

JULY 18, 2022

MEMORANDUM

TO: Senator George Muñoz, Vice Chairman, Legislative Finance Committee
Representative Gail Armstrong, Member, Legislative Finance Committee

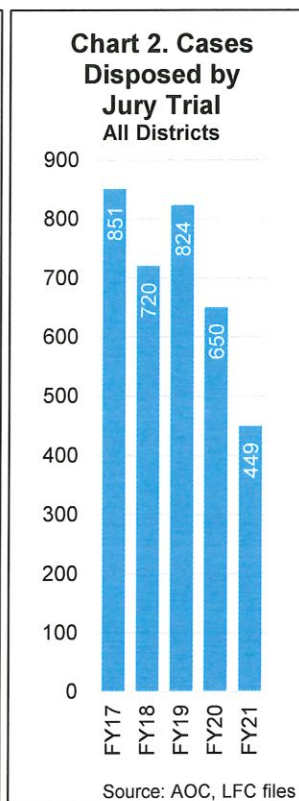
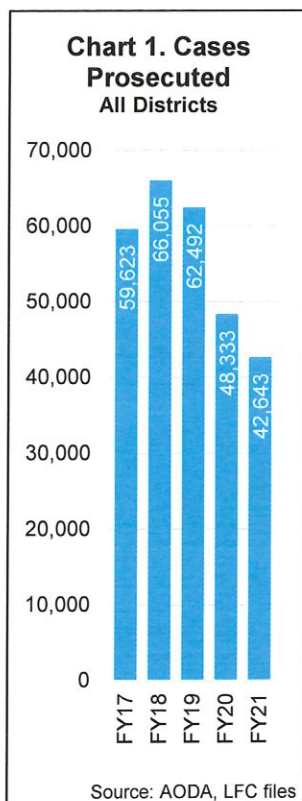
FROM: David C. Saavedra, Fiscal Analyst, Legislative Finance Committee
Ellen Rabin, Senior Fiscal Analyst, Legislative Finance Committee

CC: Senator Joseph Cervantes, Co-Chair, and Members, CCJC
Representative Patricia Lundstrom, Chairwoman; and Members LFC

THRU: David Abbey, Director, Legislative Finance Committee
Jon Courtney, Deputy Director, Legislative Finance Committee

RE: District Attorney Prosecution Rates

At the Chairwoman’s Breakfast on June 16, 2022, in Gallup, LFC staff presented on crime in New Mexico. A result of the presentation was a conversation amongst members, staff, and a member of law enforcement. Senator Muñoz and Representative Armstrong asked LFC staff to gather and track data on jury trials and district attorney prosecution rates in each of New Mexico’s judicial districts. The request was prompted by discussions about resource allocation from law enforcement and their connection to district attorney prosecution rates.



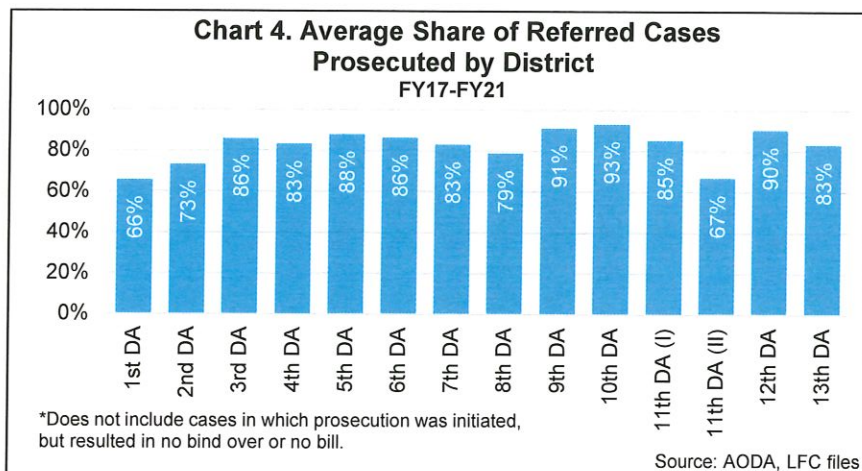
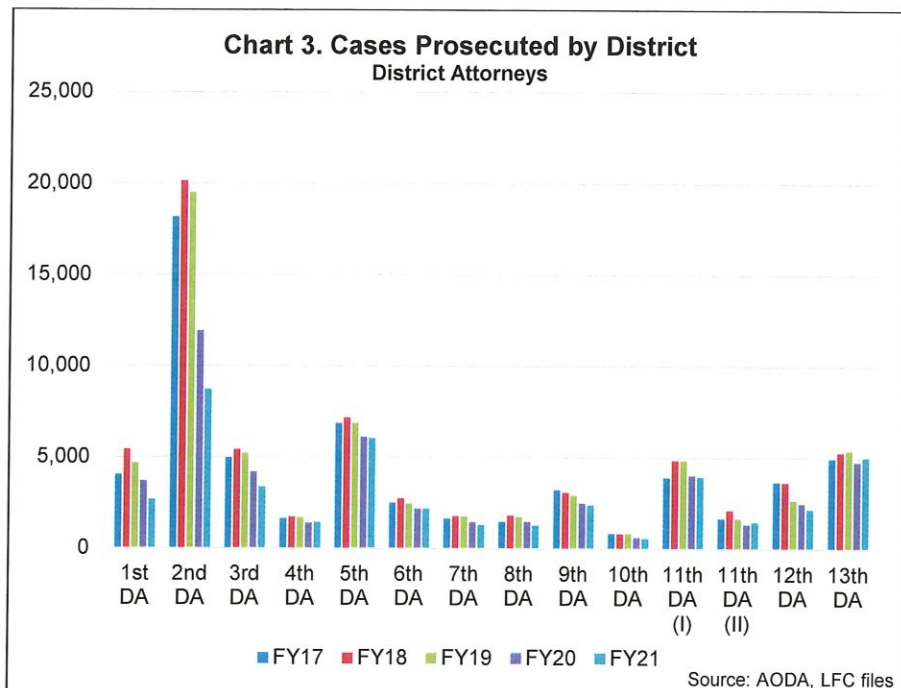
Data collected in response to the request show that the number of cases prosecuted by district attorneys in all New Mexico judicial districts fell from 59.6 thousand in FY17 to 42.6 thousand in FY21, a 29 percent decrease in cases prosecuted in all judicial districts. Each district experienced a double digit decrease in the percentage of cases prosecuted except for the 11th Division I (San Juan) and the 13th (Cibola and Valencia) judicial districts. The 2nd Judicial District (Bernalillo) experienced the highest decrease at 52 percent, dropping from 18.2 thousand cases prosecuted in FY17 to 8.7 thousand in FY21.

Similarly, cases disposed by jury trial decreased from a total of 851 in FY17 to 449 in FY21, a 47 percent decrease. The largest decrease, 64 percent, was in the 2nd Judicial District (Bernalillo). Not all districts experienced decreases in the number of cases disposed by jury trial—the number in the 4th Judicial District (Mora, San Miguel, and Guadalupe) remained flat, and the 9th (Curry and Roosevelt) and 13th (Cibola and Valencia) judicial districts experienced a double-digit percent increase.

Table 1. Cases Prosecuted

| District Attorney | Percent Change (FY17-FY21) |
|--------------------|----------------------------|
| 2nd | -52% |
| 12th | -41% |
| 1st | -34% |
| 3rd | -32% |
| 10th | -31% |
| 9th | -25% |
| 7th | -21% |
| 8th | -14% |
| 4th | -13% |
| 6th | -13% |
| 5th | -12% |
| 11th (II) | -11% |
| 11th (I) | 1% |
| 13th | 1% |
| Grand Total | -28% |

Source: AODA, LFC files



Workload across districts shrunk over the last several fiscal years. On average, each judicial district attorney prosecutes over 65 percent of cases that are referred (10 of 14 within the 80-90 percent range). The 1st, 2nd, 8th, and 11th, Division II judicial districts prosecute, on average, the fewest percentage of referred cases. The year-by-year and district-by-district data trend downward for the

share of referred cases prosecuted, in fact, in FY21 only 70 percent of all cases referred were prosecuted, the lowest percentage of referred cases prosecuted in the past eight years.

Table 2. Performance Measures for District Attorneys

- Detention motion success rate: proportion of pretrial detention motions granted.
- Detention motion rate: proportion of defendants who are motioned for detention.
- Detention motions: number of detention motions made.
- Conviction rate: proportion of cases that result in conviction of those that make it to trial.
- Alternative sentencing treatment: proportion of cases which are identified as eligible for alternative sentencing treatment.
- Alternative sentencing treatment offers: proportion of cases which are diverted to alternative sentencing treatment.

New performance measures adopted by the district attorneys for FY22 examine pretrial detention motions, referrals to alternative sentencing treatments, and other aspects of the agencies' work, but the district attorneys have not submitted outcomes for the measures in their quarterly reporting. This effectively prevents the Legislature from tracking criminal justice reform implementation.