

TO: Chair Deborah Kafoury
Kim Melton, Chief of Staff
Serena Cruz, Chief Operating Officer
Christian Elkin, Budget Director

FROM: Mike Schmidt, Multnomah County District Attorney

DATE: February 18, 2022

RE: FY 2023 Budget Submission Transmittal Letter

Department Overview

It is an honor to transmit to the Chair this submitted FY 2023 budget for the Multnomah County District Attorney's Office (MCDA). A budget is a moral document and a vehicle for transparent and accountable fiscal responsibility. This budget promotes the County's public safety value of maintaining safe neighborhoods through prevention, intervention and enforcement by using smart approaches to prosecuting criminal activity. It serves vulnerable people in our community including crime victims and those seeking child support. Finally, it promotes social and racial justice with investments to achieve diversity, equity and inclusion goals within the MCDA organization and in the outcomes of our work. I am grateful for your leadership of Multnomah County's criminal justice system, of which MCDA is one part.

During this, my first full year as your elected District Attorney, residents of our county continued to cope with the global pandemic. The disruption caused by the pandemic is unprecedented. Some changes, such as reduced court capacity, can be directly attributed to the pandemic response. The causes of other changes are less certain. It may take social scientists and historians years to tease out the root causes of coincidental spikes in homicides and opioid overdoses. This budget takes care to focus on persistent and pressing challenges—such as criminal justice system reform and system transparency—while calling for targeted investments to address specific challenges such as gun violence and increased caseloads.

Whatever the cause of increased crime, our vulnerable county residents are hurt by it. We seek to support grieving families who have lost loved ones to a homicide. We worry for the domestic violence survivor whose case is stalled. We want to assist business owners who have weathered so many difficult months and then are victims of vandalism. We understand that a stolen car can be life threatening if the owner has no other means to get food, medicine and services.

This work is difficult in the best of times. Last year, one of MCDA's senior deputies shared with you and the Commissioners what it is like to be called to the scene of a homicide, including the sleep disruption, additional hours of work, and impact on home life. Since that hearing last Spring, MCDA deputies have been called to the scene of more than 100 homicides. I am grateful for the tenacity and resolve of MCDA's workforce through the pandemic and spikes in crime.

MCDA supports the County's investments in programs that prevent crime, such as housing, substance abuse treatment, mental health services, workforce training, and pro-social activities. However, MCDA also needs your support to fulfill its important role of serving victims and holding perpetrators accountable when upstream interventions fail. MCDA continues to put public safety at the forefront as we use evidence and research to achieve better outcomes from prosecutions. Collaborating with system partners, listening to our community, evolving our policies, diversifying our workforce, and modernizing our systems requires resources. The capacity created by the program offers included with this submitted budget would make a significant difference in the quality and quantity of MCDA's contribution to public safety.

Diversity, Equity, and Inclusion Efforts

MCDA has a number of Diversity, Equity, and Inclusion (DEI) initiatives underway.

- MCDA leadership, with the assistance of Multnomah County's Organizational Learning team, has drafted a [mission](#) calling for "equitable outcomes in the pursuit of greater public safety for all" and has elevated five values including "seek equitable outcomes."
- MCDA's Equity, Dignity and Opportunity Committee has refreshed its purpose and membership and relaunched as the Equity Panel.
- In November of 2021, MCDA formed an internal Policy Committee designed to provide deputy district attorneys with a way of directly informing and influencing both internal and external policy matters. This 15 person committee, led by MCDA's Policy Director, is 66% female and 47% attorneys of color. Since its inception, it has considered policy changes relating to immigration, restorative justice and the revisitation of previously imposed sentences which no longer serve the interest of justice. This committee greatly expanded the opportunities for attorneys of all backgrounds and levels of experience to bring those perspectives to the policy making process.

Through awareness and intentionality, MCDA has increased the diversity of its workforce. Changes include the appointment of the first person of color as chief deputy district attorney and a woman of color to head MCDA's administrative division. Now more than ever, MCDA requires capacity and leadership to address organizational culture, promotion and professional development, and retention.

Simply put, MCDA lacks dedicated positions and resources to undertake diversity, equity and inclusion work. This deficit has been made more visible as MCDA reckons with racial injustice in the criminal justice system, experiences COVID-related stress on its employees, and undertakes intentional DEI work. This budget submission includes a long overdue request to establish the human infrastructure needed to elevate DEI at MCDA.

To ensure budget proposals serve the needs of historically marginalized communities, MCDA met with community-based organizations to seek feedback on potential program offers prior to submission. For example, Unite Oregon was consulted in the development of a proposal that would place deputy district attorneys in the community and has expressed support for being a partner in this program. Last year, many organizations expressed to the Board their support for the work of the Justice Integrity Unit to address the disproportionate impact of the criminal legal system on people of color. The need to maintain capacity in this unit is demonstrated by the flood of expungement requests received by MCDA made possible by legislation relaxing expungement requirements.

MCDA's Community Budget Advisory Committee (CBAC) meets year-round to build knowledge about MCDA operations, challenges and successes. The CBAC discussed potential program offers prior to submission and offered direction regarding new programs and the overall budget.

FY 2023 Budget Priorities and Key Issues

Address caseloads, especially those involving gun violence

MCDA's FY 2022 budget submission, noted the large number of cases associated with protests for racial justice following the death of George Floyd in May 2020. Law enforcement referred more than 1,100 cases to MCDA for prosecution. The majority of these cases were dismissed in 2020 consistent with MCDA's protest policy. Since the start of FY 2022, law enforcement has forwarded 8 protest-related criminal cases to MCDA. As of December 3, 2021, 17 protest-related cases are not yet resolved. The [Protest Cases Dashboard](#) on MCDA's website allows the public to see the full arc of this element of our caseload.

MCDA now faces a case backlog that is largely a result of an increase in violent crime and an inability to resolve cases because of reduced court operations. Data reflecting these disturbing trends are shared in two new dashboards available to the public on MCDA's website. For example the [Gun Violence Dashboard](#) shows an increase in prosecuted gun violence cases from 136 in 2019 to 212 in 2021. MCDA's recently released [Prosecutorial Performance Indicators \(PPIs\) Dashboard](#) illuminates the bigger picture of a dramatic rise in unresolved cases. For example, in January 2019 there were 386 open cases in MCDA's felony units. In September

2021 there were 887 open cases. A [data story](#) included in the dashboard provides more detail and context.

Last year at this time, the imminent roll out of vaccines offered hope that courts would resume full operations within FY 2022. Unfortunately, community transmission of COVID 19 has remained a public health concern. As of December 2021, the [court announced](#) it would not yet resume full operations. Priority for limited capacity will go to criminal cases involving adults in custody and felony cases facing statutory deadlines.

The County Board of Commissioners recognized the urgent need to address gun violence caseloads with a mid-year investment of \$1.05 million of American Rescue Plan (ARP) funding in four deputy district attorneys (DDAs) and two investigators for nine months of FY 2022. In the FY 2022 Adopted budget, the Board also directed federal ARP funds to support one DDA in the Domestic Violence unit. However, MCDA will not eliminate the backlog of cases within this fiscal year. The community remains under tremendous strain and a subset of the community continues to experience a spiral of retaliatory violence. The Board wisely increased investment in upstream community support and intervention at the same time it increased prosecutors. This budget requests the Board to continue with this approach through FY 2023 and continue a full year of ARP funding for five additional deputy district attorneys and two investigators.

Promote police accountability through use of body worn cameras

Law enforcement adoption of body worn cameras (BWCs) provides a tool for documenting police actions and for holding police accountable when their actions violate protocols, policy or the law. BWC footage can improve MCDA's charging decisions. However, BWCs create a large body of evidence that prosecutors must review and analyze to make charging decisions and then share this evidence with the defense when charges are issued.

The Gresham Police Department (GPD) launched its BWC program in January 2020. MCDA staffs the program with 0.75 FTE Level 2 Deputy District Attorney and 0.75 FTE Legal Assistant 2. At this level of staffing, MCDA reviews just 30 percent of BWC footage available. MCDA has no dedicated staffing to review BWC footage now being produced by the Oregon State Police and Portland State University. The Portland Police Bureau (PPB) intends to roll-out a BWC pilot sometime in FY 2023. While the scope of the pilot has not been determined, MCDA anticipates BWC footage from the pilot alone could dwarf the current deficit of BWC review.

Given this dynamic situation, MCDA is seeking funding to increase staffing to support reviewing all GPD BWC footage prior to charging. It is not tenable to continue to let 70 percent of BWC footage go unviewed. Under an expanded program the initial review would be conducted by Investigators supervised by a full time DDA and supported by a Legal Assistant 2. This approach will help MCDA prepare for how it can effectively respond to the added responsibility that will be created by a PPB BWC program and seek appropriate resources from city, state and federal partners.

Increase transparency, visibility and community engagement

Every day, attorneys at MCDA make charging decisions. These decisions are guided by the law, precedent, and office policy as applied to evidence provided by law enforcement to support recommendations to charge suspects. Historically, there's not been much capacity put toward making the process behind these decisions transparent. The result is that the public, and even other law enforcement agencies, don't understand why some cases do not proceed to a grand jury for indictment.

MCDA also is largely absent from venues where these concerns are discussed. Deputy district attorneys are organized to specialize in types of criminal activity rather than around community interests or geography. The neighborhood DA approach has withered in past years—in part because funding streams, like business district support, were at odds with equity principles. Absent deputies assigned to the community and community outreach staff, there is no one to provide access to services offered by MCDA. It would be especially meaningful to build trust with historically marginalized communities experiencing violence and crime to inform how prosecutions can improve public safety with fewer collateral consequences. These relationships could create pathways to solve crimes.

MCDA is seeking your support for a new MCDA Access Attorney Program (MAAP). The MAAP will strategically place several deputy district attorneys into the community – at least one in each of the four county districts and at least one extra attorney as a supervisor and 'floater' for extra coverage – allowing each Access Attorney to work with local community members, stakeholders, and law enforcement to identify the issues and priorities of that area. To the degree coverage is limited, the program will focus on census tracts with concentrations of poverty, communities of color and higher rates of crime. Ideally, these attorneys will be housed in shared community spaces. MAAP will be supported by several critical support staff positions including victim's advocates, investigators and administrative staff.

Create an equity infrastructure at MCDA

As previously described, this budget submission includes a long overdue request to establish the human infrastructure needed to elevate DEI at MCDA. The times demand staff with capacity and expertise to support a racially and ethnically diverse workforce and serve a diverse community.

New program offers include a manager-level position to lead the Victims Assistance Program. Employees in this program are racially and ethnically diverse professionals serving vulnerable people in the county. This workforce today is all women. This unit should be represented at the executive leadership level and needs capacity to develop a plan to ensure MCDA leads with trauma-informed victim advocacy. MCDA is also requesting investment in a full time Equity

Manager. The Equity Manager will lead MCDA's implementation of the Workforce Equity Strategic Plan (WESP). Finally, an Equity Training position will work with employees to ensure they have the support they need to succeed.

Continue fully-supported Justice Integrity Unit

Community trust in the justice system is strengthened when a prosecutor's office has an effective mechanism for conviction integrity review. In FY 2022, the Board made an important new on-going investment in a senior deputy position to lead MCDA's Justice Integrity Unit (JIU). This position brings intention and priority to post-conviction relief hearings, parole hearings, reviewing clemency petitions, reviewing Ramos¹ cases, and investigating claims of actual innocence, or instances where alleged prosecutorial or law enforcement misconduct is uncovered post-conviction.

Black Oregonians are almost four times as likely to have a criminal record as their white counterparts. To address systemic racism that has contributed to this disparity, MCDA supported two pieces of legislation that became effective in January 2022. [SB 819](#) went into effect, providing MCDA the opportunity to reconsider sentences that no longer serve the interest of justice or public safety. [SB 397](#) changed expungement rules to allow people to more readily address the collateral consequences of a criminal record. MCDA requires capacity to respond to these important new opportunities.

The senior deputy position is funded by a combination of on-going general funds and a federal Justice Assistance Grant. The Chair and Board of Commissioners can continue to leverage this investment by providing on-going funding for the JIU Level 2 DDA and Legal Assistant that received one-time funding in FY 2022. In addition, MCDA requests support for a 1.00 FTE Investigator position necessary to carry out research and notices, a 1.00 FTE Victims Advocate, to ensure victims concerns are heard in these processes, and two legal interns.

Stabilize and modernize mission critical information technology

Chronic under-investment in information technology has exposed MCDA to the possibility of critical systems failing. The negative consequences in a breakdown of data and document management systems cannot be overstated. MCDA will absorb two new IT positions in its target budget to increase IT staffing from 6.00 FTE to 8.00 FTE and will also fund a part-time Portfolio Manager and part-time Business Systems Analyst working on IT-related projects in conjunction with the Department of County Assets.

MCDA seeks one-time funding to address the impact on IT customer service that will result from the necessary focus on stabilizing mission-critical systems. The funding will support three

¹ In its April 2020 decision in *Louisiana v. Ramos*, the Supreme Court of the United States ruled non-unanimous jury decisions violate the Constitution's Sixth Amendment right to a jury trial. Louisiana and Oregon were the only two states that punished people based on 10 - 2 jury verdicts.

additional IT positions. An information specialist would be added to the Help Desk team to manage workloads and maintain a high level of service. A data analyst would develop training materials to support employees to learn and master use of MCDA’s unique mission critical systems. An executive specialist would support MCDA’s paperless office initiative, procurement of a new document management system, and other projects.

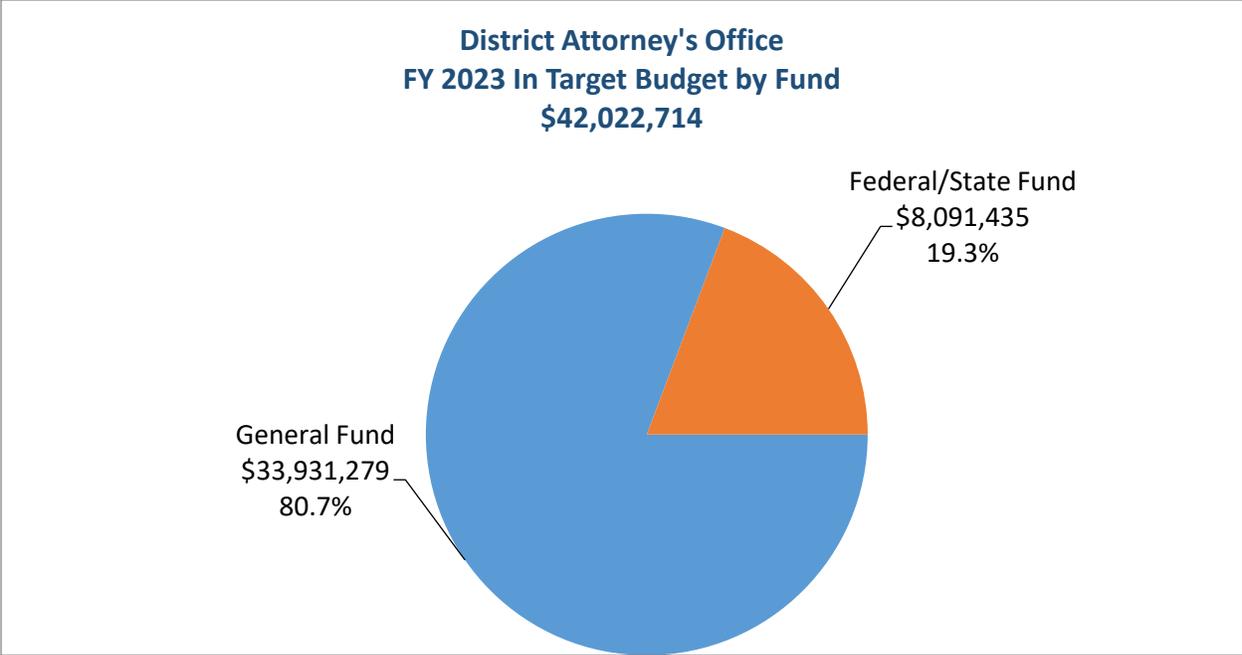
Budget Overview

The MCDA budget submission totals \$48,723,474 and 227.51 FTE for FY 2023 for both in and out of target programs. In target programs are funded within MCDA’s General Fund target allocation or by Other Funds; out of target programs are additional requests not funded within MCDA’s General Fund target allocation. The submission is detailed in the table below showing the total allocation.

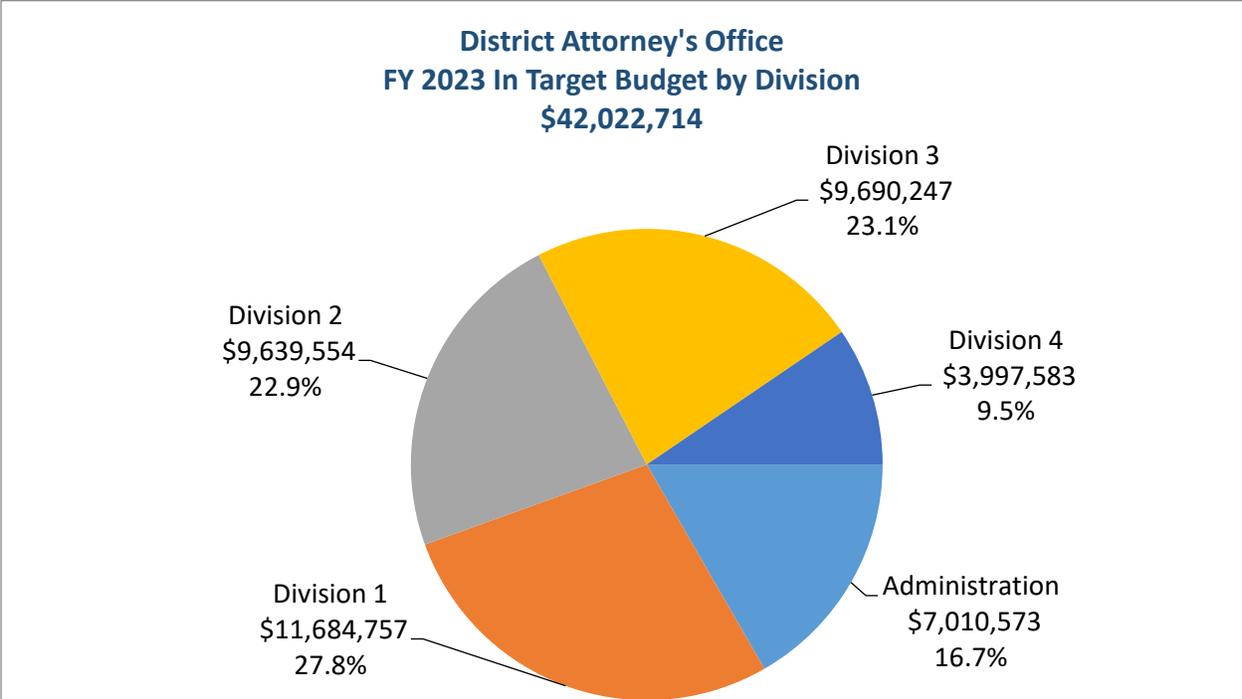
FY 2023 District Attorney Budget Submission					
	FY 2023 General Fund	FY 2023 Other Funds (except 1515)	FY 2023 ARP Fund* (1515)	Total Funds	Total FTE
In Target Programs	\$33,931,279	\$8,091,435		\$42,022,714	198.51
Out of Target Programs	\$5,237,604		\$1,463,156	\$6,700,760	29.00
Total FY 2023 Submission	\$39,168,883	\$8,091,435	\$1,463,156	\$48,723,474	227.51

* Submissions for the Direct County ARP allocation are Out of Target; other ARP sources (such as program-specific Federal, State, or local ARP funds) are considered In Target.

MCDCA is primarily funded by General Funds. The pie chart below shows the budget by fund for **in target programs**.



MCDCA has five divisions, with the **in target budget** distributed as shown in the pie chart below.



General Fund Target Allocation

Reallocations

Significant Departmental Changes (Reallocations)					
Offer Number	Program Name	Brief Description	General Fund	Other Funds	FTE Changed
Various	Various	Reduced staffing costs due to staff turnover where senior staff are replaced by less experienced staff	(708,000)		-
15002	Information Technology	Adding Systems Administrator and Help Desk Staff	280,736		2.00
Various	Various	DDA3 Lead pay added per Prosecuting Attorney's collective bargaining contract	116,000		-
Various	Various	Internal Services	244,792		-
15304	Unit D - Violent Person Crimes	Backfilling SAKI grant	66,472	(66,472)	
Totals			0	0	2.00

Recent staff turnover has resulted in reduced staffing costs as senior staff are replaced by those with less experience. MCDA is deploying these savings to four areas: new Information Technology positions necessary to shore-up mission-critical IT infrastructure, a new "Lead Deputy" designation for certain Level 3 attorneys with a salary increase to retain midlevel DDAs; increased overhead to add a part-time Portfolio Manager and part-time Business Systems Analyst working on IT-related projects in conjunction with the Department of County Assets (DCA); and backfilling 0.26 FTE of a DDA position in Unit D - Violent Person Crimes that was previously funded by the Sexual Assault Kit Initiative (SAKI) grant program.

State, Federal, Large Grant Funds

Other Fund Changes					
Offer Number	Program Name	General Fund	Other Funds	FTE Impacts	\$ GF Backfill Requested*
15304	Unit D - Violent Person Crimes	0	(\$66,472)	0.26	66,472
15206	Strategic Prosecution Unit	0	(\$122,910)	0.31	0
Total		0	(189,382)	0.57	66,472

*GF Backfill funded in target through reallocations as shown in the preceding table

15304 Unit D – Violent Person Crimes. – Since 2015 MCDA has received funding via an intergovernmental agreement with the City of Portland’s Bureau of Justice Assistance (BJA) National Sexual Kit Initiative (SAKI) grant that allowed for the elimination of the backlog of untested kits in Multnomah County and provided funding for a prosecutor to pursue cases that arose as a result of the testing. With the backlog now eliminated, the final quarter SAKI grant funding program activity came to a close October of 2021. The position becomes fully funded via in-target general funds.

15206 Strategic Prosecution Unit – In October of 2020 MCDA was awarded the Bureau of Justice Assistance Innovative Prosecution Initiative Competitive grant that funded a deputy district attorney position focused on addressing high volume system users in the downtown Portland core. That funding ended in September 2022.

Ongoing Out of Target Requests

The following table lists MCDA’s ongoing out of target requests in order of priority:

Out of Target Program Requests (Ongoing)					
Offer Number	Program Name	General Fund	Other Funds	FTE	New or Existing
15205B	Body Worn Cameras - Expansion	879,313		6.00	New
15207A	MCDA Access Attorney Program (MAAP)	1,501,697		8.00	New
15207B	MCDA Access Attorney Program (MAAP) Expansion - Attorney, Victim Advocate, and Office Assistant	446,540		3.00	New
15207C	MCDA Access Attorney Program (MAAP) Expansion - 3 Attorneys, Investigator, and Service Coordinator	838,331		5.00	New
15401B	Equity - Victim Assistance	161,374		1.00	New
15023	Equity - Leadership	169,273		1.00	New
15025	Equity - Training	149,497		1.00	New
15021B	Justice Integrity Unit Expansion	638,539		4.00	New
Total		4,784,564	0	29.00	

15205B Body Worn Cameras – Expansion. MCDA’s existing staffing levels for review of body worn camera (BWC) footage is sufficient to review just 30 percent of all footage available from law enforcement agencies. The requested expansion is intended to provide capacity to increase the percentage of footage MCDA reviews to more than 90%. New investigator positions will perform reviews. BWCs are an important tool for police accountability and improving charging decisions and could improve confidence in the criminal justice system. The expansion will help MCDA prepare for the large expansion of BWC footage anticipated as PPB launches a BWC pilot.

15207A MCDA Access Attorney Program (MAAP). This program will improve public safety by engaging and empowering community members and increase the public's understanding of the criminal legal system and MCDA's role. The program will accomplish this by locating one Access Attorney in each county district and focusing that attorney's work on the concerns of that district. MAAP's priorities will be guided by elevating concerns in areas with high concentrations of crime, poverty and minority populations.

15207B MCDA Access Attorney Program (MAAP) Expansion. This expansion would improve MAAP coverage and service by providing an additional attorney, victim advocate and office assistant to the MAAP team.

15207C MCDA Access Attorney Program (MAAP) Expansion. To establish a robust MAAP program, this expansion would provide for a supervising attorney and two additional district attorneys, an investigator and a service coordinator to assist people in the community to access services that could help resolve harm and other impacts of crime.

15401B Equity – Victim Assistance. MCDA's Victims Assistance unit services a racially, ethnically and culturally diverse population to use the criminal legal system to hold perpetrators accountable for harm to their victims. Employees in this program are racially and ethnically diverse professionals; this workforce today is all women. This unit should be represented at the executive leadership level. A manager position will provide capacity to develop a plan to ensure MCDA leads with trauma-informed victim advocacy.

15023 Equity – Equity Leadership. MCDA is the only County department without an Equity Manager. As MCDA has initiated equity work, the need for dedicated capacity has become apparent. This offer would fund an Equity Manager position to lead MCDA's work to achieve WESP benchmarks and develop an MCDA-specific equity strategic plan.

15025 Equity – Training. MCDA is attracting a more diverse workforce. As a result, the office needs to provide better access to training and education opportunities to help employees thrive in their positions and grow and develop their careers. The Training position would allow MCDA to assess employees needs individually and ensure access is equitably shared.

15021B Justice Integrity Unit Expansion. In FY 2022, the Chair and Commissioners made an important new on-going investment in a senior deputy position to lead MCDA's Justice Integrity Unit. This program would continue to leverage this investment by providing on-going funding for the JIU Level 2 DDA and Legal Assistant that received one-time funding in FY 2022. In addition, MCDA requests support for a 1.00 FTE Investigator position necessary to carry out research and notices, a 1.00 FTE Victims Advocate, to ensure victims concerns are heard in these processes, and two legal interns. The JIU is a critical resource to address the racially

disparate impact of the criminal legal system by taking on such work as reviewing past sentencing decisions and clemency requests.

One-Time-Only Out of Target Requests

MCDA has a single one-time-only out of target request:

Out of Target Program Requests (One-Time-Only)					
Offer Number	Program Name	General Fund	Other Funds	Limited Duration	New or Existing
15002B	IT Staffing Additions - OTO	453,040	0	3.00	New

15002B IT Staffing Additions. MCDA is choosing to prioritize its most pressing IT needs by reallocating existing resources. This expansion would address the impact on IT customer service created by the necessary focus in the coming year on stabilizing mission-critical systems. MCDA seeks one-time funding to support three IT positions. An information specialist would be added to the Help Desk team to manage workloads and maintain a high level of service. A data analyst would develop training materials to support employees to learn and master use of MCDA’s unique systems. An executive specialist would support MCDA’s paperless office initiative, procurement of a new document management system, and other projects.

COVID-19 Impacts & American Rescue Plan

In January 2019, before the pandemic, MCDA had 2,005 open cases. In January 2022, MCDA had 5,720 open cases. The [Prosecutorial Performance Indicators Dashboard](#) provides more detail on the growing caseload. Prior to the pandemic, there were 20 to 25 criminal trials per week, whereas during the pandemic that number has dropped to three to five per week. Trial delays equate to fewer resolved cases, resulting in growing open caseloads. Cases remaining open require continued case maintenance, including witness and victim contact, updating subpoenas, rescheduling trial dates, reoccurring court appearances (e.g. custody release hearings, re-arraignments on warrants), multiple rounds of plea negotiations and settlement conferences, and addressing other legal issues associated with delayed trials. The quality and quantity of victim services—including keeping victims motivated to continue with prosecution—decreases when attorneys and victim advocates are spread thin.

The pandemic has had a profound effect on the workforce, sparking what media call the “great resignation.” MCDA employees have had to contend with many conditions facing front line

workers—on top of the growing workloads described above. In recent months MCDA has experienced a greater number of employee resignations and retirements than usual. While MCDA continues to see a strong response to recruitments for open positions, a spiral of large workloads leading to resignations, which lead to larger workloads for less experienced staff and attorneys, is a very real concern.

American Rescue Plan (ARP) Programs						
Offer Number	Program Name	MC Direct Allocation	Other ARP Sources	FTE	Limited Duration	New or Existing
15900	ARP - Domestic Violence Case Backlog	\$191,354			1.00	Existing
15901	ARP - Gun Violence Case Backlog	\$1,271,802			6.00	Existing
Total		1,463,156	0	0.00	7.00	

15900 ARP Domestic Violence Case Backlog. This proposal would continue ARP funding for an attorney in MCDA’s Domestic Violence (DV) unit. Stress on households contributed to an increase in DV cases referred to MCDA. Reduced court capacity has significantly slowed MCDA’s ability to resolve these cases, leading to a backlog. An additional attorney would help address the backlog in DV cases, which disproportionately involve people of color, people with low incomes and also includes LGBTQ+ victims.

15901 ARP – Gun Violence Case Backlog. This proposal would continue ARP funding to support four attorneys assigned to gun violence cases. Coincident with the pandemic, gun violence, including homicides, has spiked—exceeding all historic norms. This program adds four prosecutors and two investigators assigned to gun violence cases.

Span of Control

- **Span of Control is increased slightly from 1:6.6 in FY 2022 to 1:6.8 in FY 2023.**

Division Level Organization Chart

Multnomah County District Attorney

\$42,022,714 | 198.51 FTE

Mike Schmidt, District Attorney

Administration

32.97 FTE

- Management Services
- Administrative Support
- Information Technology
- Finance/Human Resources
- MCDA Research & Planning Unit
- Justice Integrity Unit

