

PROSECUTORIAL STAFFING CRISIS IN FLORIDA: A PATH TO LONG-TERM STABILITY

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INTRODUCTION

Overworked and underpaid is a longstanding cry of the working class. The cliché is often cited as the plight of the blue-collar laborer and comparatively the public service attorney. Another well-worn mantra bandied about the law school quad: you will never get rich working in public service, but it is a noble pursuit. These are considerations often discussed by law students finding their way in the world. For perspective, consider that an attorney in private practice may receive a salary that is 25% higher than a starting attorney in public service at the low end of the disparity range.¹ The disparity can exceed 3x multiples when considering elite national law firms.² Law firms with more than 1,000 employees have reported median starting associate salaries at \$215,000 per year.³ That disparity will likely grow over the course of an individual career as private law firms operate with a profit-driven model that seeks and rewards higher levels of income.⁴ Alternatively, government attorney salaries are more likely to remain stagnant, because they are subject to the priorities of legislative budgets.

Thus, while many students may start law school with the noble purpose of public service, it is only those that consider it a calling and, perhaps more Maslovian⁵—those who can afford it that remain on the path of public service.⁶ This disparity in pay between government service and the private sector has caused

1. See Susan Melony, *How Lawyer Salaries Differ Between Public Interest Law and Private Practice!*, SUPPLY CHAIN GAME CHANGER (Apr. 29, 2024), <https://supplychaingamechanger.com/how-lawyer-salaries-differ-between-public-interest-law-and-private-practice/> (discussing entry level salaries in public interest law are around \$74,000 whereas entry level salaries in private practice exceed \$100,000 annually).

2. See *Wages: Profile of the Legal Profession 2024*, A.B.A., (Nov. 18, 2024), <https://www.americanbar.org/news/profile-legal-profession/wages/>.

3. *Id.*

4. Melony, *supra* note 1.

5. A.H. Maslow is famous for addressing the hierarchy of needs, in that the appearance of a need emerges upon the satisfaction of a more fundamental need. Esteem and self-actualization for example generally come after the basic physiological and safety needs are first met. See A.H. Maslow, *A Theory of Human Motivation*, 50 PSYCH. REV., 370, 372–83 (1943).

6. Approximately 70% of law student graduate with debt. See *Cost of Attendance: Debt Overview*, LAWHUB, <https://www.lawhub.org/trends/debt> (last visited Mar. 18, 2025); see also *Cost of Attendance: Debt per Law School*, LAWHUB, <https://www.lawhub.org/trends/debt-per-law-school> (last visited Apr. 18, 2025) (the average percentage of students who borrow at University of Florida Levin College of Law, Stetson University College of Law, University of Miami College of Law, and Florida State University College of Law in 2022 aggregated is 69.8%).

Offices of the State Attorney and Public Defender in Florida to incur fundamental challenges recruiting and retaining experienced attorneys.⁷ The inability of these two societally important offices to retain experienced and talented attorneys in acceptable quantities creates a vacuum in the administration of justice. And while “scholars have long decried the excessive caseloads of public defenders and appointed counsel . . . ,” they have generally ignored the excessive load placed on prosecuting attorneys.⁸ Recently, Florida’s elected state attorneys pleaded loudly with the legislature to increase funding for their overworked staff.⁹

Underfunding the administration of justice is not new. Academic literature frequently addresses the risks to personal liberty when the Office of the Public Defender is underfunded.¹⁰ However, the same risk applies to the Office of the State Attorney.¹¹ The subjective argument of which agency is placed in a more difficult predicament due to insufficient funds is not needed for this analysis. Caselaw has established that a failure of the citizenry’s ability to prepare an adequate defense against the government is a threat to civil liberty.¹² Rather, this Article’s analysis considers a strategy to mitigate risks that understaffing poses to the mission of the Florida Offices of the State Attorney (“Offices”).

The underfunding and consequential excessive workload placed on prosecuting attorneys poses a risk to society in general and to defendants in particular.¹³ The prosecuting attorney carries a heavy burden not just to convict, but to “seek justice” through the investigation, evaluation, and where appropriate, prosecution of

7. See, e.g. Jim Ash, *High Costs and High Turnover: Miami-Dade State Attorney and PD Seek Solutions*, FLA. BAR NEWS (Mar. 22, 2024), <https://www.floridabar.org/the-florida-bar-news/high-costs-and-high-turnover-miami-dade-state-attorney-and-pd-look-for-solutions/>.

8. Adam M. Gershowitz & Laura R. Killinger, *The State (Never) Rests: How Excessive Prosecutorial Caseloads Harm Criminal Defendants*, 105 NW. U. L. REV. 261, 301 (2011).

9. Louis Bolden, ‘Great Resignation’ Hits Florida State Attorneys, Public Defenders Offices: Officials Blame Low Pay, High Case Loads, CLICK ORLANDO <https://www.clickorlando.com/news/local/2022/02/17/great-resignation-hits-florida-state-attorneys-public-defenders-offices/> (Feb. 18, 2022, 8:23 PM).

10. Gershowitz & Killinger, *supra* note 8, at 262.

11. Mitch Perry, *FL Prosecutors, Public Defenders Suffer from High Turnover Rates: Say They Need More Funds*, FLORIDA PHOENIX (Nov. 8, 2023, 10:39 AM), <https://floridaphoenix.com/2023/11/08/fl-prosecutors-public-defenders-suffer-from-high-turnover-rates-they-need-more-funds/>.

12. See *Gideon v. Wainwright*, 372 U.S. 335, 341–45 (1963).

13. Gershowitz & Killinger, *supra* note 8, at 301.

criminal cases throughout the state of Florida.¹⁴ The prosecuting attorney is a unique advocate for society and for individual communities, with the noble purpose of seeking truth.¹⁵ Therefore, prosecuting attorneys, in their search for truth, seek to convict the guilty and ensure that the innocent go free. To be certain, a greater budget would permit Offices to be more effective in their recruiting efforts. More money is always helpful in solving most problems. However, this solution is rarely easy to obtain, and more money alone never solves all problems.

Inevitably, state budgets, like personal budgets, have limits. For too long the loudest answer to the staff retention challenges faced by the Florida prosecutorial function has been to pay attorneys more and provide more money to the Offices.¹⁶ And while funding increases can be effective, legislative funding only represents one piece of a larger puzzle.

Given that legislative priorities will change over time as society and representatives evolve, the Offices cannot plan around the hope for change in the political winds. The constant battle to obtain greater funds will always be weighed against legislative challenges and partisan negotiation. Ultimately, state funds will always be dispersed where the state legislature and governor deem most appropriate.¹⁷ Since legislative discretion and economic conditions driving budget decisions are both outside the direct control of Florida's elected state attorneys, the Offices must manage their budgets with the funds made available to them.¹⁸

Therefore, while additional funds are helpful, assistant state attorneys must manage within the environment they find themselves in and in accordance with the professional

14. FLA. STAT. § 27.02(1) (2023); CRIM. JUST. STANDARDS ON PROSECUTION FUNCTION: No. 3-1.2(a)–(b) (A.B.A. 4th. ed. 2017); see Roberta K. Flowers, *A Code of Their Own: Updating the Ethics Codes to Include the Non-Adversarial Roles of Federal Prosecutors*, 37 B.C. L. REV. 923, 925 (1996).

15. See Flowers, *supra* note 14, at 924.

16. See Perry, *supra* note 11.

17. See, e.g., Brendan Farrington, *Florida's DeSantis Cuts \$1B to Bring State Budget to \$116.5B, Slightly Less than the Current Plan*, AP NEWS (2024), <https://apnews.com/article/florida-budget-desantis-3c4095f3041665a878e324bc352cacda#> (June 12, 2024, 6:29 PM).

18. *Guide To Understanding the State Budget Process*, UCF, <https://www.ucf.edu/leadership/government-community-relations/austins-playground/> (last visited Apr. 17, 2025).

responsibility guidelines established by the Florida Bar.¹⁹ The Offices will always have to fight for funding in an environment of scarce economic resources.²⁰ Given this environment, it is imperative that the Offices innovate and develop strategies to accomplish their mission regardless of legislative funding levels.²¹ These strategies and initiatives are a key part of the management puzzle, as, despite funding challenges, there are many opinions as to the preferred priorities for the elected state attorneys.²²

This Article recommends that the Offices employ a team-based paradigm surrounding front-line felony attorney (“FA”) positions. Part I of this Article considers the role of the prosecuting attorney. Part II analyzes the inherent economics of the state budget, the legal profession, and the growing cost of a legal education. Part III describes a two-tiered approach to mitigate the staffing challenges through building a team-based model and converting the third year of law school into a paid clinical externship.²³

I. The Role of the Prosecutor

The state attorneys throughout Florida’s twenty judicial circuits are authorized by Article V of the Florida Constitution and Section 27 of the Florida Statutes to prosecute crimes.²⁴ Each state attorney serves in an elected position.²⁵ While the mission statements of each Office vary, they all share a common theme of

19. FLA. STAT. § 27.18 (2023) (articulating in part that assistant state attorneys, appointed by the state attorney, must be members of the bar); *see also* R. Regulating Fla. Bar 4-pmb1. (2018).

20. The Florida Constitution requires a balanced budget. As such, the legislature each year considers revenue projections in light of state needs in allocating resources. *Guide To Understanding The State Budget Process*, *supra* note 18.

21. *See, e.g.*, Jan Pudlow, *Judge Allows 11th PD to Stop Taking Cases*, FLA. BAR NEWS (Sept. 15, 2008), <https://www.floridabar.org/the-florida-bar-news/judge-allows-11th-pd-to-stop-taking-cases/> (addressing the excessive case load at both offices of the public defender and the state attorney); *see, e.g.*, Ash, *supra* note 7.

22. The external pressures on the Offices are tremendous. Despite funding challenges, there seems to be an unlimited number of opinions as to the preferred priorities of each Office. *See, e.g.*, Gary Fineout, *DeSantis Suspends Another Elected Prosecutor in Move Derided as ‘Politically Motivated’*, POLITICO, <https://www.politico.com/news/2023/08/09/desantis-suspends-state-attorney-worrell-00110445> (Aug. 9, 2023, 12:48 PM).

23. Numerous law schools place a high value on the experiential learning model as part of its complete curriculum. *See, e.g.*, *Real Cases Podcast: Clinical & Experiential Learning: A Must-Have for Law Schools*, STETSON L. (Feb. 10, 2025), <https://lawblog.law.stetson.edu/clinical-experiential-learning-a-must-have-for-law-schools>.

24. FLA. CONST. art. V, § 17; FLA. STAT. § 26.021 (2023); FLA. STAT. § 27.01 (2023).

25. FLA. CONST. art. V, § 17.

protecting the public and the fair administration of justice.²⁶ In fulfilling those missions, each elected state attorney appoints assistant state attorneys in their circuit and manages their roles as prosecutors through these appointments.²⁷ Traditionally, each Office organizes its teams as deemed most appropriate by the elected state attorney in that circuit.²⁸ Even though each circuit is autonomous, some common structures exist.²⁹ It is routine for each Office to organize the prosecution function into divisions.³⁰ For purposes of this Article these divisions are most simply categorized into three primary groups: misdemeanor, special prosecution, and felony.³¹ A special prosecution division usually prosecutes felony-level crimes, and is often broken into subspecialties subject to the needs of the individual circuit.³²

This Article focuses on the role of the front-line felony attorney. The front-line felony attorney does not carry as high an individual caseload as the misdemeanor attorney, but they typically carry a much higher caseload than the special prosecution attorney.³³ Aspirationally, the front-line felony attorney (“FA”) is experienced, having mastered the basics of the court room in a misdemeanor setting and as second chair in felony cases. The FA should be competent with the knowledge, time, and resources “reasonably necessary for the representation.”³⁴ All legal

26. See, e.g., *Our Mission*, STATE ATT’Y’S OFF. SIXTH JUD. CIR., <https://www.flsa6.gov/> (last visited Apr. 17, 2025) (“The mission of the Office of the State Attorney for the Sixth Judicial Circuit is to apply the fair administration of justice for the people of Pinellas and Pasco Counties on behalf of the State of Florida. This is accomplished by thorough, unbiased investigations into violations of criminal law where sufficient evidence exists within prosecutorial guidelines to bring criminal charges ultimately resulting in a disposition which could include diversion, probation, or incarceration. The protection of victims of crime is a priority in our continued effort to keep Pinellas and Pasco Counties safe communities in which to live and work.”)

27. FLA. STAT. §§ 27.18–.181 (2023).

28. See AM. PROSECUTORS RSCH. INST., *HOW MANY CASES SHOULD A PROSECUTOR HANDLE? RESULTS OF THE NATIONAL WORKLOAD ASSESSMENT PROJECT*, 7 (2002).

29. See FLA. STAT. §§ 27.01–.367 (2023).

30. See, e.g., *Office Divisions*, STATE ATT’Y’S OFF. FIFTEENTH JUD. CIR., <https://sa15.org/OFFICE-DIVISIONS/> (last visited Apr. 17, 2025).

31. *Id.*

32. See e.g., *About: Our Structure*, STATE ATT’Y’S OFF. NINTH JUD. CIR., <https://sao9th.net/about/> (last visited Apr. 17, 2025).

33. AM. PROSECUTORS RSCH. INST., *supra* note 28, at 1.

34. R. Regulating Fla. Bar 4–1.1 (Fla. Bar 2018) (articulating the relevant factors requisite to determining whether a lawyer has the necessary knowledge and skill to be competent).

organizations desire and need experienced attorneys to be effective, and the Offices are no exception.³⁵

The FA has a multifaceted responsibility in that they fulfill an investigative role before filing an information.³⁶ In Florida, capital crimes such as murder require a grand jury indictment before a state prosecutor may take a criminal case to trial.³⁷ Those cases are generally assigned to a special prosecution unit,³⁸ but the investigative role remains the same. The Offices, through the FA, must evaluate the matter before proceeding. The time required to evaluate a case varies significantly for each case, depending upon the nature of the allegation(s), the quantity of evidence available, the quality of the evidence provided by law enforcement, the availability of witnesses, and the extent of the accused's involvement.³⁹ All of the investigative work occurs within the time constraints applicable to managing a full caseload, as an average FA in the state of Florida manages over 300 cases per year.⁴⁰

The FA is tasked first with determining whether to file an information. They accomplish this through an investigatory process of reviewing the available evidence.⁴¹ This is a time-consuming process that involves organizing, reviewing, and evaluating the evidence that is available in a manner that allows the FA to consider whether sufficient evidence exists to prove each

35. See, e.g., Claire Alfree, *Jacksonville University's Law Program 'Determined' to Solving Statewide Attorney Shortage*, FIRST COAST NEWS (Mar. 20, 2024), <https://www.firstcoastnews.com/article/news/local/jacksonville-universitys-law-program-determined-to-solving-attorney-shortages-statewide/77-066f7e85-706a-405c-a540-0b7931ccbd0e>.

36. See Mark F. Lewis, *The Prosecutor as Investigator*, 77 FLA. BAR J., Oct. 2003, at 65 (2003). <https://www.floridabar.org/the-florida-bar-journal/the-prosecutor-as-investigator/> An "information" is a charging document described in the Florida Rules of Criminal Procedure 3.140(b). It is a "plain, concise, and definite written statement of the essential facts constituting the offense charged." Fla. R. Crim. P. 3.140(b) (2023).

37. The Grand Jury indictment process in Florida is guided primarily by the Florida Office of the State Attorney and is a protected right granted by the Florida Constitution. See FLA. CONST. art. I, § 15 (2023). A Grand Jury is a body of citizens that convene to review evidence presented in Florida by the Florida Office of the State Attorney for the judicial circuit applicable to the case. The Grand Jury presentment is different from a trial in that the accused is not represented by defense counsel at the Grand Jury hearing, nor is a judge for the presentation of evidence. The function of the Grand Jury in Florida for criminal proceedings is to determine whether sufficient evidence exists to return or decline a true bill that articulates a charge for the state attorney to proceed with prosecution. See Fla. Std. Jury Instr. (Crim.) 30 (2024).

38. See, e.g., *Prosecution Units*, STATE ATTY'S OFF. TWENTIETH JUD. CIR, <https://sao20.org/prosecution-units> (last visited Apr. 17, 2025).

39. See generally Lewis, *supra* note 36.

40. See *infra* Tables 1 and 2 cols. F.

41. See Lewis, *supra* note 36, at 65–67.

element of a particular crime.⁴² If sufficient evidence exists, the FA must determine whether it is proper and whether they will be able to present that evidence in court, subject to the Florida Rules of Evidence.⁴³

The FA often receives evidence after it has already been reviewed by an intake attorney.⁴⁴ Intake attorney responsibilities vary by circuit, but they usually include reviewing evidence and making charge recommendations.⁴⁵ Some Office policies direct the intake attorney to make review and filing decisions on a case.⁴⁶ More often than not, a proper analysis made by the intake attorney and the FA would involve asking questions and seeking more information.⁴⁷ Even where an intake attorney makes the filing decision as a matter of procedure, the trial attorney must review the same information in detail to prepare for trial. This is necessary because the trial attorney remains bound by the same professional obligations of seeking justice, regardless of the intake-attorney's decision.⁴⁸ Throughout this investigatory phase, the typical FA has depositions to attend, plea offers to propose, motions to write, pretrial hearings to attend, arguments to prepare, and trials to prosecute. All of this activity occurs within the context of hundreds of open cases in a prosecuting attorney's portfolio.⁴⁹ Law enforcement works around the clock, and the receipt of new criminal allegations by the Offices occurs on a daily basis.⁵⁰

Each state attorney is expected to establish policies and guiding instructions for the FA to operate within during the discharge of their duties.⁵¹ It is well-established that FAs do not pursue the full-throated prosecution of all laws, all the time, and

42. In order to defeat a motion for judgment of acquittal "sufficient evidence [must] exist[] that would permit a rational trier of fact to find the elements of the crime beyond a reasonable doubt." Julia Luyster, *Appellate Standards of Review in Criminal Matters, Part 2*, 81 FLA. BAR. J. June 2007, at 64, 65.

43. FLA. STAT. chs. 90–92 (2023).

44. See Fla. R. Crim. P. 3.115.

45. See *id.*

46. See, e.g., STATE ATTY'S OFF. FIFTEENTH JUD. CIR., *Office Divisions: Intake Unit*, <https://sa15.org/office-divisions/>.

47. See Lewis, *supra* note 36 at 64, 65.

48. CRIM. JUST. STANDARDS ON PROSECUTION FUNCTION, No. 3-1.2(b) (A.B.A. 2017).

49. See *infra* Tables 1 and 2.

50. See, e.g., *Special Operations*, OSCEOLA CNTY. SHERIFF'S OFF., <https://www.osceola-sheriff.org/services/special-operations/> (last visited Apr. 20, 2025).

51. AM. PROSECUTORS RSCH. INST., *supra* note 28, at 8.

in every law enforcement action.⁵² Circuit policies influence the disposition of many criminal accusations.⁵³ However, do not be misled to think that an overworked prosecutor simply means that criminals may act without accountability. No, the overworked prosecutor is a danger to the concept of the fair administration of justice pervasively.⁵⁴ Victims may be left wanting for justice, and the public may be left less safe for want of prosecution.⁵⁵ Equally as concerning but perhaps less apparent, the prosecutor may not have time to properly investigate and evaluate case details. This could create a risky environment where less culpable or innocent defendants are overcharged, and more culpable defendants may negotiate sweetheart deals.⁵⁶

A thorough review of evidence in advance of charges being filed may allow a prosecutor to avoid a tragic miscarriage of justice. The arrest and resulting public shame of charges being filed inflict negative repercussions on a defendant.⁵⁷ The thorough review in advance of charges being filed may prevent an innocent person from enduring the shame and immense inconvenience of navigating the judicial system. It may permit a person, who has had their first brush with the law, an opportunity to enter a diversion program.⁵⁸ It may permit the FA to initiate further investigation early in the process when a case needs development to properly prosecute the matter successfully.⁵⁹ A miscarriage of justice may occur for many reasons, but presumably, every dedicated professional in the judicial system wants to avoid such events. It is the responsibility of the elected state attorney to develop strategies to facilitate “just” disposition of cases despite the challenges forced upon the Office through a meager budget.⁶⁰

52. JOAN E. JACOBY & EDWARD C. RATLEDGE, *THE POWER OF THE PROSECUTOR GATEKEEPERS OF THE CRIMINAL JUSTICE SYSTEM* 14-15 (Praeger 2016).

53. *Id.* at 16.

54. Gershowitz & Killinger, *supra* note 8, at 279.

55. *Id.*

56. Gershowitz & Killinger, *supra* note 8, at 264.

57. *The Impacts of Arrest*, INT’L ASS’N OF CHIEFS OF POLICE, [https://www.theiacp.org/sites/default/files/Research%20Center/Impacts%20of%20Arrest%20\(infographic\).pdf](https://www.theiacp.org/sites/default/files/Research%20Center/Impacts%20of%20Arrest%20(infographic).pdf) (last visited Apr. 20, 2025).

58. See *Diversion Programs*, STATE ATTY’S OFF. SEVENTEENTH JUD. CIR., <https://browardsao.com/diversion-programs/> (last visited Apr. 20, 2025).

59. See Gershowitz & Killinger, *supra* note 8, at 265.

60. See CRIM. JUST. STANDARDS ON PROSECUTION FUNCTION: No. 3-1.2(a)–(b) (A.B.A. 4th. ed. 2017).

The public servants of the Offices work hard in furtherance of a noble cause. Recognizing their demanding work, this Article acknowledges the inherent challenges and risks the Offices confront due to budget constraints. Despite those challenges, this Article encourages development of a team-based organizational model. That team-based model would be deployed primarily around frontline felony attorneys, aiming to produce positive results with the fair administration of justice as the ultimate goal. This part describes the caseload-staffing conundrum that arises from budget constraints so that the proposed solutions will be understood in the context of the pervasive challenges faced by the Offices.

A. Caseload per Prosecutor

The National Advisory Commission on Criminal Justice Standards and Goals produced guidelines in 1973 delineating that no misdemeanor attorney should carry more than 400 cases annually and a felony attorney should limit their cases to 150 per year.⁶¹ The ABA endorsed these guidelines in 1989 with the modification that a misdemeanor attorney should limit their caseload to 300 cases annually.⁶² However, these guidelines were never officially adopted as national policy standards by the ABA, despite the ABA's reference to them as a guideline.⁶³

A study in 2002 concluded that national standards for caseload per attorney are not possible, and each office, region, or state should analyze its own statistics in determining appropriate caseload per attorney.⁶⁴ National standards are not possible because each prosecuting office is faced with different challenges, both internal and external to their Office.⁶⁵ External factors include "1) legislative and operational factors, 2) criminal justice system factors, and 3) crime and demographic factors."⁶⁶ Internal factors include type of "staff resources", "staff skills", "physical resources", "office organization", and "office policies[/] procedures."⁶⁷

61. AM. PROSECUTORS RSCH. INST., *supra* note 28, at 1.

62. *Id.*

63. *Id.*

64. AM. PROSECUTORS RSCH. INST., *supra* note 28, at 29.

65. AM. PROSECUTORS RSCH. INST., *supra* note 28, at 3-6.

66. *Id.*

67. *Id.* at 5-6.

So, analyzing Florida's twenty judicial circuits, it is reasonable to conclude that appropriate attorney staffing levels on a per-case basis may vary dramatically. The analysis required to determine the proper number of attorneys to dispose of cases in a just manner is time-consuming and complex, but most of all it is Office specific.⁶⁸

The 2002 study referenced above developed a "disposition-based method" of determining a projected number of cases per attorney.⁶⁹ That method considers the efficiency of case disposal.⁷⁰ That efficiency is measured by the number of staff-hours required to dispose of a case given the variety of prosecutor responsibilities and the environment in which the prosecutorial staff must work.⁷¹ The method "was tested with fifty six prosecutors' offices nationwide" and is promoted by the American Prosecutors Research Institute to "provide[] a sound, objective methodology for assessing both caseload and workload [to] determin[e] the number of staff needed to manage both."⁷² "[T]he disposition-based method . . . [is] applied . . . to determine the actual number of full-time equivalent . . . staff positions needed."⁷³ A fundamental goal of this study was to progress from the 1973 general guidelines developed by the National Advisory Commission on Criminal Justice Standards and Goals.⁷⁴ The concepts in this study could be utilized in large Offices to analyze their caseload and staffing needs. Further, the state could use this approach to analyze Offices on a statewide basis to promote parity in staffing to the various circuits while taking into consideration cost of living, efficiency, demographics, and convenient access to law school students.

Tables 1 and 2, that follow, present comparative data of the average number of cases managed per assistant state attorney and the projected number of assistant state attorneys needed based on the American Bar Association's ("ABA") recommendation of no more than 150 cases per felony attorney and 300 cases per misdemeanor attorney.⁷⁵ Table 1 analyzes the case load for each of the 20 circuit Offices in the 2022-23 fiscal year and each Offices'

68. AM. PROSECUTORS RSCH. INST., *supra* note 28, at 29.

69. AM. PROSECUTORS RSCH. INST., *supra* note 28, at 20.

70. *Id.*

71. *Id.*

72. *Id.*

73. AM. PROSECUTORS RSCH. INST., *supra* note 28, at 24.

74. AM. PROSECUTORS RSCH. INST., *supra* note 28, at 1.

75. *See infra* Tables 1 and 2; AM. PROSECUTORS RSCH. INST., *supra* note 28, at 1.

budgeted assistant state attorney quantity.⁷⁶ Table 2 analyzes the state as a whole each year for a 10-year period.⁷⁷ These statistics do not include case counts that are open and held over from previous years. Rather, they compare annual criminal filings to the number of assistant state attorneys employed in the state during that year.

In the 2022–23 fiscal year, Florida assistant state attorneys managed 626,251 new filings.⁷⁸ Those new filings were handled by approximately 1,827 assistant state attorneys.⁷⁹ On average, each assistant state attorney handled approximately 343 new cases.⁸⁰ Three Offices were operating at less than 50% of the projected ABA recommended staffing levels.⁸¹ Thirteen of the twenty Offices were operating below 75% of the ABA recommended staffing levels.⁸² Only one Office was operating at or above the ABA standard.⁸³ Six Offices operated within 10% of budgeted capacity, which might be considered full staffing depending on the objectives of those particular circuits. Three Offices were operating with more than 25% of their budgeted positions unfilled.⁸⁴

76. *See infra* Table 1.

77. *See infra* Table 2.

78. *See supra* Table 1, col. D.

79. *See supra* Table 1, col. E. The quantity of attorneys is an approximation because when cases are handled and when attorneys are on staff is a fluid dynamic that cannot be accounted for with the static data that is available.

80. *See supra* Table 1, col. F. The number of cases per attorney is equal to the total cases filed divided by the number of assistant state attorneys reported on staff. ABA standards recommend no more than 150 cases per felony attorney and 300 cases per misdemeanor attorney. AM. PROSECUTORS RSCH. INST., *supra* note 28 at 12 (citing STANDARDS FOR CRIM. JUST.: PROVIDING DEF. SERV § 5-5.3 (AM. BAR ASS'N 1992)). Special prosecutors that handle capital or economic crimes will often carry lighter caseloads than the front-line felony attorney. *Id.* at 10. Therefore, the actual average caseload managed by each front-line felony attorney in Florida is probably higher than that reported in Table 1. *See, e.g.,* Ash, *supra* note 7.

81. *See supra* Table 1, col. K.

82. *Id.*

83. *Id.*

84. *See supra* Table 1, col. M.

Table 1
Florida Offices of the State Attorney
Analysis of Relative Caseload per Assistant State Attorney
Fiscal Year 2022-23
(continued on next page)

Column A	Column B *	Column C **	Column D Total Filings	Column E ***	Column F Average Number of Cases per Attorney	Column G *** Total Established Circuit Assistant State Attorney Positions	Column H Average Number of Cases per Established Attorney	Column I **** Projected Number of Attorneys per ABA Standard	Column J Quantity of Under Staffing by ABA Standard	Column K Actual Staffing as a % of Projected ABA Standard	Column L Unfilled Positions That Have Been Estab.	Column M Unfilled Positions as a % of Budgeted Positions
Florida Circuit by Number	Total Circuit Felony Filings	Total County Criminal Filings	Total Filings	Total Circuit Assistant State Attorneys	Average Number of Cases per Attorney	Total Established Circuit Assistant State Attorney Positions	Average Number of Cases per Established Attorney	Projected Number of Attorneys per ABA Standard	Quantity of Under Staffing by ABA Standard	Actual Staffing as a % of Projected ABA Standard	Unfilled Positions That Have Been Estab.	Unfilled Positions as a % of Budgeted Positions
			(Col. B + Col. C)		(Col. D / Col. E)		(Col. D / Col. G)	(Col. D x ABA Std)	(Col. I – Col. E)	(Col. E / Col. D)	(Col. G – Col. E)	(Col. L / Col. G)
1	9,684	25,983	35,667	57.00	625.74	74.00	481.99	151.17	94.17	37.71%	17.00	22.97%
2	4,014	7,399	11,413	40.00	285.33	48.00	237.77	51.42	11.42	77.79%	8.00	16.67%
3	2,390	5,395	7,785	20.00	389.25	29.00	268.45	33.92	13.92	58.97%	9.00	31.03%
4	8,760	32,895	41,655	117.70	353.91	126.00	330.60	168.05	50.35	70.04%	8.30	6.59%
5	10,801	25,007	35,808	92.00	389.22	106.00	337.81	155.36	63.36	59.22%	14.00	13.21%
6	13,528	38,694	52,222	153.00	341.32	193.00	270.58	219.17	66.17	69.81%	40.00	20.73%
7	9,281	29,792	39,073	65.60	595.63	66.10	591.12	161.18	95.58	40.70%	0.50	0.76%
8	4,272	7,840	12,112	41.00	295.41	51.00	237.49	54.61	13.61	75.07%	10.00	19.61%
9	10,421	29,633	40,054	143.00	280.10	160.50	249.56	168.25	25.25	84.99%	17.50	10.90%
10	9,020	21,687	30,707	84.00	365.56	104.00	295.26	132.42	48.42	63.43%	20.00	19.23%

Table 1
Florida Offices of the State Attorney
Analysis of Relative Caseload per Assistant State Attorney
Fiscal Year 2022-23
(continued from previous page)

Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J	Column K	Column L	Column M
	*	**		***		***		****				
Florida Circuit by Number	Total Circuit Felony Filings	Total County Criminal Filings	Total Filings	Total Circuit Assistant State Attorneys	Average Number of Cases per Attorney	Total Established Circuit Assistant State Attorney Positions	Average Number of Cases per Established Attorney	Projected number of attorneys per ABA Standard	Quantity of Under Staffing by ABA Standard	Actual Staffing as a % of Projected Standard	Unfilled Positions That Have Been Estab.	Unfilled Positions as a % of Budgeted Positions
			(Col. B + Col. C)		(Col. D / Col. E)		(Col. D / Col. G)	(Col. D x ABA)	(Col. I – Col. E)	(Col. E / Col. J)	(Col. G – Col. E)	(Col. L / Col. G)
11	12,726	58,571	71,297	232.45	306.72	346.00	206.06	280.08	47.63	83.00%	113.55	32.82%
12	6,136	15,772	21,908	72.00	304.28	80.00	273.85	93.48	21.48	77.02%	8.00	10.00%
13	12,226	26,866	39,092	123.00	317.82	131.00	298.41	171.06	48.06	71.90%	8.00	6.11%
14	6,101	12,027	18,128	25.75	704.00	37.00	489.95	80.76	55.01	31.88%	11.25	30.41%
15	6,678	40,608	47,286	107.00	441.93	131.00	360.96	179.88	72.88	59.48%	24.00	18.32%
16	1,121	4,455	5,576	12.50	446.08	13.00	428.92	22.32	9.82	56.00%	0.50	3.85%
17	8,470	24,265	32,735	188.50	173.66	198.75	164.70	137.35	(51.15)	137.24%	10.25	5.16%
18	7,511	20,328	27,839	107.50	258.97	126.00	220.94	117.83	10.33	91.23%	18.50	14.68%
19	5,230	12,473	17,703	42.60	415.56	53.00	334.02	76.44	33.84	55.73%	10.40	19.62%
20	7,637	30,554	38,191	102.75	371.69	126.00	303.10	152.76	50.01	67.26%	23.25	18.45%
Totals	156,007	470,244	626,251	1,827.35	342.71	2,199.35	6,381.54	2,607.53	780.18	70.08%	372.00	16.91%

* Office of the State Court Administrators, 2022-23 Circuit Criminal Statistics, <https://www.flcourts.gov/Publications-Statistics/Statistics/Trial-Court-Statistical-Reference-Guide> (last visited July 25, 2024).

** Office of the State Court Administrators, 2022-23 County Criminal Statistics, <https://www.flcourts.gov/Publications-Statistics/Statistics/Trial-Court-Statistical-Reference-Guide> (last visited July 25, 2024).

*** Transparency Florida, Operating Budget State Positions State Attorney 2022-23, http://transparency.florida.gov/Positions_Summary.aspx (last visited July 25, 2024).

**** The ABA Standard projected number of attorneys is based on a standard of 150 cases per felony attorney and 300 cases per misdemeanor attorney.

Table 2
Florida Offices of the State Attorney
Analysis of Employment and Caseload per Assistant State Attorney
Ten Fiscal Years Beginning July 1, 2013 and Ending June 30, 2023

Column A	Column B *	Column C **	Column D	Column E ***	Column F	Column G ***	Column H	Column I ****	Column J	Column K	Column L	Column M
Fiscal Year	Total Circuit Felony Filings	Total County Criminal Filings	Total Filings	Total Assistant State Attorneys	Average Number of Cases per Attorney	Total Estab. State Att. Positions	Average Number of Cases per Budgeted Attorney	Projected Number of Attorneys per ABA Standard	Quantity of Under-staffing by ABA Standard	Actual Staffing as a % of Projected Standard	Unfilled Positions That Have Been Estab.	Unfilled Positions as a % of Estab. Positions
			(Col. B + Col. C)		(Col. D / Col. E)		(Col. D / Col. G)	(Col. D x ABA Std)	(Col. I – Col. E)	(Col. E / Col. J)	(Col. G – Col. E)	(Col. L / Col. G)
2022-23	156,007	470,244	626,251	1,827.35	342.71	2,199.35	284.74	2,607.53	780.18	70.08%	372.00	16.91%
2021-22	149,052	435,360	584,412	1,876.80	311.39	2,248.10	259.96	2,444.88	568.08	76.76%	371.30	16.52%
2020-21	148,817	422,151	570,968	1,922.95	296.92	2,295.00	248.79	2,399.28	476.33	80.15%	372.05	16.21%
2019-20	158,200	446,843	605,043	2,033.95	297.47	2,285.25	264.76	2,544.14	510.19	79.95%	251.30	11.00%
2018-19	177,641	571,774	749,415	1,981.40	378.22	2,302.50	325.48	3,090.19	1,108.79	64.12%	321.10	13.95%
2017-18	177,419	577,819	755,238	2,032.90	371.51	2,249.05	335.80	3,108.86	1,075.96	65.39%	216.15	9.61%
2016-17	171,340	583,951	755,291	2,049.90	368.45	2,304.55	327.74	3,088.77	1,038.87	66.37%	254.65	11.05%
2015-16	171,670	599,949	771,619	2,075.30	371.81	2,279.55	338.50	3,144.30	1,069.00	66.00%	204.25	8.96%
2014-15	171,414	627,215	798,629	2,070.17	385.78	2,265.40	352.53	3,233.48	1,163.31	64.02%	195.23	8.62%
2013-14	176,768	669,554	846,322	2,082.92	412.25	2,298.65	368.18	3,410.30	1,357.38	60.20%	245.73	10.69%
AVG.	165,833	540,486	706,319	1,992.36	353.65	2,272.74	310.65	2,907.17	914.81	69.30%	280.38	12.35%

* Office of the State Court Administrators, Circuit Criminal Statistics, <https://www.flcourts.gov/Publications-Statistics/Statistics/Trial-Court-Statistical-Reference-Guide> (last visited July 25, 2024).

** Office of the State Court Administrators, County Criminal Statistics, <https://www.flcourts.gov/Publications-Statistics/Statistics/Trial-Court-Statistical-Reference-Guide> (last visited July 25, 2024).

*** Transparency Florida, Operating Budget State Positions State Attorney, http://transparencyflorida.gov/Positions/Positions_Summary.aspx (last visited July 25, 2024)

**** The ABA Standard projected number of attorneys is based on a standard of 150 cases per felony attorney and 300 cases per misdemeanor attorney.

It is important to consider factors that may not be easily discerned from this analysis. For example, the information reported in Tables 1 and 2 does not account for employee attrition. These numbers do not indicate how many attorneys have left and been replaced. This is a significant consideration, as turnover is a key problem in some Offices, where experienced attorneys leave for better-paying jobs.⁸⁵ Turnover of this nature often leaves Offices replacing experienced attorneys with new graduates.⁸⁶

Consider the 11th Circuit, that operated during the 2022–23 fiscal year at 83% of the ABA standard.⁸⁷ Despite this relatively high correlation to the overall ABA recommendation, this circuit operated at 33% below its budgeted level of assistant state attorneys.⁸⁸ This information, along with the State Attorney’s statements made to the press in 2024, indicates a trend that the 11th Circuit Office is losing experienced staff, and that it cannot replace those losses at an acceptable rate.⁸⁹ Given that the 11th Circuit has the second-highest felony filings in 2022–23, a failure to retain experienced FAs could create a condition that leads to “crisis.”⁹⁰

The state of Florida had not reported case filings for the 2023–24 fiscal year at the time of this writing, and news publications indicate that staffing levels continue to challenge certain Offices.⁹¹ It is notable that total case filings declined during the COVID years 2019 through mid-2022,⁹² but rose back in the 2022–23 fiscal year to the state’s highest level since 2018–19.⁹³ It is presumed with COVID conditions no longer mandating mass quarantine, case filings will continue to rise back to pre-2019 averages at a minimum.⁹⁴ Over the ten-year history reported in Table 2, the percentage of statewide unfilled budgeted positions has increased

85. *See, e.g.*, Ash, *supra* note 7.

86. *See id.*

87. *See supra* Table 1, col. K.

88. *See supra* Table 1, col. M.

89. *See* Ash, *supra* note 7.

90. *See supra* Table 1, col. B; *see also* Ash, *supra* note 7.

91. *See, e.g.*, Benjamin Johnson, *Attorney Stress, Burnout and Low Pay Create Hiring Crisis at Escambia Courthouse*, PENSACOLA NEWS J., <https://www.pnj.com/story/news/crime/2023/03/14/first-circuit-attorneys-ask-florida-legislature-for-employee-raises/69968707007/> (Mar. 14, 2023, 12:23 PM).

92. David J. Sencer, *Covid-19 Timeline*, CDC, <https://www.cdc.gov/museum/timeline/covid19.html> (last visited Mar. 30, 2025).

93. *See supra* Table 2, col. C.

94. *Id.*

from a low of 8.62% in 2014–15 to 16.91% in 2022–23.⁹⁵ This trend supports the assertion made by state attorneys over the past several years that state prosecutor salaries are not competitive with other agencies and the private sector.⁹⁶

In the 2022-23 fiscal year, the state as a whole operated, on average, at 70% of the ABA recommended staffing level and 17% below budgeted staffing levels.⁹⁷ That trend seems to be worsening during the three-year period ending June 30, 2023. Table 2 illustrates that total case filings increased, and the total number of assistant state attorneys decreased during this three-year period.⁹⁸

The ABA's 1989 endorsement of guidance setting case limits at 150 per felony attorney and 300 per misdemeanor attorney is significant, but these figures do not reflect the nuances of local circuit practice.⁹⁹ For example, it is routine to assign special prosecution attorneys less cases, which means that the front-line FAs may manage more cases than those calculated in Tables 1 and 2. Tables 1 and 2 indicate an inaccurate presumption that all attorneys are working the same case load. The statistics are presented this way because more granular information is not readily available. However, given the best-case scenario that the workload is evenly distributed, most Offices are operating below ABA staffing recommendations with a material percentage of assistant state attorney positions unfilled.¹⁰⁰

The caseload each trial attorney should undertake is, to a great extent, a subjective evaluation without reliable case disposition data. It is subjective because disposition hours vary by type of case, mix of case load, and Office productivity.¹⁰¹ A capital murder case may take more hours to prosecute than a misdemeanor drug possession charge.¹⁰² A felony embezzlement case may take longer to prosecute than a single-item felony grand theft charge.¹⁰³ A wide variety of contextual conditions can influence the overall efficiency at which an Office disposes of

95. *See supra* Table 2, col. M.

96. *See, e.g.,* Ash, *supra* note 7.

97. *See supra* Table 1, cols. K and M.

98. *See supra* Table 1, cols. D and E.

99. AM. PROSECUTORS RSCH. INST., *supra* note 28, at 20–29.

100. *See supra* Table 1, at cols. K and M.

101. AM. PROSECUTORS RSCH. INST., *supra* note 28, at 20–29.

102. *See id.*

103. *Id.*

cases.¹⁰⁴ “These conditions range from the court structure, criminal code, and criminal offenses over which a prosecutor has jurisdiction to internal conditions such as office policy and practice, experience level of staff, and level of automation.”¹⁰⁵ Consider, for example, that an experienced FA working with an experienced investigator would more than likely be able to organize the evidence and make charging alterations far more efficiently than a new felony attorney.

Once you extrapolate that concept across the entirety of an Office, the impact could be significant. It is the elected state attorney’s responsibility to manage the assignment process and make policy decisions on staffing levels, as each prosecutor, office, and team is unique. Given this inherent variability, each state attorney should actively pursue continuous improvement by seeking the best personnel, promoting top attorneys, and developing innovative tools within their circuit. Consider the massive impact the implementation of the personal computer, cloud storage, Internet connectivity, and electronic databases has had on the efficient management and availability of information. Without exception, all Offices have implemented some computing infrastructure, because it is virtually impossible to function without it in today’s world. More profoundly however, the tools were probably implemented because of the positive impact they had on the efficient administration of justice.

Team-based dynamics should be leveraged similarly. Caseload management would benefit significantly if Offices leveraged team-based dynamics. This process would deploy educated professionals to work under the direct supervision of felony trial attorneys, effectively enabling the Offices to delegate critical functions so attorneys may work more efficiently and effectively. In a world where the experienced prosecutor is a scarce resource, new paradigms must be considered. Since each case requires a certain quantity of professional hours, those hours must be tasked to someone. Where enough attorneys are not available, the Offices should consider delegating those tasks to alternative professionals who are managed by an experienced attorney.

104. AM. PROSECUTORS RSCH. INST., *supra* note 28, at 3.

105. *Id.*

B. Professional Standards

A team-based paradigm would not violate professional standards because each individual would work under a barred attorney.¹⁰⁶ In fact, utilizing a team-based paradigm would help prevent instances of professional misconduct that occur because of a lack of resources. Florida's prosecutors must be members of the Florida Bar.¹⁰⁷ To be a member of the Florida Bar, one must possess a law degree from an accredited institution, provide proof of character and fitness, and pass the Florida Bar Exam.¹⁰⁸ As members of the Bar, Florida attorneys are guided by the Florida Bar's professional standards and subject to discipline under those standards.¹⁰⁹ "A prosecutor has the responsibility of a minister of justice and not simply that of an advocate."¹¹⁰

For whom does the prosecutor advocate? Prosecutors do not represent the victim.¹¹¹ The prosecutor represents a multitude of interests but no specific client.¹¹² The prosecutor, because of their unique place within the judicial system, advocates for justice.¹¹³ This means the professional role should extend beyond mere conviction.¹¹⁴ Therefore, the FA has a higher bar to clear than the typical defense attorney, whose focus is primarily on the professional obligation to their client.¹¹⁵ In sum, the Offices have tremendous power and equally tremendous responsibility that require time, resources, and talent to administer the prosecutorial function properly and within the expectations of the professional standards.

When resources are inadequate, attorneys face greater pressure to shortcut detailed analysis, potentially leading to conduct that appears suspect. Allegations of prosecutorial

106. See LISA G. LERMAN ET AL., *ETHICAL PROBLEMS IN THE PRACTICE OF LAW* 774-75 (Rachel E. Barkow et al. eds. 6th ed. 2023).

107. FLA. CONST. art. V, § 17; FLA. STAT. § 27.18.

108. *Admission Requirements*, FLA. BD. BAR EXAM'RS., <https://www.floridabarexam.org/web/website.nsf/52286AE9AD5D845185257C07005C3FE1/F8FE824E0EECACE885257C0B00672021> (last visited Mar. 30, 2025).

109. See generally Brian D. Burgoon, *Florida's Lawyer Discipline System: What Every Attorney Needs to Know*, FLA. BAR J., Jan./Feb. 2021, at 8.

110. R. Regulating Fla. Bar 4-3.8 (2024).

111. Flowers, *supra* note 14, at 931.

112. *Id.* at 931-33.

113. *Id.*

114. *Id.*

115. *Id.*

misconduct are not uncommon to the seasoned FA.¹¹⁶ The adversarial system permits such accusations and perhaps even unintentionally encourages such accusations by the inherent nature of opposing sides, fighting passionately for their position. Misconduct may occur intentionally or unintentionally.¹¹⁷ Its existence, if left unmonitored or unchecked, is bad for defendants in that they may be denied a fair trial, or their life may be unjustly upended. Further, the impact of misconduct on society can last for decades because it often fosters societal injustice, mistrust of the system, and a general degradation in respect for the rule of law.¹¹⁸ Intentional misconduct is a travesty and worthy of discussion, but it is not a topic discussed in this Article. This Article will discuss briefly unintentional misconduct that may arise due to a lack of resources or strategy to mitigate for a lack of resources.

Where adequate resources do not exist to properly evaluate and prosecute cases, inadvertent misconduct may occur.¹¹⁹ For example, the prosecutor has an obligation to “provide exculpatory information to defense counsel,” which includes evidence in the possession of law enforcement.¹²⁰ A common concern among prosecutors is whether adequate and timely disclosure has been made of exculpatory evidence.¹²¹ That concern is more apparent in complex cases, where the evidence may be extensive and may exceed the ability of a single attorney to properly evaluate and disclose all of the information in their possession.¹²² The process of cataloging evidence and comparing which agencies have what evidence can be extremely tedious. A failure to make timely disclosure under such circumstances can be the basis for overturning convictions on appeal as well as professional sanctions.¹²³

A typical felony prosecution team may consist of one attorney and their paralegal. Naturally, with 20 individual circuits in Florida and each circuit having its own elected state attorney, trial

116. Gershowitz & Killinger, *supra* note 8, at 263.

117. *Id.*

118. Gershowitz & Killinger, *supra* note 8, at 293–96.

119. *Id.*

120. Cameron McElhiney, *Understanding Brady and Giglio: Civilian Oversight's Role*, NAT'L ASS'N FOR CIVILIAN OVERSIGHT LAW ENF'T (May 17, 2022), https://www.nacole.org/understanding_brady_and_giglio.

121. Gershowitz & Killinger, *supra* note 8, at 279.

122. Gershowitz & Killinger, *supra* note 8, at 289–90.

123. *See id.*

team composition varies by circuit, attorney, and division. Where staffing permits, a second attorney may be added to the team for a particular case. This team approach would probably be adequate in most individual cases. However, when you consider that FAs manage hundreds of active cases while under pressure from multiple sources, they must prioritize their work and alternate strategies may be necessary.¹²⁴

Consider that FAs have enormous pressure placed upon them by supervisors, media, victims, opposing counsel, law enforcement, and above all, themselves. How that pressure is imposed by the various sources would seemingly influence the FA. In this era of 24-hour news and social media coverage, many cases are tried in the forum of public opinion long before the FA has reviewed all of the facts.¹²⁵ Pressures such as these may rush FAs to act before they are ready, given the stage of case development and the potential for lack of resources. Case disposition has two fundamental time constraints: (1) the number of staff hours required to dispose of a case and (2) the time limit within which a case must be tried under speedy trial guidelines.¹²⁶

The projected hours required to process cases are a big part of the needs analysis.¹²⁷ The projected number of cases to be filed each year is also an important element of the equation.¹²⁸ How many attorneys is the right number? How does a state attorney budget for their office? How do state attorneys gauge efficiency and effectiveness? How is an FA evaluated? These are all matters each state attorney grapples with in executing their vision.

Given that legislative budgets may not support the staffing level dollars requested, it is of paramount importance that state attorneys continue to progressively develop efficiencies in their process so their FAs can focus on seeking justice. Process efficiency may be gained by reducing the time it takes to accomplish a task. Efficiency might be improved by introducing technology,¹²⁹

124. Gershowitz & Killinger, *supra* note 8, at 283–84.

125. See, e.g., Hannah Phillips, *Murder in Palm Beach County: Five trials to watch for in 2024*, PALM BEACH POST (Apr. 8, 2024, 5:05 AM), <https://www.palmbeachpost.com/story/news/crime/2024/04/08/south-florida-trials-death-penalty-case-stand-your-ground-defense/73116963007/>.

126. See AM. PROSECUTORS RSCH. INST., *supra* note 28, at 24–25; FLA. STAT. § 918.015 (2024).

127. See AM. PROSECUTORS RSCH. INST., *supra* note 28, at 3.

128. *Id.*

129. STATE ATTY'S OFF. FIRST. JUD. CIR., STRATEGIC PLAN 2023 7, <https://storage.googleapis.com/osa1-cloud-compute.appspot.com/publicwebsite/docs/strategic->

reducing barriers to information gathering, or eliminating duplicated tasks.

Process efficiencies also may be gained by assigning tasks to those most able to accomplish the task efficiently. For example, an attorney may be able to obtain, organize, analyze, and summarize financial documents investigating embezzlement charges. However, that task may be accomplished more efficiently by a forensic accountant, who can then present the information in an organized format for the trial attorney's review and approval. Paralegal professionals often develop specialized skills that allow them to be uniquely effective.¹³⁰ Thus, a team-based paradigm that effectively utilizes all of these unique skill sets would promote process efficiency and allow the Offices to better comply with the professional standards and maintain the higher bar of finding justice.

II. Economics, State Budgeting, and the Florida Attorney

Each year, from "October through January state agencies and the judicial branch use the [state's] Long-Range Financial Outlook to shape their annual Legislative Budget Requests."¹³¹ Governing that annual budget process "[t]he Florida Constitution requires the Florida Legislature to develop and pass a balanced state budget each year."¹³² Therefore, unlike the federal government that may incur deficit spending, there is increased pressure to effectively manage funding for competing priorities.¹³³ Hence, the management of scarce economic resources requires each elected state attorney to be pragmatic in their priorities and innovative in developing methods to operate as effectively and efficiently as possible.

plan.pdf (last visited June 10, 2025) (articulating priority 3, to leverage technology under her 2026 Vision).

130. Several states have embarked on non-lawyer licensing to address the gap in access to justice. Washington State, Arizona, Minnesota, Oregon, Utah, and California have all engaged in developing limited licensing for non-lawyers. See Tara Hughes & Joyce Reichard, *How States Are Using Limited Licensed Legal Paraprofessionals to Address the Access to Justice Gap*, A.B.A. (Sept. 2, 2022), <https://www.americanbar.org/groups/paralegals/blog/how-states-are-using-non-lawyers-to-address-the-access-to-justice-gap/>.

131. *Guide To Understanding The State Budget Process*, *supra* note 18.

132. *Id.*; see FLA. CONST. art. VII, § 1(d).

133. See U.S. TREASURY, *What is the National Deficit?*, FISCAL DATA (Sept. 30, 2024), <https://fiscaldata.treasury.gov/americas-finance-guide/national-deficit/>.

Within the past several years, state attorneys have reported crisis level concerns, requiring them to seek additional funding.¹³⁴ Various state attorneys have been vocal, making their pleas to the legislature personally and through the press.¹³⁵ These elected public servants have made clear to the legislature and the public that current funding levels have and will continue to impact their mission.¹³⁶ Specific to how funding affects staffing, some Offices have declared projected vacancies at 35% to 50%.¹³⁷ The inability to retain experienced assistant state attorneys is producing many of the long-term challenges to effectively prosecute cases.¹³⁸ The most often cited reason for an inability to retain experienced attorneys is compensation level.¹³⁹

A. Salaries — Office of the State Attorney

The salaries of Florida state employees are public information, and employment data is inherently dynamic and time dependent. The data and analysis provided in this Article is intended to provide context to understand the environment in which the Offices operate. Salary information for 1,514 “full time” assistant state attorneys was exported for analysis.¹⁴⁰ Statistics extracted from that data are reflected in the first two columns of Table 3 that follows. It is notable in this table that the salaries of attorneys in 2022 generally exceed those of assistant state attorneys in 2024 by a considerable margin.¹⁴¹ The rest of this part will compare assistant state attorney compensation to a number of data points relative to attorney compensation in the state of Florida taken as a whole.

134. See, e.g., Ash, *supra* note 7; FLA. BAR NEWS, *State Attorneys, PDs Seek Resources to Stem Turnover, Staff Shortages* (Oct. 15, 2021), <https://www.floridabar.org/the-florida-bar-news/state-attorneys-pds-seek-resources-to-stem-turnover-staff-shortages/>.

135. See, e.g., Ash, *supra* note 7; FLA. BAR NEWS, *supra* note 134.

136. See, e.g., Ash, *supra* note 7; FLA. BAR NEWS, *supra* note 134.

137. Ash, *supra* note 7.

138. *Id.*

139. *Id.*

140. STATE OF FLA., *State of Florida Employee Salaries*, MY FLORIDA, <https://salaries.myflorida.com/> (last visited June 10, 2025) (The state of Florida maintains an active-public data base of staff salaries. The data used in this analysis was identified by filtering the search in the live data base. The active search criteria included the Justice Admin Commission as the applicable agency and “assistant state attorney” as the class code. The data is refreshed on a weekly basis. The data used in this analysis was retrieved in July 2024.).

141. See *infra* Table 3.

Table 3
Florida Assistant State Attorney Salary Statistics
Compared to Florida Attorney Salaries in General

Assistant State Attorney Statistics ¹⁴² (2024)	Value	Florida Attorney Statistics (2022)	Value
Mean Assistant State Attorney Salary (all experience levels)	\$93,813	Mean Entry Level Salary of a Student Graduating from a Florida Law School (Class of 2022) ¹⁴³	\$105,285
Median Assistant State Attorney Salary (all experience levels)	\$87,086	Median Attorney Salary in Florida (2022 Florida Bar Survey) ¹⁴⁴	\$125,000
Mode Assistant State Attorney Salary	\$75,000	No Comparative Statistic Provided	
Range Assistant State Attorney Salary (all experience levels)	\$42,000 - \$212,561	Starting Salary Range of Students Graduating from a Florida Law School ¹⁴⁵ (Class of 2022)	\$60,000 - \$215,000

Miami-Dade, a large metropolitan market in Florida, advertises the starting salary for a bar certified assistant state

142. STATE OF FLA., *supra* note 140.

143. The mean salary was drawn from the classes of 2022 NALP reporting at the University of Florida, Florida State University, and Stetson University law schools calculating a mean salary of \$105,285. *See* NALP *infra* notes 146–48.

144. Mark D. Killian, *Bar Survey Examines Wages, Profitability and Hourly Rates*, FLA. BAR NEWS (Nov. 7, 2022), <https://www.floridabar.org/the-florida-bar-news/bar-survey-examines-wages-profitability-and-hourly-billing/>.

145. The salary range represents the lowest salary and highest salary identified in the classes of 2022 reporting from the University of Florida, Florida State University and Stetson University law schools. *See* NALP, *infra* notes 146–48.

attorney is \$70,000 per year.¹⁴⁶ By comparison, the National Attorney Law Placement 2023 survey identified 6 firms in the Miami/West Palm Beach area that paid first-year salaries averaging \$215,000.¹⁴⁷

Similarly, law schools publish statistics regarding their graduates' starting salaries as attorneys. University of Florida Levin College of Law, class of 2022, reported starting associate salaries ranging between \$60,000 and \$215,000 with the mean salary of an associate entry-level attorney at \$138,353.¹⁴⁸ Florida State University College of Law, class of 2022, reported starting salaries ranging between \$70,000 and \$137,500 with the mean salary of an associate entry level attorney at \$94,386.¹⁴⁹ Stetson University College of Law, class of 2022, reported starting salaries ranging between \$65,000 and \$90,000 with the mean salary of an associate entry-level attorney at \$83,117.¹⁵⁰ Considering each of the three schools and their reported ranges, the Miami-Dade Office of the State Attorney starting 2024 salary ranges between 18% and 51% below the average starting salary of a new attorney graduating from a Florida law school in 2022.¹⁵¹

State attorneys have discretion in setting assistant state attorney salaries as long as the assistant's salary does not exceed the elected state attorney's salary.¹⁵² This is helpful in that each state attorney may structure compensation within their judicial circuit to reward valuable, experienced assistant state attorneys in

146. *Attorney Application Process*, MIAMI-DADE STATE ATT'Y, <https://miamisao.com/careers/attorney-application-process/> (last visited June 10, 2025).

147. *Findings on First Year Associate Salaries*, NALP (June 2023), <https://www.nalp.org/0623research>.

148. *University of Florida – Fredric G. Levin College of Law Class of 2022 Summary Report*, NALP (Aug. 2023), <https://www.law.ufl.edu/law/wp-content/uploads/Redacted-NALP-Summary-Report-2022.pdf> [hereinafter *University of Florida*].

149. *The Florida State University College of Law Class of 2022 Summary Report*, NALP, (Aug. 2023), https://law.fsu.edu/sites/g/files/upcbnu1581/files/Careers/NALP_ABA/NALP_Report_2023_Summary.pdf.

150. *Stetson University College of Law Class of 2022 Summary Report*, NALP, (Aug. 2023), https://www.stetson.edu/law/career/home/media/Class%20of%202022%20NALP%20Summary_Redacted.pdf [hereinafter *Stetson*].

151. 18% is calculated by dividing the difference between \$83,117 and \$68,000 by \$83,117 (*Stetson*, *supra* note 150). 51% is calculated by dividing the difference between \$138,353 and \$68,000 by \$138,353 (*University of Florida*, *supra* note 148). Salary ranges reported by law schools have limitations as the data is reliant upon student reporting to the school. The actual range is probably greater than that calculated here.

152. FLA. STAT. § 27.181(3) (2025) (“The salary for each assistant state attorney shall be set by the state attorney of the same judicial circuit in an amount not to exceed 100 percent of that state attorney’s salary and shall be paid from funds appropriated for that purpose.”).

order to retain them.¹⁵³ Naturally, state attorneys must still work within the confines of their annual budget.¹⁵⁴ However the ability to deploy budget dollars in unique ways is beneficial to developing the team-based paradigm. Offices may deploy salary resources to increase assistant state attorney compensation and add paralegal or paraprofessional support staff when they cannot locate enough licensed attorneys to fill their budgeted positions.¹⁵⁵

B. Non-attorney and Attorney Population, United States

Generally, in a legal setting, paralegals are compensated at a lower rate than attorneys. Therefore, effectively delegating tasks to a lower-cost resource, such as a paralegal, will create economic efficiency. The dynamic of resource allocation based on cost considerations is common in fixed-fee, for-profit business models. Therefore, it is economically appropriate to evaluate the extent to which certain tasks fundamental to the prosecutorial process may be delegated to an effective paraprofessional. Further, as is the basis for this Article, it is also professionally appropriate when adequate staffing of trained attorneys is not possible.

In the United States there are far more people with college degrees than there are practicing lawyers. According to the Pew Research Center, in 2021, 37.9% of Americans twenty-five years of age and older have bachelor's degrees.¹⁵⁶ The United States has a total population of about 336 million people, with approximately 228 million of those people being twenty-five years of age and older.¹⁵⁷ These statistics indicate that about 86 million people in the United States have college degrees.¹⁵⁸ According to the American Bar Association ("ABA") there are 1.3 million practicing attorneys in the United States.¹⁵⁹ There are far more non-lawyers

153. Ash, *supra* note 7.

154. See *id.*

155. *Id.* (articulating the State Attorney and Public Defender are deploying "a lot of the strategies" including but not limited to reallocation of salary dollars to existing staff, implementing artificial intelligence, and adding support staff).

156. Katherine Schaeffer, *10 Facts About Today's College Graduates*, PEW RSCH. CTR. (Apr. 12, 2022), <https://www.pewresearch.org/short-reads/2022/04/12/10-facts-about-todays-college-graduates/>.

157. See *U.S. and World Population Clock*, U.S. CENSUS BUREAU, <https://www.census.gov/popclock/> (last visited June 10, 2025).

158. Derived by multiplying 37.9% by 228 million, which equals 86,412,000. *Id.*

159. *Profile of the Legal Profession 2023*, A.B.A., <https://www.abalegalprofile.com/demographics.html> (last visited June 10, 2025) (reporting that on January 1, 2024, there were 1,322,694 active lawyers in the United States).

with university degrees than licensed lawyers. Therefore, non-attorney professional staff are generally more available than licensed attorneys. Thus, theoretically, non-attorneys are more available to join the ranks at the Offices. The addition of university-educated human resources to the prosecutorial team would enhance the ability of the Offices to accomplish their mission in a more cost-efficient manner.

C. Cost of a Legal Education

A fundamental aspect of people's lives is their ability to earn a living. Earning a living in this context means drawing a salary sufficient to cover food, shelter, clothing, debt, recreation, and other basic aspects of life. For lawyers, the cost of law school has a significant impact on which career path is taken post-graduation.¹⁶⁰ From a pure economic perspective, some students may look to a return on investment. Casting aside personal preferences to a specific legal arena, a freshly minted lawyer may also be influenced by the amount of debt that accrued during their time in law school. Regardless of which economic analysis motivates a recent graduate, the high cost of law school in many circumstances is presumed to influence the acceptable level of a starting salary.

The average cost of a law degree in the state of Florida varies dramatically by institution and location.¹⁶¹ The average cost of attendance is approximately \$66,000 per year when averaging the top five rated law schools in Florida.¹⁶² Private institutions have a

160. TIFFANE COCHRAN ET AL., STUDENT DEBT: THE HOLISTIC IMPACT ON TODAY'S YOUNG LAWYER 8, 31 (A.B.A. Access Lex Inst. eds., 2021) ("An overwhelming majority of borrowers — roughly 80 percent — indicated their debt influenced their choice of job or career in some way. Most borrowers reported that salary factored more heavily into their job selection than anticipated.").

161. The top five nationally ranked law schools in Florida are University of Florida (38), Florida State University (38), Florida International University (84), University of Miami (92), and Stetson University (99). *Best Law Schools in Florida Ranked in 2025*, US NEWS AND WORLD REP., https://www.usnews.com/best-graduate-schools/top-law-schools/law-rankings/florida?_sort=my_rankings-asc (last visited June 11, 2025); *See Cost of Attendance: Tuition by Law School 2023 vs 2019*, LAW HUB, <https://www.lawhub.org/trends/tuition-per-school> (last visited June 11, 2025) (illustrating that the undiscounted tuitional difference between the University of Miami and Florida State University residency rate is \$42,823 in the 2023-24 school year).

162. The average is calculated based on the top five Florida Universities projected cost of attendance. *See Costs and Financial Aid: In State Off Campus 2024-2025*, UNIV. FLA. LEVIN COLL. L., <https://www.law.ufl.edu/admissions/costs-and-financial-aid> (last visited June 11, 2025) (Projecting in state off campus cost of attendance at \$48,484); *Estimated 2024-2025*

higher cost of attendance than public institutions, but the cost of attending public institutions is rising at a faster rate than private institutions.¹⁶³ After accounting for inflation, statistics indicate that public institutions nationwide were five times more expensive in 2023 than in 1985.¹⁶⁴ Similarly, private law schools were two and a half times more expensive in 2023 than in 1985, after accounting for inflation.¹⁶⁵ Where the cost of attendance at law schools rises faster than inflation, it is intuitive that the need to finance a legal education through loans expands. By extension, the projected debt of financing a private school education will exceed that of financing a public-school education. For example, the estimated debt for a Florida resident student who finances their entire education at the University of Florida in 2024 is projected to be \$166,435 (assumes no discounts).¹⁶⁶ Comparatively, the projected debt in 2024 for a student who finances their entire education at the University of Miami is \$397,657 (assumes no discounts).¹⁶⁷ Median discounts if available to a particular student would reduce this debt at the University of Florida and University of Miami by \$79,383 and \$145,629, respectively.¹⁶⁸

Approximately 70% of students at the five top-ranked Florida law schools borrow money for their legal education.¹⁶⁹ Given the large amount of debt incurred, the majority of law students are

Fall/Spring Cost of Attendance, FLA. S. UNIV. COLL. L., <https://tuition.fsu.edu/cost-attendance/cost-estimates-fall-2024-spring-2025> (last visited June 11, 2025) (projecting in state cost of attendance at \$42,666); *Cost of Attendance*, FLA. INT'L UNIV. L., <https://law.fiu.edu/admissions/cost-and-financial-aid/> (last visited June 11, 2025) (Projecting in state cost off campus cost of attendance at \$53,254); *Domestic Cost of Attendance*, Univ. MIAMI GRADUATE PRO. ASSISTANCE, <https://grad-prof.miami.edu/cost/law-costs/domestic-cost-of-attendance-folder/index.html> (last visited June 11, 2025) (Projecting in state off campus cost of attendance at \$106,590); *Cost of Attendance Fall 2024-Spring 2025*, STETSON L., <https://www.stetson.edu/law/financial-planning/estimated-student-budget.php> (last visited June 11, 2025) (projecting cost of attendance at \$79,166).

163. Melanie Hanson, *Average Cost of Law School*, EDUC. DATA INITIATIVE, <https://educationdata.org/average-cost-of-law-school> (last updated Aug. 27, 2024) (“[P]ublic schools on average end up being cheaper for tuition than private schools by roughly \$25,139 for in-state residents. Within the traditional 3 year study, the tuition gap between public and private schools increases to \$75,417.”).

164. *Law School Tuition in the United States, 1985-2023*, LAW HUB, <https://www.lawhub.org/trends/tuition> (last visited June 11, 2025).

165. *Id.*

166. *Projected Law School Debt for 2024 New Students*, LAW HUB, <https://www.lawhub.org/trends/projected-debt> (last visited June 11, 2025).

167. *Id.*

168. *See Id.*

169. *See Debt by Law School for 2022 Graduates*, LAW HUB, <https://www.lawhub.org/trends/debt-per-law-school> (last visited June 11, 2025).

financially motivated to maximize their compensation after graduation.¹⁷⁰ Further, depending on the amount of debt incurred, it often becomes an economic impossibility for some people in some locales to sacrifice pay scale to work in government service directly after law school.¹⁷¹

The Florida Bar passed approximately 1,882 applicants combined in the July 2023 and February 2024 exams.¹⁷² Presuming 70% of those applicants have debt¹⁷³ and are thus disincentivized to pursue public service, approximately 564 new Florida lawyers are financially available to fill 573 open positions in the combined offices of the state attorney and public defender.¹⁷⁴ The simple math predicts that the Offices will be unsuccessful in filling all of the open positions in a single cycle. Given that attracting experienced attorneys from the private sector has inherent economic challenges, the Offices are left with designing other methods to complete the work. This Article proposes that these methods must involve two key features: 1) reducing the number of hours it takes to perform the work and 2) finding professional staff that can perform permissible tasks under the direction of an experienced attorney. All of this must be accomplished without sacrificing the Offices' mission or professional standards that govern the practice of law.

D. Funding Change

Every state attorney is responsible for managing the budget, which is provided through legislative appropriation. Each Office should consider a zero-based budgeting approach to attack today's challenge. Zero-based budgeting evaluates the entire office and its

170. TIFFANE COCHRAN ET AL., *supra* note 160, at 8.

171. *See, e.g.*, Ash, *supra* note 7.

172. *See July 2023 General Bar Examination First-Time, Overall Method Passage Rates*, FLA. BAR NEWS, (Sept. 18, 2023), <https://www.floridabar.org/the-florida-bar-news/july-2023-florida-bar-exam-results/>; *See February 2024 Florida Bar Exam Results*, FLA. BAR NEWS, (April 15, 2024) <https://www.floridabar.org/the-florida-bar-news/february-2024-florida-bar-exam-results/>.

173. *Debt by Law School for 2022 Graduates*, *supra* note 169.

174. The total of available new attorneys is calculated by multiplying 30% times 1,882 new attorneys who passed the bar. The total of available positions is calculated by subtracting the combined total of established Assistant State Attorney and Assistant Public Defender positions from the total filled positions relative to the 2024-25 fiscal year. *Operating Budget-State Positions*, TRANSPARENCY FLORIDA, http://transparencyflorida.gov/Positions/Positions_Detail.aspx?FY=25&BE=21600000&LBE=21600000&R=P&SC=F&OB=Y (last visited June 11, 2025).

budget from ground zero.¹⁷⁵ Everything is questioned: what is needed, what works, what needs to be replaced, and what no longer serves its purpose.¹⁷⁶ Budgeting this way is a cumbersome process, and few organizations embark on such a dramatic effort, unless economic shock drives them to a radical evaluation.¹⁷⁷ However, when you completely reorganize a working model, zero-based budgeting provides a mechanism to question every aspect of the organization model's effectiveness.

State attorneys should embark on this process with the goals of (1) evaluating what it would take to keep the best attorneys; (2) recruiting attorneys to fill mission critical roles; and (3) diverting funds to resources that are obtainable and may foundationally improve case disposition. Perhaps this means adding management training to the budget. Perhaps it means adding more information technology team-members. Perhaps it means hiring more investigators to organize evidence and locate witnesses. Perhaps it means hiring more paralegals to draft documents more efficiently for attorney review. Perhaps it means terminating attorneys who are not effective under the new paradigm and replacing them with fewer but more effective attorneys plus skilled non-attorney paraprofessionals.

The opportunity for change is immense, but all growth comes at a price.¹⁷⁸ Office policy changes will surely be a large part of the process as Offices cannot function the same way when felony prosecution teams rely on a different authority and accountability model. Renovation of the operating model proposed by this Article is only possible once a state attorney concludes operations will not revert to business as usual. A projection that attorney staffing

175. Julia Kagan, *Zero-Based Budgeting: What it is and How to Use it*, INVESTOPEDIA, <https://www.investopedia.com/terms/z/zbb.asp> (last updated June 8, 2024) ("Zero-based budgeting (ZBB) is a method of budgeting in which all expenses must be justified for each new period. The process begins from a 'zero base' and every function within an organization is analyzed for its needs and costs.").

176. *Id.*

177. See Kristin Broughton, *Companies Turn to Zero-Based Budgeting to Cut Costs During the Pandemic*, WALL ST. J. (June 17, 2020, 5:57 PM), <https://www.wsj.com/articles/companies-turn-to-zero-based-budgeting-to-cut-costs-during-the-pandemic-11592431029>.

178. See JOHN C. MAXWELL, *THE 17 INDISPUTABLE LAWS OF TEAMWORK* 137 (Harper Collins Leadership 2001) (John Maxwell explains that all positive change organizationally comes at a price. Organizationally that may mean leaving the cultural comfort zone or spending valuable time developing a new organizational paradigm. This price extends to the individuals in the team that pay the price of individual autonomy for a greater outcome that might be achieved through a team dynamic).

challenges will remain for the foreseeable future poses a different set of solutions than a projection that the staffing challenges are an anomaly.

Non-attorney professionals, externs, and interns are more plentiful as a group than licensed attorneys. Therefore, these individuals may be obtained more economically than attorneys.¹⁷⁹ Their economic value is well placed in that they are not credentialed to do the select work of an attorney, but these individuals are educated, intelligent, and capable. Business models thrive where everyone derives benefit from the success of the relationship. The team-based paradigm works because it attempts to leverage the natural desire to grow economically and utilize people to their highest level of ability.¹⁸⁰ The Offices do not have to be a place where people sacrifice to be there. They can grow salaries for the best and the brightest, but they will have to change their operating model to achieve that objective on a broad scale.

III. A Multi-Tiered Approach to Address Crisis Level Staffing Challenge

The statistics discussed above, including the understaffing, excessive caseload, and employee attrition, demonstrate some of the Offices are experiencing crisis-level staffing. Those challenges require aggressive solutions¹⁸¹ that will likely diverge from the traditional mode of case disposition. Since all funding is cyclical and subject to the economic health of the state,¹⁸² elected state attorneys must develop short and long-term strategies to meet the objectives of their mission.¹⁸³ This part suggests developing a team-based model that can improve the current situation. Part A discusses the team-based model and how it might be applied to the

179. The traditional demand supply curve is generally emblematic of commoditized goods or services, but it exemplifies in this comparison that the greater pool of resources that can fill a demand, the more likely the supply curve can shift to reduce the price of the service. See NORM SMITH, LABOUR ECONOMICS FOR LEADERS: 3.4 - Demand, Supply, and Equilibrium, OPEN LIBRARY, <https://ecampusontario.pressbooks.pub/laboureconomics/chapter/3-3-demand-supply-and-equilibrium/> (last visited June 11, 2025).

180. ADAM SMITH, THE WEALTH OF NATIONS 18–21, (Univ. Pa. Elec. Series Publ'n 2005), (1776) <https://www.rrojasdatabank.info/Wealth-Nations.pdf>.

181. See Ash, *supra* note 7 (quoting State Attorney Katherine Fernandez Rundle: “A lot of the strategies we have been putting in place over the last decade are working, but we’re at a tipping point. At some point, the whole dam is going to break.”).

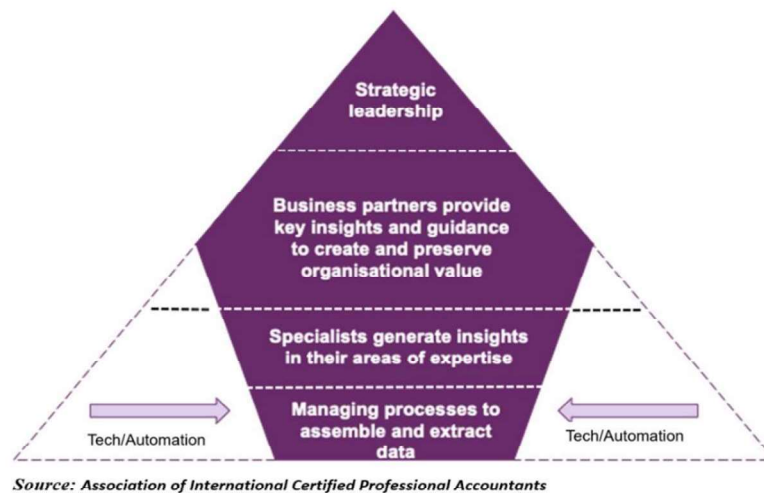
182. *Guide To Understanding The State Budget Process*, *supra* note 18.

183. See Ash, *supra* note 7.

Offices. Part B expands this discussion exploring the benefits, risks, and structures of team-based models. Finally, Part C explores how law students may be integrated into the team, while also reducing the cost of law school, and expanding the experiential learning concept in practice.

A. The Team-Based Model – Tier 1 of a Holistic Solution

1. Team-Based Models in Other Professions



Team-based solutions are often used in professional settings, segregating duties as appropriate to the person most capable and economically appropriate to fulfill the role.¹⁸⁴ The medical community builds teams around a licensed physician utilizing credentialed professional staff such as nurses, nurse practitioners, and physician assistants.¹⁸⁵ Some CPA firms will deploy tax preparation and audit teams.¹⁸⁶ Generally, these public

184. See Thomas N. Hubbard, *Research: Delegating More Can Increase Your Earnings*, HARV. BUS. REV. (Aug. 12, 2016), <https://hbr.org/2016/08/research-delegating-more-can-increase-your-earnings> (finding that law firm partners with the highest skills earn 50% more when they delegate).

185. Anita D. Misra-Hebert et al., *Implementing Team-based Primary Care Models: A Mixed-Methods Comparative Case Study in a Large, Integrated Health Care System*, 33 J. GEN. INTERNAL MED. 1928-1936 (2018), <https://link.springer.com/article/10.1007/s11606-018-4611-7>.

186. Samantha Mansfield, *Reimagining Accounting Firms' Organizational Charts to Enhance Advisory Services*, THOMSON REUTERS (May 31, 2022), <https://www.thomsonreuters.com/en-us/posts/tax-and-accounting/reimagining-accounting-firms-organizational-charts/>.

accounting teams are directed by an engagement partner who is a licensed CPA. The engagement partner is generally supported by engagement managers at one or two levels, and then the engagement is staffed by one or more degreed accountants that may or may not be licensed.¹⁸⁷ Even accounting firms are altering their pyramidal structure by automating some functions and diversifying their technical talent.¹⁸⁸

These models recognize that experience and licensing credentials elevate specific team members. Those elevated, experienced team members then delegate work and communicate policy to technical staff.¹⁸⁹ In this process, both Engagement Partner CPAs, Senior Treating Medical Doctors, or similar roles in other professions retain final authority over an engagement or patient treatment, respectively. CPAs control that authority through the documentation process.¹⁹⁰ Medical Doctors retain control by limiting signature authority for prescriptions and procedures within policy or legal requirements.¹⁹¹ Patient care and project execution may be served by a range of people with specialized skills and varying compensation to achieve a more economically efficient process and in some cases better execution. Similar paradigms may be applied to the Offices.

2. Application to Florida Offices of the State Attorney

For centuries, the legal profession has recognized the need for support staff.¹⁹² Dating back to the dawn of the legal profession in the United States, the use of apprentices under the guidance of a licensed attorney was a widely accepted use of nonlawyers in the provision of legal services.¹⁹³ Similarly, the increased use of legal assistants and formally trained paralegals is a common practice in

187. *Id.*

188. *Id.*

189. *Id.*; See also Misra-Hebert et al., *supra* note 185.

190. See, e.g., *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*, PUB. CO. ACCT. OVERSIGHT BD. QC § 20.25, <https://pcaobus.org/oversight/standards/qc-standards/details/QC20> (last visited June 11, 2025).

191. See, e.g., 21 C.F.R. § 1311.05 (2024) ("Standards for technologies for electronic transmission of orders").

192. Brian J. Moline, *Early American Legal Education*, 42 WASHBURN L. J. 775, 780–81 (2004).

193. *Id.*

the United States.¹⁹⁴ FAs often have a legal assistant assigned to them, or possibly one legal assistant who supports multiple attorneys.

Offices could implement team-based structures to address the current crisis using the structures exemplified in other professions such as conceptual guidelines and expanding on the legal profession's accepted model. As described previously, this model might best be applied initially to the frontline FAs with high caseloads.

Full case management may generally be completed by one attorney, given enough time. However, where qualified attorneys are a scarce economic resource, it makes sense to delegate some of those duties to other types of staff. Lawyers often come from varied undergraduate or experiential backgrounds.¹⁹⁵ Similarly, staff might be drawn from many educational backgrounds. Much as a nurse would not perform surgical procedures, a forensic accountant serving as a paralegal to the FA prosecutor would not argue a motion before the court. However, the forensic accountant would be ideally qualified to gather and organize bank document evidence in a presentable form for the attorney, just as a nurse would be the ideal person to gather and organize the health data of a patient for the surgeon to proceed with surgery.

Given the scarcity of attorneys, the Offices should make every effort to compensate and retain the best, experienced attorneys, rather than recruit more attorneys of potentially lower quality. The Offices can then develop teams around individual FAs to facilitate completion of the work. By increasing compensation for the high quality prosecuting attorneys with the skills to be team leaders, elected state attorneys will be better able to retain the best and the brightest in their Office.¹⁹⁶ The common belief is that

194. See, e.g., *Certification v. Certificate*, NALA, <https://nala.org/faq/> (last visited June 11, 2025).

195. No particular major is required for admission to law school. Most often the recommendation is to engage in a rigorous course of study that is interesting to the student. Ten majors cited by College Consensus are as follows: history, business, English, philosophy, political science, economics, arts and humanities, psychology, math, and science. Carrie Sealy-Morris, *10 Best Degrees for Getting into Law School*, COLLEGE CONSENSUS, <https://www.collegeconsensus.com/features/best-degrees-for-law-school/> (last updated Apr. 15, 2025).

196. The mechanism for raising compensation is diversion of funds, available from understaffing, to raise compensation to fewer high caliber attorneys and hire more professional support staff. Funding levels may still need to be increased, but with the team

higher compensation for experienced, effective attorneys will aid retention.¹⁹⁷ Building small trial teams, with knowledgeable professionals from a variety of academic backgrounds as support staff, would effectively enable managing trial attorneys to best delegate and deploy resources as they need to achieve each case-specific mission.¹⁹⁸

Every day, in some way, each staff member of the Offices engages with others. It is inherent in today's economy and environment where information is rapidly dispersed that people will work together. "Teamwork is an essential skill to . . . accomplish [] organizational goals and objectives."¹⁹⁹ This requires that the structuring of teams must be deliberative, with established objectives. The medical community has effectively utilized the team-based approach to deliver medical services.²⁰⁰ The simplest example is the increased emphasis placed on the nurse practitioner and the physician assistant, who routinely meet with patients, diagnose routine problems, and prescribe medications, under the management of a licensed physician.²⁰¹ By training professionals and integrating them into an organized structure, the medical profession can serve more patients, where direct access to a physician for every task is not always necessary. One can also look to Apple, who builds teams around product design: "Apple's leaders believe that world-class talent wants to *work for and with* other world-class talent in a specialty. It's like joining a sports team where you get to learn from and play with the best."²⁰²

concept, a greater pool of talent is available to each elected state attorney's discretion. *See, e.g.,* Ash, *supra* note 7.

197. *See e.g.,* Travis Gibson, *Raising the Bar*, ST. AUGUSTINE REC. (Sept. 12, 2019, 4:33 PM), <https://www.staugustine.com/story/news/local/2019/09/12/pay-raises-for-state-attorneys-public-defenders-aims-to-help-with-retention/2802490007/>.

198. While the best trial attorneys may not be intuitive managers, "it's easier to train an expert to manage well than to train a manager to be an expert." Joel M. Podolny & Morten T. Hansen, *Organizational Culture: How Apple Is Organized for Innovation - It's About Experts Leading Experts*, 7 HARV. BUS. REV. (Nov.-Dec. 2020), <https://hbr.org/2020/11/how-apple-is-organized-for-innovation>.

199. YALE, *We Know Teamwork is Important, but How Important*, IT'S YOUR YALE, <https://your.yale.edu/we-know-teamwork-important-how-important> (last visited June 11, 2025).

200. Stephanie Davis, *The Importance of Team-based Health Care*, HEALTH E CAREERS (Nov. 9, 2023), <https://www.healthcareers.com/career-resources/on-the-job/the-importance-of-team-based-healthcare>.

201. Misra-Hebert et al., *supra* note 185.

202. Podolny & Hansen, *supra* note 198, at 7 (emphasis added).

Essentially, teams can create powerful dynamics capable of producing tremendous results. The quarterback does not usually kick field goals, and the tight end does not usually throw passes, yet each member of the team contributes to the offensive effort subject to the leadership of the quarterback (FA). Further, each offensive team (Felony Trial Team) takes direction from the coach (Elected State Attorney).

3. Proposed Strategy

The teams envisioned by this Article require defined structure, leadership, and accountability. Tactical teams with an authorized level of autonomy, authority, and accountability led by the FA could be immensely powerful. Naturally, all assistant state attorneys serve at the pleasure of the elected state attorney.²⁰³ As such, they are subject to each Office's policy and established chain of command.²⁰⁴ However, these professional attorneys are generally given significant latitude in their decisions to prosecute, plea, or nol pros charges. Similarly, the FA should be afforded latitude to structure legal support teams around them to perform their roles most effectively.

At first blush, the idea of paying higher salaries and adding staff would seem to be a counterintuitive solution to a problem beginning with budget problems. But these concepts, when coupled with a detailed staffing plan, could promote both economic and procedural efficiency in the Offices. Experienced and talented attorneys are not available because of compensation, case load, student debt, and probably other reasons not so obvious, but unique to each office.²⁰⁵ However, there seems to be a consensus that compensation is a key factor.²⁰⁶ Many people are aware of the 80/20 rule.²⁰⁷ "80% of results come from 20% of the action."²⁰⁸ While this may not always be correct, it points to the simple concept that elite staff are typically in lower percentages and account for the

203. Each assistant state attorney is appointed by the state attorney, serves at their pleasure, and is appointed with the powers of the State Attorney under the State Attorney's direction. FLA. STAT. § 27.181(1)-(2) (2023)

204. *Id.*

205. *See, e.g.,* Ash, *supra* note 7.

206. *Id.*

207. Kevin Kruse, *The 80/20 Rule and How It Can Change Your Life*, FORBES (Mar. 7, 2016), <https://www.forbes.com/sites/kevinkruse/2016/03/07/80-20-rule/>.

208. *Id.*

greater share of results. Thus, it makes sense to pay the highest quality attorneys with leadership skills higher salaries to encourage retention.²⁰⁹ Those high-achieving leaders then will serve as FA prosecutorial team leaders, delegating tasks as appropriate to dispose of cases in accordance with the professional standards.

Prosecuting attorneys available to the Offices have been a scarce resource for a number of years.²¹⁰ When a resource is scarce, there are only a few options available to deal with the scarcity: 1) pay more than other parties for that resource, 2) reduce output, or 3) find a substitute for that resource. While it is not possible nor prudent to delegate all prosecutorial activities, there are tasks that make up the total hours devoted to case management that can be delegated to non-attorneys. In fact, one of the ABA's ten fundamental lawyering skills is "organization and management of legal work."²¹¹ A trained attorney is not always the most effective and efficient person to perform all tasks in the prosecutorial function. However, they are the ideal person to lead a prosecutorial team, presuming they develop good leadership, management, and quality control skills. Offices should consider strong management skills when considering which attorneys to pay the highest salaries and lead prosecuting teams. Strong management skills are an extremely important element in the team paradigm. Under the Article's recommended solution, the FA will retain responsibility to personally perform those tasks that are mandated by professional standards for him to perform. The FA will also choose

209. It is common practice to divert funds from a budgeted attorney position to raise salaries in an office in order to attract and retain attorneys. *See, e.g.,* Ash, *supra* note 7.

210. *See, e.g.,* Gibson, *supra* note 197.

211. E. Eugene Clark, *Legal Education and Professional Development - An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap (Illinois: American Bar Association 1992)*, 4 LEGAL EDUC. REV. 201, 210–11 (1993) ("Skills 9: Organizations and Management of Legal Work. In order to practice effectively, a lawyer should be familiar with the skills and concepts required for efficient management, including: 9.1 Formulating goals and principles for effective practice management; 9.2 Developing systems and procedures to ensure that time, effort and resources are allocated efficiently; 9.3 Developing systems and procedures to ensure that work is performed and completed at the appropriate time; 9.4 Developing systems and procedures for effectively working with other people; 9.5 Developing systems and procedures for efficiently administering a law office.").

to perform certain tasks to ensure that critical work is accomplished in a proper manner.²¹²

B. Productivity and Economic Benefits of Team Development

1. Benefits of Team Development

The assessment and prosecution of a criminal case takes a certain number of professional hours. Many of those hours must be utilized by a licensed attorney. However, not all tasks need to be performed by an attorney personally. The FA may instead oversee many functions. For example, drafting a subpoena, organizing evidence, summarizing evidence, following up with law enforcement, organizing meetings, scheduling depositions, and researching caselaw are just a few common functions non-attorneys may perform. When non-attorneys are able to execute these tasks competently and efficiently, the FA will be free to focus on other mission critical tasks specifically suited to the attorney's skill set.

Managing teams of other professionals: legal assistants, legal interns, accountants, investigators, criminologists, and the like permits the experienced FA to delegate tasks. Even better, it provides the FA with a team to sound ideas, develop strategy, and identify gaps in the professional effort. A law degree is not the only path to good ideas and quality work. The team-based approach allows individuals to become subject matter experts and elevate their work to the highest level of their ability. Permitting the attorney to delegate certain tasks will promote a more profound consideration of cases. All of this would be possible because individuals will be working at each of their highest knowledge-based skill level in an effort to accomplish a common goal.

Economic theory explains that an organization is most efficient when people work at their highest level of ability.²¹³ Division of labor is a fundamental precept of efficient production

212. See Judge Louise W. Flanagan, *View from the Bench: US District Judge Louise W. Flanagan of the Eastern District of North Carolina*, THOMSON REUTERS PRAC. L. LITIG. (Oct. 1, 2017) (explaining that she learned not to delegate certain tasks).

213. See *The Works of Adam Smith*, ADAM SMITH INST., <https://www.adamsmith.org/the-wealth-of-nations> (last visited June 11, 2025) (citing SMITH, *supra* note 180, "[P]roductive capacity rests on the division of labour . . . Huge efficiencies can be gained by breaking production down into many small tasks, each undertaken by specialist hands.").

and delivery of services.²¹⁴ This team-based approach is not intended to silo people but rather make efficient use of scarce economic resources. Becoming a lawyer is expensive and time consuming, limiting the pool of intellectual talent.²¹⁵ When an attorney can delegate key aspects of the prosecutorial process to different team members freeing them up for more complex issues and appearances in court, efficiencies are gained.²¹⁶

The Team-based Paradigm provides a number of benefits:

- 1) Builds a cooperative environment where members of the team are part of something greater than themselves. This enables retention.²¹⁷
- 2) Improves effectiveness and efficiency in managing cases by assigning the most appropriate team member to a particular task.²¹⁸ This enables a more effective prosecutor.
- 3) Diversifies the intellectual talent available to the prosecutorial team, enabling a lead attorney to delegate work.²¹⁹ This enables the Office of the State Attorney to continue to function at a high level.

There are tasks that must be accomplished to dispose of a case. Many of those tasks are organizational and may be accomplished by individuals with critical thinking skills. To the extent non-lawyers can organize, research, present, and support an attorney's efforts, there are economic and resource availability-based reasons to choose that path in staffing. Recall that there are approximately

214. *See id.*

215. *Projected Law School Debt for 2024 New Students*, *supra* note 166.

216. *See* William L. Turner, *Time Management for Lawyers*, 38 J. MO. BAR 485 (1982) (articulating the benefits and challenges of delegating in the legal profession).

217. Karen Pfeffer, *How Team Building Improves Employee Retention*, FIRE POWER SEMINARS (May 19, 2016), <https://firepowerseminars.com/how-team-building-improves-employee-retention/>; *See also* Evy Rombaut & Marie-Anne Guerry, *The Effectiveness of Employee Retention Through an Uplift Modeling Approach*, 41 INT'L J. MANPOWER 1199, 1200–02 (Dec. 16, 2019).

218. *See* Mirjam Körner, et al., *Relationship of Organizational Culture, Teamwork and Job Satisfaction in Interprofessional Teams*, 15 BMC HEALTH SERV. RSCH., 2015 at 9.

219. *Cognitive Diversity: Know How to Harness It*, STAN. GRADUATE SCH. BUS. (Mar. 28, 2023), <https://www.gsb.stanford.edu/exec-ed/difference/cognitive-diversity> (“Teams that become cognitively divergent for ideation but more convergent for coordination are the ones most successful in delivering their projects on time and to the satisfaction of the customer – Amir Goldberg.”).

86 million degreed non-lawyers compared to 1.3 million lawyers in the United States.²²⁰

2. Team Structures – The Wheel and Spoke Model

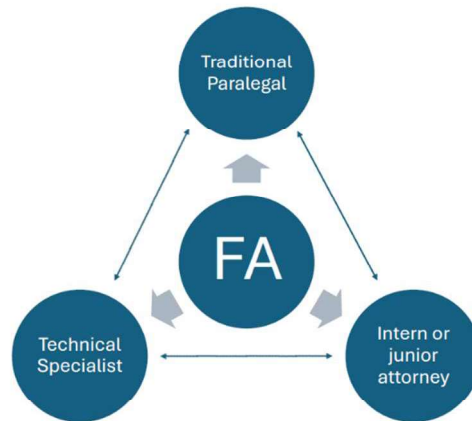


Figure 2

Strategic team models should be structured to suit each particular Office's culture and personnel skills.²²¹ Most are familiar with the traditional top-down pyramid, which is hierarchical in nature and designed for strict guidelines and disciplined organization. It is a top-down method of management where instruction is filtered down through layers of management. However, the spoke and wheel is better suited for the FA prosecutorial team.²²² The strategic felony prosecutor needs a team with structure, to be sure, but nimble with the ability to communicate with each other while always recognizing that the licensed trial attorney is at the center of the wheel.

The FA delegates tasks to their team and information may flow around the center to each team member and to the FA

220. Derived by multiplying 37.9% by 228 million, which equals 86,412,000. See *U.S. and World Population Clock*, *supra* note 157; *Profile of the Legal Profession 2023* *supra* note 159.

221. *10 Types of Organizational Structure*, LUCIDCHART, <https://www.lucidchart.com/blog/types-of-organizational-structures> (last visited June 11, 2025).

222. Mark Neff, *Bright Idea: Spoke & Wheel Organizational Chart*, ASS'N ANIMAL WELFARE ADVANCEMENT (Oct. 22, 2023), <https://theaawa.org/bright-idea-spoke-wheel-organizational-chart/> (articulating why the author switched to the spoke and wheel organization structure: "Clear Focus on Leadership", "Efficient Communication", "Flexibility", "Flat Hierarchy", and "Clarity of Reporting Lines").

permitting maximum communication flow. It is important to remember that in this model all direction comes from the FA who maintains complete authority regarding communication outside of the team about case matters. The best teams will develop written job descriptions specifying lines of authority and responsibility within the team. Organizationally, the model in Figure 2 is only an illustrative tool. Independent Offices may determine there are better ways to structure their dynamic teams to achieve their goal. The illustrative beauty of this model is that it recognizes the autonomy and responsibility of the FA while providing dedicated non-attorney resources to manage the workload. The structure is just the starting point. It merely creates a framework as there are many elements to building a successful team.²²³

3. Team Building Risks

Team building is not without its risks.²²⁴ Team Leaders (FA) must fundamentally understand what it takes to be a leader of a successful team.²²⁵ State attorneys will need to identify those individuals with the skills and personality that can lead successful teams and those that cannot. For example, it might be viewed unofficially or officially that special prosecuting attorneys are the best because these attorneys are assigned the most high-profile cases often involving death or some other brutal attack on a victim.²²⁶ Nonetheless, these talented attorneys may not be suited for the role as a FA charged with leading a team and managing a large volume of cases.

The state attorney will need to be sensitive to differing skill sets among the staff. The word fair is often used in workplace settings. The notion that everyone should be treated fairly is a common reaction to life. While this approach is certainly to be commended and respected, it is very important that in being fair, leaders recognize the different skills and abilities people bring to

223. See MAXWELL, *supra* note 178 at iii-vii (identifying the 17 indisputable laws of teamwork in the table of contents).

224. See *id.* at ix. (articulating that while some teams rise to new heights some teams fail).

224. See, e.g., *Prosecution Units*, *supra* note 36.

225. See MAXWELL, *supra* note 178, at xi (“The one thing you need to know about teamwork is that there is more than one thing to know about teamwork.”).

226. See, e.g., *Prosecution Units*, *supra* note 38.

work. In this type of system, individuality may be recognized to everyone's advantage, or it may be ignored to everyone's peril.

As attorneys and team leaders in this new model, FAs must also understand what can be delegated and what must be controlled personally.²²⁷ This is more of an art than a science, but it is critical to the successful development of a team paradigm in this professional setting. The delegation function may even change as team members change. Not everyone maintains the same work style or personal competency for all tasks.

Change is difficult in most circumstances. This tone rings even clearer in the legal profession where its essence is steeped in tradition and precedent.²²⁸ These traditions are useful, essential even, in building a foundation centered on the rule of law.²²⁹ However, conditions sometimes require the working model to evolve so the purpose guiding the work remains in focus.²³⁰ The Offices should deliberately train the best leaders to manage teams and surround them with competent technical staff. This idea is not simple to execute. It requires a process to find and then retain those individuals best capable to carry forward the idea. Not all staff will embrace or be qualified to work in this team-based environment. Additionally, not all teams will perform at the same level.

4. Effective Implementation of the Team-Based Model

Recognizing that every office will develop its own preferences, a wheel and spoke model might consist of the trial attorney as the hub surrounded by several paralegals or paraprofessionals. This structure may include: 1) a permanent legal assistant trained in paralegal studies, 2) a permanent non-attorney professional with appropriate education and experience to fill a perceived need of the particular Office, and 3) a rotating position filled by a junior attorney, a developing non-attorney professional, or a legal intern.

227. See Judge Flanagan, *supra* note 212 (explaining that she learned not to delegate certain tasks).

228. Felipe Jimenez, *Legal Principles, Law, and Tradition*, 33 YALE J. L. & HUMAN. 59, 59 (2022).

229. *Id.*

230. See, e.g., So-Ang Park, *Reshaping the Legal Profession: The Need for Culture*, EGONZEHNDER (Sept. 2020), <https://www.egonzehnder.com/functions/legal-regulatory-compliance-professionals/insights/reshaping-the-legal-profession-the-need-for-culture> (articulating a need for a cultural shift in the legal profession).

The rotating position is critical to long-term development of this paradigm in the Offices. Depending upon the needs of a particular circuit, these roles may be filled with many types of individuals that have the intelligence and desire to support the prosecutorial function. They are critical to the process because this is a position devoted to developing leaders. The team-based model should contain individuals dedicated to the team on a long-term basis and team members dedicated for a specified period of time as they are developed for future leadership roles.

5. Team Diversity and Composition

There are many undergraduate specializations that might provide value to a trial attorney. Felony criminal cases involve a host of analytical roles that are necessary to evaluate a case and organize evidence. Individuals with degrees in accounting, criminology, forensic science, legal studies, political science, and computer science all possess critical thinking skills. Further, an individual's life experiences enhance their basic education, adding to an individual's abilities. The preferred professional degree is naturally Office dependent. It takes creativity to recognize that critical thinking and organizational skills belong to a broad range of people and can be utilized extensively under the guidance of a seasoned prosecuting attorney.

Recruiting methods and contacts would naturally need to evolve to implement a team-based model and hire an effective team. Recruiting time would be split between law school recruiting and undergraduate recruiting. Where Offices may be currently recruiting outside of Florida to expand its reach to potential attorneys, its recruiting team may stay closer to home and focus on a broader spectrum of graduates. This would probably increase the chances of finding candidates in Florida schools willing to stay in Florida. This has a higher probability of success than finding students in other states looking to relocate to Florida.²³¹

Building teams that function as a prosecutorial unit requires a constant flow of developing talent. Despite the idea of incorporating team members who are not lawyers, the prosecutorial function is dependent upon skilled lawyers. Under

231. Stetson Law reported in its 2022–23 View Book that 82% of its alumni practice in Florida. *View Book 2022-2023* 20 STETSON L. (2022), https://issuu.com/stetsonlaw/docs/viewbook-2022_issue.

the team paradigm, those lawyers must carry an even more diverse skill set, because team leaders must be more than skillful litigators. They must empower, organize, lead, and manage. This makes the developmental aspects of the traditional experiential externship more important. The progressive improvement of the extern-experience should develop and integrate to meet two goals: 1) develop legal team leaders and 2) serve to reduce the cost of a legal education, so that more and better trained lawyers can afford to enter the ranks of the assistant state attorney.

C. Progressive Implementation of the Extern Experience – Tier 2 of a Holistic Solution

1. History of Legal Education in the United States

The legal profession in the United States developed in the eighteenth century primarily through an apprentice style program whereby attorneys “clerked,” developing their skills under the guidance and tutelage of senior attorneys.²³² This system, like all systems, is imperfect. As with most aspects of life, all experiences are not created equally and, in that paradigm, there was little structure prohibiting senior attorneys from prioritizing the needs of their law practice over the educational aspects of their apprentice.²³³ Despite the former prominence of the apprentice training model, reading and study have always been an important aspect of training to be a lawyer.²³⁴

The extent of that reading education has evolved over time with the natural variance that occurs by location and teacher. Thomas Jefferson, convinced the study of law should be based within the university system, established the first professorship at William and Mary.²³⁵ The first law school was founded in Litchfield, Connecticut.²³⁶ From there, law schools began to develop. However, “reading the law” through apprenticeships remained the primary path to becoming a lawyer in the United States through the nineteenth century.²³⁷ “Law office study was a

232. Brian J. Moline, *Early American Legal Education*, 42 WASHBURN L.J. 775, 780 (2004).

233. *Id.* at 781–82.

234. *Id.* at 780, 784.

235. *Id.* at 792–93.

236. *Id.* at 795–96.

237. *Id.* at 801.

viable option to law school in Kansas until well into the twentieth century.”²³⁸

United States law schools have since replaced the apprentice-based education model of the 18th and 19th century.²³⁹ While lawyers develop their knowledge primarily in academic settings, traditional classroom settings only provide some of the skills necessary to succeed as a lawyer. This need led the ABA to mandate accredited law schools to require six hours of experiential learning.²⁴⁰ As such, externships and clinics have become part of the academic experience. However, the ABA only mandates six hours of experiential learning, and six hours over the course of legal education represents only 7% of the total hours.²⁴¹ Some law schools have embraced the ABA mandate, making it a key aspect of the curriculum.²⁴² One unfortunate downside is that for many externships, especially government externships, the law student generally remains unpaid.²⁴³

Despite the resurgence and growing importance placed on experiential learning, the unpaid nature of government internships and externships remains a quandary.²⁴⁴ Most often the unpaid externship is a result of a choice by the governmental institution to not pay interns.²⁴⁵ However, some schools mandate that legal externs may not receive both academic credit and compensation from a governmental institution, even if the government agency has the funding and is willing to pay the students.²⁴⁶ This economic ingredient in the recipe of making great

238. *Id.*

239. *Academic Rules Policies and Procedures for the JD program*, FLA. STATE UNIV., <https://law.fsu.edu/academic-rules-policies-and-procedures-jd-program> (last visited June 11, 2025); see also *Admission Requirements*, *supra* note 108.

240. *The Six-Credit Experiential Learning Requirement*, EMORY L., <https://law.emory.edu/academics/experiential-faq.html> (last visited June 11, 2025) (“The ABA’s Standard 303 mandates that an accredited law school must offer a curriculum that requires each student to satisfactorily complete at least one or more experiential courses totaling at least six credit hours.”).

241. Six hours divided by Emory’s ninety semester hour requirement approximates 7%. *Id.*

242. *Clinical Experience and Education*, STETSON L., <https://www.stetson.edu/law/academics/clinical-education/> (last visited June 11, 2025).

243. See, e.g., Kelsey Ables, *Unpaid Internships Have Been Criticized for Years, Why Are They Still Around?*, WASH. POST (June 22, 2023), <https://www.washingtonpost.com/business/2023/06/22/unpaid-interns-employment/>.

244. *Id.*

245. *Id.*

246. See, e.g., *FAQ Clinics and Externships: Are Clinics and Externships Paid?*, STETSON L., <https://www.stetson.edu/law/academics/clinical-education/faq.php#Q18> (last visited

lawyers significantly impacts the public sector's ability to draw in qualified attorneys, particularly following three years of growing student debt.

2. Convert the Third Year of Law School into a Paid Clinic

It is recognized that the Offices of the State Attorney and Public Defenders provide an opportunity to develop great trial skills.²⁴⁷ It is time to leverage that great forum through proactive change that might reduce the economic burden carried by students and lighten a heavy workload carried by the judiciary. This Article suggests that Florida law schools, through ABA standards, permit 3L students to perform their last year of law school as a paid Certified Legal Intern (CLI) with the state through either the Offices of the State Attorney or the Public Defender. The program could and should be through an ABA accredited institution, so that law schools may ensure that the CLI program meets structured educational standards.²⁴⁸

Students should be paid for their CLI work, and they should be able to fund their third year of law school through a salary. That salary should be less than a licensed attorney, but greater than an unskilled nonprofessional role. In other words, a CLI should be able to live on their salary, thereby reducing the debt load the last year of law school.

For the state, this process would welcome a potentially significant segment of the student body into their midst. They would gain the benefit of more CLI attorneys prosecuting misdemeanor cases. They would gain the benefit of identifying the best potential candidates while these CLIs are prosecuting misdemeanor cases. If students were empowered to work as a CLI under the conditions of earning credit and a paycheck at the same time, the Offices might be flooded with CLI applications. The first

June 11, 2025); see also Carolyn Young Larmore, *Just Compensation: An Empirical Examination of the Success of Legal Externships for Pay and Credit*, 70 DRAKE L. REV. 145, 147–48 (2022).

247. New licensed attorneys working at the Florida Offices of the State Attorney begin prosecuting misdemeanor cases soon after starting work. Since each misdemeanor attorney manages about 300 cases per year there is ample opportunity to gain courtroom experience. See, e.g., *Assistant State Attorney*, STATE ATTY'S OFF. TWELFTH JUD. CIR., <https://www.sao12.org/careers/assistant-state-attorneys/> (last visited June 11, 2025).

248. Admission to the Florida Bar requires that the applicant have a "Doctor of Jurisprudence degree from an American Bar Association Accredited Institution. *Admission Requirements*, *supra* note 108.

semester of a program like this will involve a significant amount of training, but by the second semester, certified legal interns could be contributing at an effective level. This model would address the following challenges:

- 1) Cost of recruiting – the additional staff in the misdemeanor division would allow a focused recruiting effort internally, minimizing travel costs out of state.
- 2) Debt load – students who might otherwise not be able to work or work at non-attorney type positions during law school may be able to reduce the level of debt incurred during their third year.
- 3) Reduced cost of disposing of misdemeanor cases - CLIs working after their first semester will be earning less money than a licensed attorney but may be able to dispose of misdemeanor cases effectively, thereby reducing the per case cost at the Offices.
- 4) Reduced training cost of new licensed attorneys. Since much of the training will be taking place while the new staff member is a CLI at a lower cost, that learning curve will not take place at a higher intake cost of a licensed attorney.
- 5) Continuity of employment. Attorneys seeking to work at the Offices will be able to continue work, while waiting for bar results.²⁴⁹
- 6) Faster promotion to felony division. CLIs that perform well in misdemeanor may be eligible for faster promotion to the felony division to serve as part of the team model.

Not all of the CLIs under this proposed education model will seek permanent employment with the state, but those that do will have spent a year being trained, dedicating hours to the mission, and ready to engage fully upon passing the bar exam.²⁵⁰ It has been anecdotally demonstrated that public service minded law students

249. Jim Ash, *Supreme Court Expands Certified Legal Intern Program*, FLA. BAR NEWS (Feb. 16, 2024), <https://www.floridabar.org/the-florida-bar-news/supreme-court-expands-certified-legal-intern-program/>.

250. The Florida Supreme Court expanded the certified legal intern program by “extend[ing] the maximum term of certification for the continuation of the practice program under the supervision of a Florida Bar member after graduation from law school The change is intended to assist the avowed quest for experienced persons, while affording protections to the public.” Ash, *supra* note 249 (“The change, is intended to assist in the avowed quest for experienced persons, while affording protections to the public.”).

participating in clinics have a tendency to continue along that path.²⁵¹ This makes sense, in that momentum and direction often keep individuals on a particular path in life, especially if there is an emotional predisposition for a particular calling.²⁵² The notion of reevaluating the licensing process and expanding the path to practicing law is not new, and some states have advanced concepts by evaluating alternate paths to licensing of attorneys.²⁵³ The two-tiered concepts identified in this Article are innovative in that they leverage proven methods creating broader paths to the practice of law.

CONCLUSION

Many people want to serve, but it takes creativity to recognize the critical thinking and organization skills of non-attorney professionals that can be utilized extensively under the guidance of a seasoned prosecuting attorney. Legal traditions are useful in building a foundation centered on the rule of law. However, conditions sometimes dictate that working models evolve. Evolution is necessary to take advantage of technological development and adjust to social change.

The team-based approach will create flexibility in prosecuting cases when attorneys are not plentiful. The model will permit increased attorney compensation at the experienced level as the team builds around a seasoned manager. The model will allow the Offices to build professional teams, utilize non-lawyer professionals, and—with enough vision—develop a paradigm that could mitigate the pervasive high cost of legal education.

251. Rebecca Sandefur & Jeffrey Selbin, *The Clinic Effect*, 16 CLINICAL L. REV. 57, 57 (2009).

252. See Robert Frost, *The Road Not Taken*, POETRY FOUND. (1915), <https://www.poetryfoundation.org/poems/44272/the-road-not-taken> (“And both that morning equally lay. In leaves no step had trodden black. Oh, I kept the first for another day! Yet knowing how way leads on to way, I doubted if I should ever come back.”).

253. “Several states have considered changing their bar exams or even replacing them with experiential alternatives. One state that is far along in the reform process is Oregon, whose Supreme Court conceptually approved two alternative licensing pathways. One alternative, the Supervised Practice Portfolio Examination, will allow candidates to perform an apprenticeship after graduating from law school and then submit a portfolio of their work to the state’s Board of Bar Examiners (BBX). A second alternative, the Oregon Experiential Portfolio Pathway, will incorporate case experience in the second and third years of law school from which students could create a portfolio for BBX review.” Marc Joffe, *States Pursue Alternative Licensing Pathways for Lawyers*, CATO INST. (Mar. 28, 2024, 3:25 PM), <https://www.cato.org/blog/states-pursue-alternative-licensing-pathways-lawyers>.

Expanding the legal externship to serve as a replacement to the third year of law school, promotes the modern embrace of experiential learning and reaches backward to recognize the value that reading the law in the 18th century provided as an economic necessity.