapahoe County	\$ 108,354	\$ 173,056	\$ 140,705	
Gallagher	\$ 106,505	\$ 159,424	\$ 133,347	\$ 126,191
CDAC	\$ 72,000	\$ 110,509	\$ 91,255	\$ 122,412
18th	\$ 105,000	\$ 140,000	\$ 122,500	\$ 115,783
Supervising Attorney/Chief Deputy	Minimum	Maximum	Midpoint	Average Pay
Douglas County	\$ 135,071	\$ 202,606	\$ 168,839	
Arapahoe County	\$ 119,436	\$ 190,788	\$ 155,112	
Gallagher	\$ 124,077	\$ 183,167	\$ 153,758	\$ 151,174
CDAC	\$ 120,000	\$ 225,097	\$ 172,549	\$ 150,976
18th	\$ 132,000	\$ 165,000	\$ 148,500	\$ 150,769

Our highest area of turnover and the positions with the smallest number of qualified applicants is the clinical staff in our Diversion program. The CDAC survey represents two diversion offices with a similar approach and staffing needs of our Diversion program. The case manager position within the Denver, Adams and Jefferson DA's Office salary average is \$15,000 higher than what we offer our case managers. We are requesting to increase the salary range by this amount and to increase the only Masters-degree required licensed counselors in these Diversion programs the same.

Finally, in reviewing the job descriptions of paralegals, legal assistants and IT personnel we noted most of our ranges to be very similar. We are requesting a \$5,000 increase to the starting salaries of our Technology Service Desk Support Specialists to better align with the counties.

Merit Increase Pool and associated taxes and 401K contributions**Total Request \$1,033,253**

Arapahoe County – \$640,455

Douglas County – \$360,766

Elbert County – \$26,497

Lincoln County – \$5,535

Description: My office is requesting a 4.5% Merit increase pool for 2023. Taxes and 401K contributions are estimated by using the average contribution level over the past five years. Employer tax contributions for Social Security and Medicare have averaged 7.2% of actual payroll. 401K contributions have averaged 6.71% over the same period of time. Our 401k is an elected benefit with the employer match varying from 6-8% maximum.

Rationale: During discussion with Douglas and Arapahoe counties we learned the following adjustments occurred or will be proposed for 2023. During 2022 Douglas county increased salaries by a 4% merit increase pool, in addition to their January increase of 3.5-4%. They also offered a minimum 1.5% one-time benefit to all employees under \$80,000 in salary. Further merit increases are under consideration for the 2023 budget request. Arapahoe anticipates requesting market adjustments for qualifying positions along with a 4.1% merit increase pool.

Transitioning to the 23rd Judicial District**Total Request \$940,740**

Arapahoe County – \$583,111

Douglas County – \$328,464

Elbert County – \$24,125

Lincoln County – \$5,040

Description: By the end of 2022, my office and the counties will have a plan and recommendations for moving forward with the split of the 18th and the creation of the 23rd Judicial District. One of the biggest challenges I foresee is having staff adequately situated to step in and handle tasks currently associated with the operations of the 18th Judicial District as a whole. This will require additional resources to be added before the creation date established in the legislation. These changes will affect handling cases in the courtroom along with the administration of the employees of my office and the IT equipment and systems utilized daily. I have departments requesting several positions to offset their anticipated participation in 2023 through 2024. I anticipate a significant increase in workload for our IT and HR departments and in order to address this, I am requesting additional staffing to handle our normal day to day operations along with transition tasks.

	Salary	Benefits	Computer and office Equipment	Totals
Family Violence Unit				
Chief	\$ 132,000	\$ 39,600	\$ 6,500	\$ 178,100
Senior	105,000	31,500	6,500	143,000
Deputy DA	87,500	26,250	6,500	120,250
HR generalist	60,000	18,000	6,500	84,500
IT support 1.5 FTE	125,000	37,500	6,500	169,000
Total	\$ 509,500	\$ 152,850	\$ 32,500	\$ 694,850

Rationale: Prosecution - The Special Victims Unit (SVU) and the Domestic Violence unit (DV) in Douglas County needs to expand capabilities, especially in light of the separate office in the new 23rd. Several factors lead me to the resolution to enhance these operations sooner rather than later:

- Coverage – On any given day, the single SVU DDA or single DV DDA could be called upon to appear in 4 court rooms at the same time. That could be an advisement any day of the week, along with covering Division 1 and Division 4 in dockets or trials. Arapahoe units have 4 other team members that can absorb similar changes in Arapahoe.
- Workload - We are currently understaffed on SVU and DV cases, and have significant opportunities for growth, redundancy, and efficiency by standing up an SVU/DV Unit with supervising prosecutors in Douglas County.
 - On a cases per DDA level, Douglas DV and Arapahoe DV are comparable in terms of active cases and cases filed per year per prosecutor.
 - Arapahoe SVU and Douglas SVU are not dramatically out of step on the surface. Arapahoe SVU averages 31 cases per prosecutor, and the Douglas SVU prosecutor carries 43 cases. This analysis excludes the Chief of SVU, who carries double the caseload of anyone else in SVU, and works primarily in the Arapahoe County office. In addition, there are 10 cases in Douglas, or 17 cases total among Douglas, Elbert, and Lincoln, that are assigned to Arapahoe SVU DDAs. These combine to the equivalent of the workload for 2 DDAs, and doesn't factor in additional SVU-related cases where an actual SVU DDA is not the primary prosecutor, but is assisting.
- Growth and Opportunity - DCSO currently has 6 SVU detectives and a willingness and ability to assign an additional investigator to Internet Crimes Against Children (ICAC) prosecution only without the need for further budget requests. We currently do not address these significant cases as a particular focus for an assigned prosecutor. Part of the appeal of this unit is to support regular ICAC operations in coordination with our law enforcement partners. Online predators that gain access to children and teens through social media is a growing threat in our communities that must be addressed.

- Chain of Command - Right now, SVU and DV DDAs handle cases in Douglas report to seniors and chiefs based out of Arapahoe. The primary day-to-day support comes from Douglas County prosecutors outside the specialty needs of SVU and DV.
- Successful transition – The cases that are part of SVU and DV are victim-intense and more complex than a line DDAs docket. To the extent we are currently relying on Arapahoe support from DV and SVU, we need to stop adding to that entanglement to allow for a more smooth and consistent transition to the 23rd in 2025. If we continue to build cross-jurisdictional prosecution it will make disentangling those cases more difficult in two years. We also need to begin building mechanisms for people to see upward mobility and job growth/career satisfaction before they leave to another jurisdiction. It will take time to recruit and build experience necessary for these critical positions that shouldn't wait until just before the district splits.

The multi-county coverage provided by Arapahoe-based DDAs with their own cases is a challenge. Eventually this support will need to be provided out of the Douglas office. We should begin to move in that direction now.

- Court operations support staff – This will definitely need further consideration as we approach 2025, but for 2023 no additional staffing is requested in the areas of investigations, victim witness support or paralegal needs.

Administration – Regardless of the path recommended through the plan document created by CGL in late 2022, a large conversion will take place within the administrative departments of our office. 250 employees, their records, benefits, files, and electronic data will be updated and moved. Transitions in and out of plans, open enrollment, and the closing of plans will occur, determining how, what, where and when these items begin and finish will become future discussions. Along with employment documentation, IT hardware and software applications will follow a similar path. Our computer leases expire in December of 2025, our storage needs are forecasted through the end of 2023 and greatly impacted to the July 1, 2022, deadline for body worn cameras implementation. With all the moving pieces in these areas we are requesting additional staffing to support the planning, decision making, and implementation of processes over the next two years.

Description: The Office is requesting an increase to our 401K match to 9% to be consistent with the employer contribution rate of our largest counties. Currently we have 55% of the organization at an 8% match or higher with the proposed payroll calculated at \$20,717,000. 1% of this total is \$207,170. 55% participation at an additional 1% match totals \$103,600. This change in 2023 will present a benefit to employees concerned with their future employment in the 18th and 23rd.

The Office is proposing \$125,000 annually from 2023 until the split to implement retention bonuses for employees who are especially critical to implementing the transition plan and to

retain tenured employees for the two new offices who may also be recruited by other District Attorney's offices based on their experience.

Rationale: In 2022 our offices embarked on the creation of the 23rd judicial, District Attorney's office and reorganizing the 18th Judicial District. From the kickoff of this project, we have described the concern about job stability that the project is creating in our organization. We are starting to see key tenured employees accept employment with other government organizations. We also face an ever-changing environment as prosecutors, with legislators changing our exposure and potential individual liabilities annually. I believe for both of these offices to maintain the level of service you as Commissioners expect, our actions in the next few years will greatly influence the difficult career decisions of some of the best prosecutors in the State of Colorado. During these meetings, my office has learned in depth the benefits offered by the largest counties and is working alongside county staff to lessen the impact and maintain confidence in the outcome of the transition. Currently both large counties provide a 9-11% match in their respective retirement plans, our office caps out at an 8% match. We are requesting to increase our 401k match to 9% to align with the counties' benefit.

In discussions surrounding the 23rd, we learned Arapahoe County has implemented retention bonus during difficult recruiting and retention times in the IT market. In 2022 we have encountered employees leaving for pay increase between \$30 - \$50k. One key employee that recently left was the senior database developer responsible for our case management software (Action) that is the backbone of electronic operations. In 2019 it took us 3 months and a recruiting firm to source the right candidate, it then took another year of training to match the capabilities of his predecessor. We anticipate this recruiting and replacement of his position to be at least as challenging, specifically with the 2025 uncertainty of the position and also considering the potential need for each office to have its own developer. Another prosecutor who appeared very content with his role and assignments within our office was offered \$30K more to join another DA's office in a similar role. We have identified 7 directors integral to daily operations and key decision making and implementation for the project at hand. In addition, our Senior Deputy District attorneys and certain tenured District Court Deputy attorneys serve as the backbone and carry some of the heaviest workloads of the organization. This group of employees are tenured enough they could serve as life-long prosecutors, normally they are approaching 10 year of experience and will be the chiefs, senior chiefs, ADA and elected District Attorneys of the future.

Operating Expenses Deduction of \$(250,742)

Arapahoe County – \$(155,421)

Douglas County – \$(87,548)

Elbert County – \$(6,431)

Lincoln County – \$(1,344)

Description: We have several reductions to operating expenses to offset our 2023 requests. The largest offset is our 2022 included the final payment of our storage and backup hardware in the amount of \$200,000. We have also seen significant decreases in operating expenses with changes implemented during the pandemic. Printing needs have decreased as our workforce learned to work electronically without the use of paper. Our business miles decreased as Teletherapy has moved to the fore front of our diversion operations. Finally, we renegotiated our lease at FRP in December of 2021 resulting in a reduction in costs.

Thank you for your consideration of our budget requests. We look forward to discussing this budget with the executive budget committees and Commissioners in September. If you have questions or would like additional information please let me know.

Respectfully,



John Kellner
District Attorney

OFFICE OF THE DISTRICT ATTORNEY-18TH JUDICIAL DISTRICT
2023 Reconciliation of Budget by County
Allocations Based on Population

DESCRIPTION	ARAPAHOE COUNTY	DOUGLAS COUNTY	ELBERT COUNTY	LINCOLN COUNTY	DISTRICT TOTALS	
2022 Base Budget by County	\$ 16,875,098	\$ 9,221,758	\$ 671,405	\$ 146,182	\$ 26,914,443	
2023 Percentage Change	(0.0113)	0.0114	0.0000	(0.0001)	0	
2023 Population Adjustment	(302,967)	305,617	1,196	(3,845)	0	
2022 Restated Base Budget	16,572,131	9,527,375	672,601	142,337	26,914,443	
Market Adjustments	697,872	393,108	28,873	6,032	1,125,885	
Merit Increase Pool	640,455	360,766	26,497	5,535	1,033,253	
23rd Transition	583,111	328,464	24,125	5,040	940,740	
Operating expenses	(155,421)	(87,548)	(6,431)	(1,344)	(250,742)	
2023 Budget Request	18,338,149	10,522,165	745,666	157,600	29,763,580	
Increase/(Decrease) Budget Requ	\$ 1,766,019	\$ 994,790	\$ 73,064	\$ 15,263	\$ 2,849,137	10.59%

Line Items	2022						Total
	Baseline	Market Adjustments	Merit Increase	23rd Transition	Operating Expenses		
Salaries	\$ 18,721,709	\$ 988,396	\$ 907,076	\$ 634,500	\$ -	\$21,251,681	
Employee Benefits	5,607,647	137,489	126,177	273,740	-	6,145,053	
Total Personal Services	24,329,356	1,125,885	1,033,253	908,240	-	27,396,735	
						-	
Office Supplies	48,000					48,000	
Postage	60,000				5,000	65,000	
Operating Supplies	84,000				(7,000)	77,000	
Travel & Transportation	1,000					1,000	
Business Mileage	20,000				(10,000)	10,000	
Printing	38,500				(12,500)	26,000	
Insurance & Bonds	300,000					300,000	
Cellular/Paging Services	67,540				(7,540)	60,000	
Subscriptions/Books	50,000				7,000	57,000	
Dues and Meetings	148,000					148,000	
Witness Expenses	9,890					9,890	
Transcripts	-					-	
Professional Services	244,000				17,800	261,800	
Audit Services	22,000					22,000	
Equipment Maintenance	2,500					2,500	
Vehicle Maintenance	55,000					55,000	
Software Maintenance	277,870				(13,180)	264,690	
Hardware Maintenance	94,100				6,665	100,765	
External Telecom Services	157,000				(10,000)	147,000	
Equipment Rental	280,000				(36,000)	244,000	
Operating Software	95,200				21,700	116,900	
Operating Hardware	435,487			32,500	(228,487)	239,500	
Training & Education	95,000				15,800	110,800	
Capital Outlay			-			-	
Total Operating Expenses	2,585,087	-	-	32,500	(250,742)	2,366,845	
Total Main Office	\$ 26,914,443	\$ 1,125,885	\$ 1,033,253	\$ 940,740	\$ (250,742)	\$29,763,580	

Office of the District Attorney-18th Judicial District
2021 Population Information by County
For the 2023 Budget

County	Comparative			
	2021	2023	2022	Increase
<u>County</u>	<u>Population</u>	<u>Percentage</u>	<u>Percentage</u>	<u>(Decrease)</u>
Arapahoe	655,581	61.98%	63.11%	(0.01126)
Douglas	369,286	34.92%	33.78%	0.01136
Elbert	27,123	2.56%	2.56%	0.00004
Lincoln	<u>5,666</u>	<u>0.54%</u>	<u>0.55%</u>	<u>(0.00014)</u>
Totals	<u><u>1,057,656</u></u>	<u><u>100%</u></u>	<u><u>100%</u></u>	<u><u>-</u></u>