

2022 ANNUAL REPORT



District Attorney's Office 8th Judicial District

*Serving Larimer and Jackson Counties
Gordon P. McLaughlin, District Attorney*



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Overview

The 8th Judicial District Attorney's Office serves Larimer and Jackson counties, representing more than 360,000 residents in Northern Colorado. Elected District Attorney Gordon P. McLaughlin leads a team of more than 100 passionate individuals in the pursuit of keeping the community safe while improving the criminal justice system.

Mission

The District Attorney's Office serves to seek justice and ensure the safety of our community in an equitable manner. Every day we work to thoughtfully prosecute crime, protect victims of crime, address systemic bias, rectify injustice, and provide transparency about our work. We are zealous advocates for the truth and fair practitioners of justice.

Vision

To protect and serve Larimer and Jackson counties, while creating a stronger community where the application of criminal justice is more equitable and no longer at odds with social justice.



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A Message from the District Attorney

This is the first ever annual report to be published by the District Attorney's Office for the 8th Judicial District. The goal in creating this report is to show the public what we have accomplished in the last year, to hold ourselves accountable to the community, and to further our promise to be transparent.

The District Attorney's Office's mission is to protect the community and victims. This is at the heart of what all prosecutors and District Attorney staff do every day. Within that, it is also our job to think comprehensively about the defendants with whom we interact and thoughtfully prosecute crime in a way that will reduce repeat offenses and treat our community in a fair and equitable manner. We have specifically worked towards this goal in 2022 and developed a host of new initiatives and programs that you will read more about in this report.

We hosted a warrant forgiveness event where those with eligible offenses could reconnect with the court, reengage with probation and substance treatment requirements, and reimburse victims of a loss without the risk of being arrested. Such initiatives exemplify our efforts throughout 2022 to reduce crime and act with compassion at the same time.

Meanwhile, our Adult Diversion program, launched in the fall of 2021, really hit its stride in 2022. We saw 358 individuals diverted away from traditional criminal justice outcomes and toward resources that address the root causes of their crime. The program had a 91% success rate.

To improve our trauma-informed approach to working with victims, we added a courtroom facility dog to our office in 2022. Zion provides an additional element of emotional support to victims and witnesses that our victim advocate staff serve.

Transparency has been a top priority of our office. In 2022 we developed and launched a public data dashboard that shows metrics of our work so that we can make evidence-based decisions and objectively evaluate trends. Such efforts put us on the leading edge of public information sharing across the country.

Public outreach and engaging the community continue to be goals we strive towards. In the last year we launched a Citizens Academy and expanded our use of social media to more quickly communicate with our community.

We also increased our efforts to tackle emerging crime trends. An economic crime focus led to hundreds of thousands of dollars returned to crime victims and to taxpayers. A new attorney position working on fentanyl distribution causing death cases has allowed Larimer County to lead the state in holding accountable those killing community members with the lethal drug.

I'm proud of the hard work my staff has put in and I'm thankful for their contributions as we have worked to achieve so many goals this past year and improve our service to the public.



Gordon P.
McLaughlin

“

I hope you find this report valuable and are as excited as we are about a new era of transparency and accountability from your District Attorney's Office.

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Significant Cases

People vs. Kembel & People vs. Dexter

In two separate cases, Kembel and Dexter were charged with a felony DUI, since each defendant had at least three prior DUI charges. In both cases, the defense attorneys argued for bifurcated trials, meaning the past DUI charges would not be considered until a second stage of trial (sentencing) if the defendant was found guilty in a first stage. They argued that talking about prior DUIs would bias the jury in determining if the defendant was guilty on the new DUI charge. The judge ruled in favor of the defense for bifurcation, and our office appealed that decision to the Colorado Supreme Court.

Our attorneys successfully presented an argument that bifurcation did not follow the felony DUI law as it was written in the legislation and that the jury could know about prior DUIs in deciding whether the defendant was guilty of this new DUI charge.

The Supreme Court agreed that the cases should not be bifurcated and held that juries must be presented with the whole charge at trial, citing both legal constraints on the judiciary and the public policy of being honest with and respecting the time of jurors.

People vs. Zwahlen

In 2021, Zwahlen was charged with Murder in the First Degree for the murder of Todd Stout. Zwahlen, who was 16 at the time, murdered Stout while he was sleeping under an overpass. The two had seemingly no connection to each other. As the case progressed, it presented unique challenges ranging from in the brutal nature of the crime, the defendant's age, mental health, and accountability and responsibility of the defendant's actions.

In October 2022, the parties reached a plea agreement for an amended count of Murder in Second Degree, a Class 2 Felony, with aggravating circumstances. The agreement stipulated sentencing of 35-48 years in the Department of Corrections, and at a January 2023 hearing, Zwahlen was sentenced to 44 years.

While no sentence can restore Stout to his grieving family, the outcome of this case both honored the victim and worked in the best interest of the safety of the community as a whole.



People vs. Gist

In early 2021, Gist was arrested and charged with the murder of Jordan Sinden. The case ultimately went to trial for six days in September 2022.

The trial included testimonies from multiple witnesses, and evidence ranged from the murder weapon to the victim's own video surveillance. After roughly three hours of deliberation, the jury returned guilty verdicts for first-degree murder after deliberation, first-degree felony murder, second-degree burglary of a dwelling, and two counts of tampering with physical evidence. Less than a week after the jury verdict, Gist was sentenced to life without parole.

At sentencing, Sinden's family and friends spoke to his memory and to the tragic, senseless loss of his life. Our staff ensure that all cases involving victims of violent crime and that fall under the Victim Rights Act (VRA) remain compliant with the basic tenants of the VRA: victims have the right to be heard, to be informed of significant case events, and to be present, often by submitting Victim Impact Statements or speaking at a hearing. The pursuit of justice, whether that is through trial or a plea agreement, is balanced with the input of victims and/or the victim's family.

People vs. Ochs

When law enforcement responded to a report of gunshots being fired, the responding officer did not find an active disturbance, but instead discovered a bullet that went through a wall and struck someone, causing minor injury. While investigating nearby, law enforcement found Ochs and another man target shooting near a water tower.

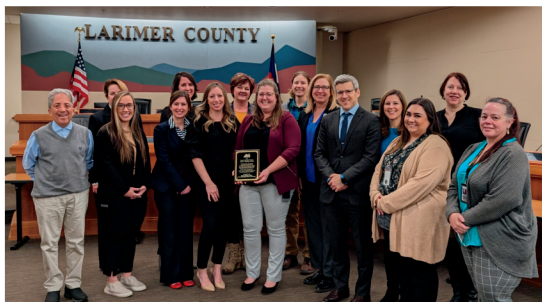
The case went to trial for two days, and the defendant was found guilty of the Reckless Endangerment, a Class 1 Misdemeanor and Prohibited Use of a Weapon - Reckless with Gun, a Class 1 Misdemeanor.

At sentencing, the Deputy District Attorney highlighted the seriousness of the reckless endangerment. The injuries sustained by the victim could have been much more serious, and other stray bullets could have easily struck the parents or children who were nearby, highlighting the need for ongoing gun safety awareness and prosecution of such cases.

The judge ultimately sentenced Ochs to 9 months of unsupervised probation, 40 hours of useful public service, and the completion of a gun safety class.



Gary A. Darling Award



Larimer County Behavioral Health Services awarded the 2022 Gary A. Darling award to the District Attorney's Office's Diversion program for their "unwavering commitment to serve those at the intersection of behavioral health and criminal justice."

The Diversion team received a grant of over \$130,000 to continue working with qualifying individuals to take responsibility, repair harm, and prevent future unlawful behavior through Diversion's specialized programs. Notably in this grant, funds were dedicated to help meet participants' basic needs, such as transportation, to reduce barriers to behavioral health services, and aid in the completion of their Diversion agreements.

Larimer County Innovation Award

The District Attorney's Office was awarded the 2022 Larimer County Innovation Award, which honors creative methods, ideas, processes, and programs beneficial to the county. The award was presented to the Law Enforcement Digital Evidence System (LEDES) that manages data from law enforcement, including body-worn camera footage.

With a 400% increase in digital evidence since 2016, a streamlined solution for the processing of digital evidence was needed. Previously, law enforcement staff spent a great deal of time manually reviewing and downloading evidence, then uploading that data to a system that submits it to the DA's Office for review and discovery. With the increase in evidence, additional staff for law enforcement and the DA's Office would have been necessary. The new LEDES system automates much of that process and eliminates the need for staff to manually download/upload data. This process saves countless human hours for both the DA's Office and law enforcement and saves taxpayers from needing to fund additional full-time staff to handle the evidence transfer. The system also reduces the risk that evidence may be missed or overlooked in the discovery process.

Protecting Our Community, Improving Criminal Justice

Every year, our office participates in initiatives of our own making as well as partnering with other agencies to improve the criminal justice system and the public's understanding of our office. Below are some standout initiatives of 2022.

Connecting Defendants with Restoration Services through Competency Court

In 2021, our office participated in the creation and implementation of the Larimer County Competency Docket. This innovative docket was created in response to a growing number of competency cases and a large state backlog in services. It aims to find necessary community resources for defendants undergoing competency restoration services to reduce the number of non-violent defendants in custody awaiting trial and connect those defendants to services which will benefit them and the community.

As the program has evolved through 2022, the time requirements for this office have been far more significant than initially anticipated, with the docket size rising to 116 active cases as of August 2022, yet the effectiveness remains clear. This local solution to a statewide problem has quickly become a national model.

Re-engagement and Accountability with the Warrant Clearance Community Event

After significant planning with the 8th Judicial District Judicial Branch, the Office of the State Public Defender, Probation, Community Justice Alternatives, and other agency partners, our district held its the first Warrant Clearance event. On September 17, 2022, 100 staff from various criminal justice and other community agencies met at the Poudre River Public Library in Fort Collins to enable defendants with outstanding warrants on certain lower level offenses to resolve what they could and be connected with services and nonprofits in the county. An estimated 120 warrants were cleared at the event, and no one was arrested.

The event's benefits are twofold: 1. individuals clear past warrants and reengage with treatment, pay restitution, or take other necessary steps, and 2. the community gains accountability and public safety. With learned efficiencies and procedure tips, another event is planned in 2023 in Loveland.

Success Story:

Addressing outstanding drug charges

A defendant had drug felony charges from 2015 and 2016, which are now no longer felonies under the law, and had stopped checking in with probation years ago.

How the event helped

The defendant came to the event and is now reinstated on probation, checked in with an onsite Probation Officer, and is complying with sobriety and treatment providers.

Success Story:

Clearing past debt

A defendant appeared who had a misdemeanor theft charge.

How the event helped

During the event, she was able to get a cashier's check to cover the restitution, which investigators passed on to the victim, and close the final steps in her case.

Success Story:

Moving forward with no recidivism

A defendant sentenced to a lengthy work release on a misdemeanor drug possession case in 2019 never turned himself in to the jail. This particular sentence would no longer be likely given our focus on treatment over incarceration. Since the time of his sentence, the defendant got a job in Wyoming and is raising a new son with no subsequent criminal history.

How the event helped

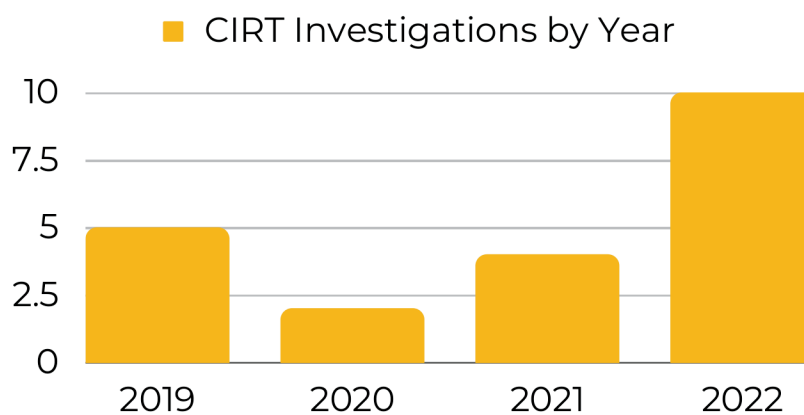
He paid \$2,100 in court costs and fines, which fund many of our criminal justice services and victim services, and can now concentrate on lawfully raising his child in Wyoming without a warrant.

This collaborative criminal justice event took creative, outside-the-box thinking and planning to serve the community in new ways, ultimately meeting our mission to promote community safety in an equitable manner.

Expanding the Protocol for the Critical Incident Response Team (CIRT)

While the 8th Judicial District has formed a multi-agency review team for officer-involved incidents since 2005, the District Attorney's Office led a full review of the protocols throughout 2022. All law enforcement agencies collaborated on a new and unanimously approved protocol to include mandatory consultation regarding officer-citizen incidents which result in any party being seriously injured, whether or not a firearm was used. The new protocol has also broadened and encouraged additional consultations when matters of public trust may be at issue.

Part of that public trust comes from the participating agencies' reliance on the established CIRT process, trainings, and ongoing commitment to each other agency that the case will be fairly and thoroughly investigated. In order to maximize transparency in the process, the 8th Judicial District CIRT now posts the entire CIRT protocol on the District Attorney's website and the office publishes comprehensive decision letters on CIRT incidents which go above and beyond the level of detail required by law. These are available at larimer.gov/DA.

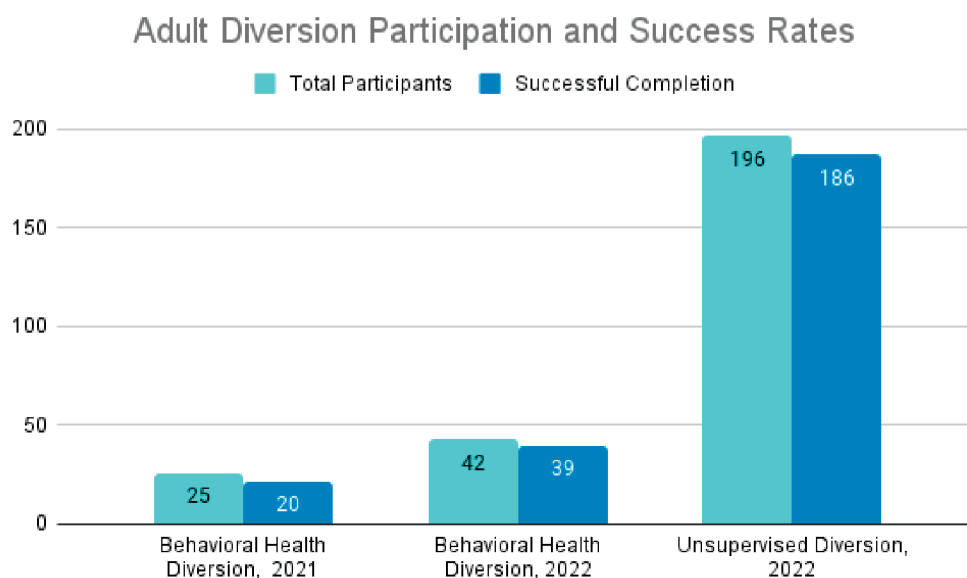


Responding to New Legislation and Rising Fentanyl Overdoses

With the passing of Colorado House Bill 22-1326 and the creation of a new crime – Distribution Causing Death as a Class 1 Drug Felony with enhanced penalties – our office has devoted significant time collaborating with law enforcement agencies, the Northern Colorado Drug Task Force, the Larimer County Coroner's Office, hospitals, toxicologists, and other stakeholders in crafting new policy and creating best practices for investigating this new category of fentanyl-related homicide. The community concern surrounding these issues, complex nature of coordinating a new response among various agencies, and the large number of fentanyl overdose death scenes needing response requires the leadership of experienced Deputy District Attorneys. In addition to our most experienced attorneys working on these efforts, our office applied for Larimer County American Rescue Plan Act (ARPA) grant funding for a Complex Case Deputy District Attorney (see page 17) to handle some of these prosecutions. Investigating each overdose to identify the individuals responsible for distributing fentanyl to overdose victims as well as the network of fentanyl distribution and effectively go up the chain for prosecution takes dedicated time, effort, and coordination that would not be possible without the relationships, mutual effort, and investment from law enforcement partners.

Repairing Harm and Preventing Future Unlawful Behavior Through Diversion

In 2021, we had 2 full-time employees in Juvenile Diversion with funding assistance from Behavioral Health Services. Through additional grant funding, in January 2022 we added one full-time position focused on creating an Adult Diversion program, and then added two more employees in July 2022. We now have 5 staff across our Juvenile and Adult Diversion programs, including a focus on offering restorative justice practices district-wide for the first time. This was accomplished through grant funding with no budget request from the general revenue in 2022.



Since the Unsupervised Adult Diversion program began late 2021, sufficient data is only available for 2022.

Diversion programs ensure justice and accountability while promoting individual growth and allowing an individual to avoid the unnecessary collateral consequences associated with convictions or adjudications. Designed with a restorative justice lens, these programs are designed for individuals with minimal criminal history who are charged with lower-level offenses and are willing to take responsibility for their actions. A Diversion agreement provides them with an opportunity to resolve their cases outside of the traditional court process.

Adult Diversion Story

A woman was charged with a Class 2 misdemeanor for providing a false name to police. She was screened for Diversion, and during intake it became clear the client was struggling financially. She was previously a licensed esthetician, but did not have the money to renew that license, was living in a hotel, and concerned about losing her housing.

How Diversion Helped

Because of her struggle to meet basic needs, we signed a Diversion agreement that included requiring her to meet with a community partner that specializes in helping people find resources. They were able to fund the reinstatement of her professional license, grant her a month of housing vouchers, as well as provide funds for an eye exam and new glasses.

A Successful Outcome

This client was grateful and excited to have hope and a way forward. She stated she had given up, but now she is currently using this community partner to help with a resume and look for a position in her field. She is able to continue with her Diversion agreement and take accountability for her offense.

Juvenile Diversion is an effort to prevent youth from further involvement in the criminal justice system and address the "school to prison pipeline," while focusing on personal accountability and responsibility. In 2022, 43% of all juvenile cases were in Diversion with a success rate of nearly 94%. Diversion is both effective and a smart investment for the community.

In addition to Diversion agreements, our Diversion team also held two "Think Through" programs in 2022 that focused on serving youth and providing a constructive, confidential avenue for restorative justice. These programs included an impact panel, accountability contract, and a reintegration and reflection circle. The "Think Through: Sexting and Internet Safety" program served 19 youth successfully. "Think Through: Community Safety and Gun Violence" was a response to threats of school violence, whether made verbally or through social media, by bringing weapons to school, or violent behavior involving weapons. In Summer 2022, this program was customized to respond to the TikTok "Orbeez Drive-By Gun Challenge." The program served 16 youth successfully.

Improving Transparency and Public Outreach

Whether by making more data and statistics publicly available or organizing public education events, this office is committed to engaging in transparency and public outreach.

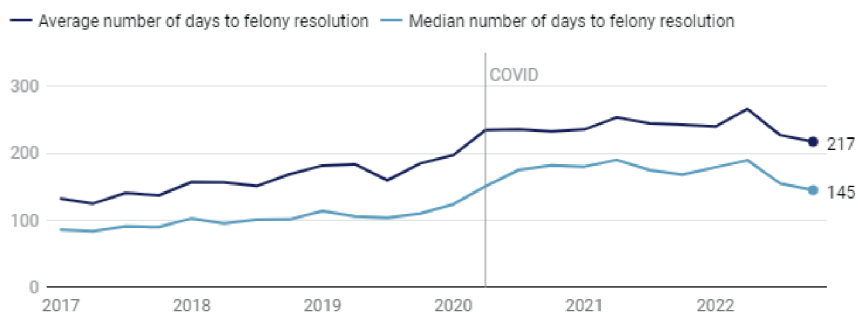
Data-Informed Decision-Making and Telling Data Stories Through Prosecutorial Performance Indicators (PPI)

In September 2022, the District Attorney's Office released its new data dashboard as part of a data transparency initiative. Our district was just one of eight in Colorado that participated in the first phase. This data project better informs the public about our work, provides for transparency, and allows our office to take a closer look at our own practices and identify areas in which we need to improve. By sharing this data, we can provide information to the public concerning our processes and outcomes in order to measure performance towards three goals: Capacity and Efficiency, Community Safety and Well-being, and Fairness and Justice. This was more than a year long's project as part of a national Prosecutorial Performance Indicators (PPI) project in collaboration with the Colorado Evaluation and Action Lab at the University of Denver and the Center for Criminal Justice Research at Loyola University Chicago, through grant funding from the Microsoft Justice Reform Initiative. We appreciate our partners who facilitated this project including the Colorado District Attorneys' Council (CDAC).

Here is an example of a statistic we were able to improve. When data became available, we noticed our time to felony resolution was increasing. Our attorneys met and brainstormed possible causes and solutions in mid-2022. For the next two quarters, we improved the average number of days to resolution.

Time to Felony Resolution

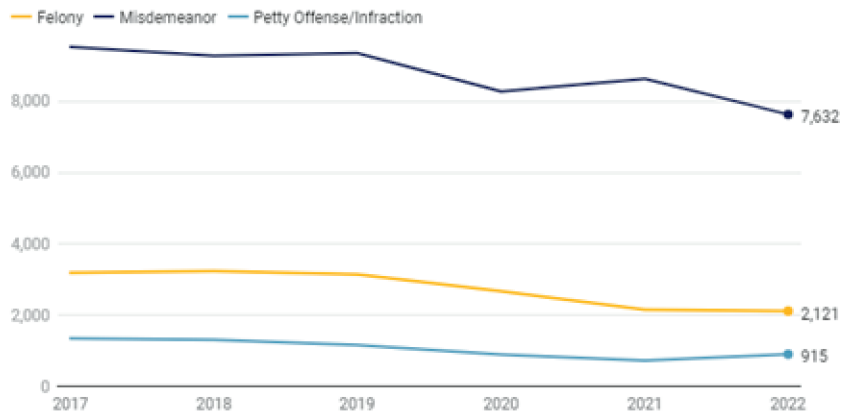
This chart shows the number of days from felony case filing to resolution. Lengthy court cases cause hardship for victims and defendants, require unnecessary expenditures, and add to system backlogs. The timeliness of the case is influenced by the DA's Office as well as the defense and the presiding judge.



The median is displayed to account for very long or very short times to resolution that may skew the average. Cases grouped by most serious filed charge and disposition date.

Source: [Prosecutorial Performance Indicators PPI 3.1](#) • [Get the data](#)

Number of Cases Filed, by Year and Charge Level



The charge level represents the most serious charge filed in a case. Cases grouped by filing date.

Prosecutorial Performance Indicators (PPI) data available online at https://co-eighth-district.netlify.app/8th/filing_charging

Many factors, such as legislative changes and the COVID19 pandemic, can influence the class and type of cases filed. Now with data available through the data dashboard, our office is able to see multi-year trends to better inform about needs.

First Annual Citizens Academy



In February 2022, the District Attorney's Office welcomed 22 applicants for the first four-week Citizens Academy, held each Tuesday and Thursday from March 29 to April 21. This free, eight-class program was an in-depth look at our daily efforts and programs and concluded with a mock trial.

The feedback from participants, many of whom were initially skeptical of the criminal justice system, was overwhelmingly positive. We received compliments about the compassion, dedication, expertise, and integrity of our staff. Based on this initial success, the Citizens Academy will be a yearly program. We have seen progress in educating the community regarding our role and informing them what resources we have available as well as building community trust through dialogue.

Zion the Facility Dog



After applying to Canine Companions in November 2022, our office welcomed Zion VII to serve in the Victim/Witness division. Trained to provide emotional support for victims, witnesses, and family members involved in a case, Zion's presence and role will enable our Victim and Witness Services staff to work in a more trauma-informed, positive, and constructive manner.

At an estimated cost of \$50,000 for the highly specialized training and raising, Canine Companions provides facility dogs like Zion at no charge, thanks to the donors and volunteers of the program.

Social Media

Since May 2021, our office has committed to public communication using social media, specifically Twitter and Facebook. Each platform has seen steady growth and engagement rates with the community. The content strategy centers around sharing the outcomes of significant cases in the community, events hosted by or in partnership with our office, information and transparency into the office's operations, as well as staff highlights and new hires.



Larimer County Innovation Award presentation



Colorado Fentanyl Summit



Swearing in of Senior DDA Kasemodel

Making Smart Moves with Budgets and Funding

As a taxpayer-funded public agency, practicing fiscal responsibility and utilizing sources of funding such as grants are part of ensuring balanced and responsible administrative operations.

Technological Improvements Utilizing CESF Funding

In 2020, the District Attorney's Office received Coronavirus Emergency Supplemental Funding Program (CESF) funding to update our office's technology to enable hybrid work and related needs. These funds were used to purchase equipment to allow people to work from home, upgrades to our IT systems for LEDES and eBond projects, and remote juvenile diversion programs such as video tutoring. In 2022, the District Attorney's Office still had funding available and updated conference rooms to be compatible with video conference technology in its Fort Collins and Loveland offices. Creating meeting spaces where some people could still have face-to-face connection in a conference room, with others being remote, improved office morale. In addition, the technology integrations allowed our attorneys and victim advocates to meet with victims remotely, creating better opportunities for accessibility. Balancing remote options with the need to have contact made a difference during the ebbs and flows of COVID.

American Rescue Plan Act (ARPA)-Funded Attorney Position

In December 2021, the District Attorney's Office applied for ARPA funding to hire an additional experienced attorney to focus on complex felony crimes that increased or were exacerbated during COVID19. The four areas identified were Drug Task Force crimes (particularly fentanyl distribution), domestic violence, economic crimes, and violent crimes. In 2022, the Larimer Board of County Commissioners approved the request. This position enables our office to continue handling the other cases we are seeing that are more routine through normal dockets while consolidating some of the complex work to a single experienced point-person.

Remodel of Fort Collins and Loveland Offices

Both the Fort Collins and Loveland offices were audited for space use, in part due to the lack of space in the Larimer County Justice Center and due to the judiciary and county trying to determine what changes, if any, were possible. The District Attorney's Office determined that in its paperless environment, we could surplus our old electronic filing system. Removing these huge shelves created space for new offices and cubicles. In our Fort Collins office, this renovation provided space for five new cubicles. In our Loveland office, we were able to create one cubicle and one walled office. Both of these projects were able to be done with our existing budget and without the need to ask for additional funding.



Fort Collins Office - Before



Fort Collins Office - After

Supporting Our Staff

One of the most important aspects of our office is our people. Supporting attorneys and professional staff through training and resiliency programs and striving for improved benefits is key to attracting and retaining talented staff who can make a difference in criminal justice for Larimer and Jackson counties.

Salary Study for Attorneys and Appointed Staff

During the second and third year of COVID, many industries saw a challenge with retention. Prosecutors around the county also saw that staff were leaving for jobs that were either higher-paying or more flexible with telecommuting options. As a public sector office, our policy is to provide staff with some remote work options but still maintain a balance with in-person obligations to the court, victims, witnesses, and agency partners. Our solution was to review salaries of appointed staff for 2022. This study was approved and implemented within our budget for 2022 and was sustainable for 2023 without additional funding requested.

Training and Continuing Education for Staff and Community Partners

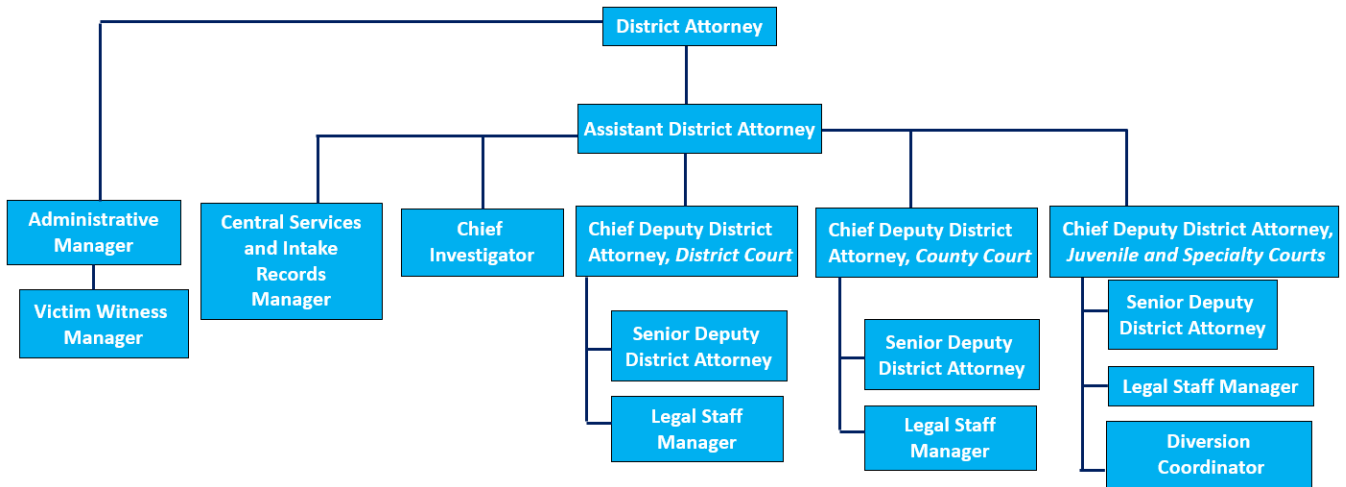
In 2022, our staff had several trainings on equity, diversity and inclusion. The first training with Kathleen Nalty focused on understanding what bias is and how to interrupt our unconscious bias. The goal of this training was that by being aware of our unconscious bias, changing our behavior, and making structural changes to everything from our hiring practices to how we evaluate cases, we can measurably reduce implicit or unconscious bias. The second training from the YWCA Boulder County focused on both understanding individual and interpersonal racism, and the broader institutional and structural racism. The goal was to learn about and recognize how systems and structures may perpetuate racism and how our role may impact it.

Our office also provided attorneys with 12 two-hour trainings, and attorneys regularly attend Continuing Legal Education classes and statewide trainings throughout the year. All staff, professional and appointed, receive regular monthly training on a range of topics such as domestic violence, unconscious bias, and relevant legislative updates.

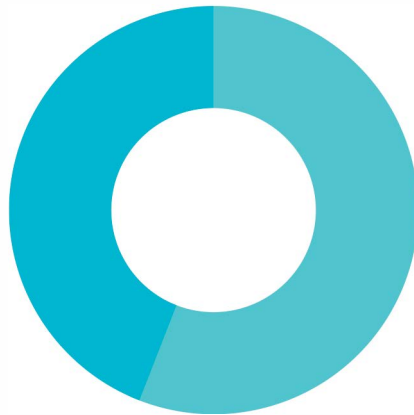
In addition, attorneys provided 8 sessions of training and 10 legislative updates for law enforcement agencies in the 8th Judicial District. The Investigations Unit provided 12 training sessions, with topics covering human trafficking investigations, patrol observation and perception, firearms, and domestic violence for new officers, among others.

Finally, in continuing the mission for transparency and community engagement, District Attorney McLaughlin presented the new Data Dashboard and PPI project to the Loveland City Council and at Colorado State University. These presentations demonstrated the types of data available to the public and how that data is used to improve our office's work.

Leadership Team



Attorneys
41



Professional Staff
52





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