
Memo from District Attorney Andrew Murray on Impacts Related to Reductions or Elimination of City funded services to the District Attorney's Office and Court System

At the May 13, 2015 Budget Adjustments meeting, Council requested information on "impacts if the City-funded state responsibilities were returned to the state." The primary City-funded state responsibility is that of support to the District Attorney's Office and Court System in the amount of approximately \$1.65 million, which includes funding for 24 positions (19 of these are City positions, the remaining are in the D.A.'s Office).

An overview of the City funded services to the District Attorney's Office and Court System is provided as "Question #1," distributed on May 15th via e-mail, online, and in the Council packet.

The following is a memo from District Attorney R. Andrew Murray, providing a response on impacts of reducing the City's financial contributions for the District Attorney's Office and Court System.

This page intentionally left blank

May 16, 2015

I have been asked to describe the impacts should the City Council reduce or eliminate the current City support to Court Liaison, Court Services, and District Attorney's (DA's) Office.

I appreciate the opportunity to comment while these discussions are still in progress. I know from my experience in the DA's Office in the 1990s, my time in private practice, and during my tenure as your elected DA that the support that the City gives to the DA's is vital to us pursuing our goal of making this a safer community. I hope that I can adequately express the reasons that I believe the personnel you fund are essential to our well-being and can persuade you that we cannot do without your support.

I thought that it would be helpful to give you a quick overview of the responsibilities and structure of my office before addressing the specific funding issues.

Statutory duty of the DA:

Responsible for prosecuting all criminal and traffic cases within Mecklenburg County

Approximately 10,000 felony cases; over 200,000 traffic/misdemeanor cases each year

Office structure:

Office is organized into teams of prosecutors who specialize in specific categories of cases

- Misdemeanor/traffic team – 16 Assistant District Attorneys (ADAs)
 - Cases include: DWI (>5,000/year); death by vehicle; all traffic cases; misdemeanor assaults and larcenies; carrying concealed weapon
 - Includes jury trials in Superior Court for traffic/misdemeanor cases appealed from District Court
- Juvenile team – 5 ADAs
 - Cases include: all crimes committed by anyone before their 16th birthday; homicide; rape; robbery; sexual assault; breaking or entering; larceny
- Domestic Violence team – 6 ADAs
 - Cases include: crimes committed against a person with whom the offender has had a personal, intimate relationship; assault; strangulation

- Drug Prosecution team – 9 ADAs
 - Cases include: drug trafficking; sales; possession; heroin; cocaine; marijuana; meth
 - Also staffs drug treatment court and mental health court
- Crimes against Property team: 12 ADAs
 - Cases include: residential break-ins; felony larceny; embezzlement; larceny of motor vehicle; identity theft/fraud; false pretense; business break-ins
- Habitual Felon team: 8 ADAs
 - Cases include: all felony crimes committed by defendants who have had 3 felony convictions, each crime and conviction having occurred after the conviction for the previous felony
- Crimes against Person team: 15 ADAs
 - Cases include: armed robber; rape; child sex offenses; kidnap; attempted murder; felony assault; arson
- Homicide team: 9 ADAs
 - Cases include all criminal cases resulting in a death (except misdemeanor death cases which involve only a non-aggravated traffic violation)

Our support staff (Victim/Witness Coordinators) are essential to the functioning of our office. We have roughly one half as many support staff members as ADAs. This ratio is significantly less than the ratio of 1 support staff to 1 lawyer found in the private sector. Most of the support staff are assigned to work as part of one of the teams described above. Some functions that are common to all teams have been grouped into a centralized service unit that provides those services to all of the teams.

The Victim Rights Amendment (VRA) to the North Carolina Constitution requires that victims be notified of their rights in most felony cases involving violent assaults and in embezzlement cases in which the amount of money is very large. There were no additional victim/witness assistants provided to DA's Offices to handle the increased workload brought about by the VRA. Interestingly, property crimes, including residential break-ins do not require victim notification by the DA's Office although we do make that contact using personnel funded by the City to ensure victims are aware of the process and actively participate at every stage of the process. There is no doubt that this personal contact has positively impacted the community's level of satisfaction with the services provided to them as victims in the criminal justice system.

The State of North Carolina is responsible for funding each District Attorney's Office, and the legislature determines the number of ADAs allocated to each district. The reality is the legislature woefully underfunds this DA's office. A comparison across the nation to any city with close to a million in population reveals the Mecklenburg DA's Office has

only ½ to ¾ of the ADAs allocated to these comparable jurisdictions. Both Mecklenburg County and the City of Charlotte made the determination years ago that the State does not fund this DA's Office at a level that meets the needs of this community. Losing the funding of either the City or the County would be devastating to the quality of service provided by the DA's Office.

Court Services Unit of CMPD

- Coordinates and supervises all the CMPD officers subpoenaed to court every day in Mecklenburg County.
- CMPD officers are critical to the operation of the courts because they are essential witnesses in over 90 percent of all our criminal and traffic cases.
- The failure of an officer to be present in the proper court room at the proper time for each individual case inevitably results in that case being dismissed or the defendant being found not guilty. The Court Services Unit ensures that officers are given notice to be in court and monitors their attendance in court as well as communicating with our office on conflicts and issues that prevent attendance like officer military duties, training, family emergencies, illnesses, and emergency response duties, to name a few.
- The elimination of this unit or even a reduction in their capacity to keep up with the volume of subpoenas, cases, and officers would have a catastrophic impact on the successful prosecution of criminal cases in Mecklenburg County.

DA Liaison Services

- CMPD and the DA's Office agreed years ago that the most effective way to ensure that civilian witnesses would come to Superior Court when needed for jury trials was to have CMPD officers and office assistants housed in the District Attorney's Office serve subpoenas and manage their attendance. This allows them to work closely with the prosecutors handling the cases and results in the effective and efficient prosecution of cases being called for trial.
- The CMPD employees contacting witnesses to get them to court do not merely make phone calls and tell someone a court date. They are knowledgeable about the court system, CMPD and the DA's Office to help explain the process to civilian witnesses, to convince them that their cooperation and attendance are essential, and to pass along to the prosecutor any information about the case

that they might receive from the witness. It is a fact that many witnesses to serious and violent crimes are reluctant to appear and require special attention which often requires personal service of subpoenas and “just in time” locating and transporting of witnesses that purposely avoid being found.

- This unit truly acts as a liaison between CMPD and the DA’s Office. Officers do not always understand why the DA’s Office does what it does and prosecutors don’t always understand why officers do certain things. Having CMPD employees housed in the DA’s Office and having regular contact with both officers and prosecutors, they are able to explain processes and procedures to both groups which results in better cooperation and better results in the prosecution of cases.

It is impossible to overestimate the importance of this Unit to the successful prosecution of felony cases in Mecklenburg County. Defendants cannot be held accountable for the offenses they commit if the police and prosecutors do not communicate and cooperate in the investigation and prosecution of their cases. This Unit is essential to the DA’s Office being able to assess cases, determine appropriate outcomes, get witnesses to court when needed and achieve just outcomes for victims and defendants.

District Attorney’s Property Crimes Unit

- City funding provides two Assistant District Attorneys (ADAs) and three support personnel for the Property Crimes Unit. The objective of the assignment of these personnel is to reduce the time for disposition of property cases, and to obtain the appropriate punishment for habitual offenders.
- The additional funding for the property unit began in 2008 as a result of members of the Charlotte community expressing their desire for the prosecution of property crimes, especially residential break-ins, to move at a faster pace and for victims of those crimes to be notified of the prosecution. There is no doubt that there is a direct correlation between the addition of these personnel and the reduction of the jail population since 2008.
- The addition of 2 Assistant District Attorney’s has allowed for the property cases to be distributed among more ADAs, resulting in more attention given to each property case and to the members of the community who have been victimized by property crime.

- The loss of 2 ADAs on the property team would require the DA's Office to make choices between objectionable options. The caseloads of the 2 ADAs we would lose could be redistributed among the remaining team members resulting in an increase caseload of 24% for the remaining ADAs. Another option would be to move ADAs from other teams to the Property Team, leaving those other teams to reshuffle caseloads
- Of the 3 additional support staff positions that were added in 2008, 1 is assigned to the grand jury unit and the other 2 are assigned specifically to the property team. Again, there is a direct correlation between the assignment of these additional personnel and the decrease in the jail population since these positions were created.
- The loss of these support staff positions would mean the loss of a grand jury clerk, resulting in delays in getting cases indicted as well as significant delays in getting cases to arraignment and trial.
- The loss of the staff members assigned to the property team result in a significant reduction in the contact the DA's Office has with victims of property crimes. These additional support staff allows outreach to victims of residential breaking and entering – the very victims who organized to express their frustration to City Council in 2008. Victims of residential breaking-ins are not required by law to be contacted by the District Attorney's Office. Our 2 additional support staff on the property team affords our office the ability to reach out to these victims and ultimately have a better relationship with the victim, and has significantly increased victim participation at the time of trial.

Mecklenburg County's State Justice Services for Drug Court

- The City/CMPD shares the cost of providing the County's state justice services for Drug Court. This program is made up of a specialized team of assistant district attorney's that specialize and concentrate solely on felony drug cases.
- The felony drug team has 8 ADAs who prosecute drug trafficking, sales and possession of controlled substances. Four of the ADAs positions are partially funded by the City.
- The current funding allows for one of the ADAs on the drug team to have meaningful participation in the treatment Courts in our jurisdiction. The DA's Office participation in these courts is critical in assisting those defendants who

have substance abuse or mental health issues so as to reduce the recidivism rate among these uniquely situated offenders.

- There are currently 900 defendants charged with drug crimes whose cases are in Superior Court either awaiting arraignment or trial. Currently staffing levels have ADAs handling, on average, 110 defendants' cases.
- A reduction in the City's funding of these positions and with no other funding source having been made available, will result in the loss of 4 ADAs on the drug prosecution team. The 4 ADAs' cases would be redistributed among the 4 remaining ADAs resulting in the average caseload increasing over 80%.

Loss of funding for both Drug Team and Property Team

Of course, the worst outcome would be the loss of City funding for personnel devoted to both the Property Team and the Drug Team. I have already mentioned that the cases of the ADAs we would lose could be reassigned to the remaining ADAs on each of the two teams. That would remain an option if all funding were lost.

Another option would be to eliminate a current team and use ADAs from that team to replace those lost from the Property and Drug Teams. The teams that would be the most likely to be targeted for elimination would be either the Habitual Felon Team or the Domestic Violence Team since the number of ADAs on each of those teams approximates the number of ADAs who would be lost. In addition, those teams handle cases that could theoretically go to another team. For example, the Habitual Felon Team handles extremely complex cases from the Drug, Property, and Persons Teams so they could give those cases back to the originating team. The Domestic Violence Team handles cases that would logically revert to the Persons Team. Both the Habitual Felon Team and the Domestic Violence Team have been priorities for me since assuming office. They both prosecute some of the most active, violent offenders in our community. It is difficult to contemplate the elimination of those teams because, although the teams that would take on their cases would do their best, it would be impossible for them to devote the time and attention required to both the defendants and the victims involved in those cases. The loss of either of these teams would be a major step backwards for the safety of this community.