

**Pima County Attorney Barbara LaWall**  
**2018/2019 Budget Presentation**  
**May 1, 2018**

Mr. Chairman, Members of the Board, and Mr. Huckelberry, it is my honor and privilege to appear before you for my departmental budget presentation.

I want to begin by expressing my great appreciation for the County Administrator's recommendation of a 2.5% compensation increase for our employees.

As you are well aware, our salaries are far under market for many positions, and while this compensation increase will not move our salaries to the median in the market, particularly for attorneys, it will nevertheless help our employees and will make a significant difference to them. Many of our hard-working employees work multiple jobs just to make ends meet. We believe the salary increase will help facilitate recruitment and retention of outstanding employees.

I had urged in my budget memorandum that there be a salary increase, and I hope you will approve the County Administrator's recommendation for the salary increase.

I will now ask my Chief Deputy, Amelia Cramer, to provide a recap of some of our major accomplishments during the past year, including our criminal justice reform efforts, and then to discuss each of our supplemental budget requests. Legal Administrator Dave Smutzer is here with us, and he will be available to assist in answering any questions you may have at the conclusion of this presentation.

**Major Accomplishments during 2017/2018 – achieved with funding from Board of Supervisors**

***a. Civil Division***

The two-dozen attorneys plus support staff in the Civil Division, led by Andy Flagg, serve as in-house legal counsel to Pima County government, including this Board. They advance the County Attorney's goals, which are to provide excellent legal representation and counsel to Pima County and to promote and support ethical, effective, and efficient government operations. In doing so, they ensure the proper *legal* means of ensuring the *policy* objectives of the Board. In addition to handling the legal work related to numerous transactions, including contracts and leases, as well as county policies, procedures, and ordinances, the Civil Division represents the county in litigation.

***i. Civil Division - won major litigation this year for the Board***

1. Successfully defended the County's economic-development agreement with World View Enterprises against a challenge by the Goldwater Institute contending it was entered into without

complying with an Arizona Statute. The Court of Appeals accepted arguments made on behalf of the County by lawyers in our Civil Division demonstrating that the County complied with the economic-development statute in entering into the agreement.

2. Civil Division lawyers also successfully obtained a reversal from the Court of Appeals of a jury's liability determination that resulted in a \$5.2 million judgment against Pima County. The matter has now been remanded to the trial court and will be set for retrial without the use of improper evidence.

**b. Criminal Division - many successes this year**

In addition to representing Pima County in civil legal matters, the County Attorney represents the State of Arizona in criminal matters. The County Attorney's primary goals with regards to responding to crimes and alleged crimes are to provide Justice, Accountability, and Empowerment – Justice for the accused, Accountability for those convicted, and Empowerment for victims of crimes.

The County Attorney targets violent and dangerous criminals for aggressive prosecution to protect public safety. She provides therapeutic interventions as the form of accountability with compassion through Diversion, Drug Court, DTAP and mental health court for those suffering from addiction and mental illness.

And the County Attorney ensures that comprehensive victim services are provided, by her staff and volunteer advocates, to those who have suffered physical, financial, and emotional injuries as a result of the crimes perpetrated against them.

**c. Felony Trials – targeting violent/dangerous offenses**

- i. 74% of the County Attorney's felony jury trials this past year involved violent and dangerous offenses (homicides, sexual assaults, armed robberies, etc.), 14.3% DUI, 7.9% Property, under 5% other (just 3.8% drug cases – all sales; none personal possession)

**ii. A couple of specific case examples:**

1. *State v. Ruben Duran Munoz* – Mr. Munoz was upset with his former employer, John Kai. While meeting with Mr. Kai and longtime officer manager Sally Velazquez, Munoz got angry and said he was going to kill them both. He pulled out a gun, and shoved Ms. Velazquez against a partition with all his strength; she found herself temporarily unable to get up from the floor. He then shot Mr. Kai in the chest and, after hunting through the

office for other employees, came back and shot Mr. Kai again in the head. One bullet caused Mr. Kai permanent injury to the roof of his mouth and the loss of his eye. The other bullet went through his chest and arm. At trial, a jury convicted Munoz of one count of one count of Attempted First Degree Murder, Attempted Manslaughter, two counts of Aggravated Assault with a Deadly Weapon, one count of Aggravated Assault Causing Serious Physical Injury, and one count of Burglary in the First Degree. On March 26, Mr. Munoz was sentenced to a total of 18 years in prison for these violent crimes.

2. *State v. Jarrad Barnes* –Last month Mr. Barnes was tried and found guilty by a jury for homicide and other crimes he committed on Saturday morning May 7, 2016 when he drove erratically with multiple drugs in his system, causing a horrific crash that injured Edward Franklin, totaled two vehicles, and killed former Supervisor Ann Day. It has been two years this week since Supervisor Day was killed. Mr. Barnes is scheduled to be sentenced on May 14<sup>th</sup>.

**d. *Victim Services***

- i. The County Attorney’s highly trained staff and volunteer victim advocates provided court advocacy, sitting with the victims through these and other trials, assisted with victim compensation, and responded to crime scenes 24/7, 365 days of the year to provide assistance to victims of crime. 1,820 crime victims received these services in 2017.
- ii. Two awards were recently presented by the Arizona Prosecuting Attorneys Advisory Council and the Arizona Attorney General to the County Attorney’s Victim Services Division staff and volunteer crisis advocates for services provided to victims of the mass shooting in Las Vegas — we would like to submit a link to a 3-minute video to include in the record.
- iii. New evidence-based, statistically validated DV Intimate Partner Risk Assessment implemented; training for law enforcement, prosecutors, victim advocates. Pima County Attorney led a statewide initiative and has a state-of-the-art multi-agency protocol to serve all victims at elevated or high risk.

**e. *Dealing with Gun Crimes – prosecution and prevention efforts***

- i. Prosecution of those who commit gun crimes to protect public safety

- ii. Free gunlocks – 6,615 distributed in 2017; more than 80,000 distributed since the inception of the program – to prevent accidental shootings and guns getting into the hands of children
- iii. Title 36 Civil Commitments to court-ordered mental health evaluation and treatment - around 2,000 in 2017 – also help in prevention efforts

**f. #Me Too**

- i. Special Victims Unit handles prosecutions of sexual predators, including those who have preyed on children – just obtained a jury conviction at trial last week of a man who sexually abused his two young daughters over a period of years, traumatizing and devastating them and destroying their childhoods. Sadly, this was not the only parent or family member who committed unspeakable acts against children whom we prosecuted this year. We also see sexual assaults committed by strangers. One case example:
- ii. *State v. Abraham Garcia* – [No plea offered] On March 2, 2016 at around 11:00 am, victim M.P. was walking home from Wal-Mart on a footpath, pushing her 3-month old baby in a stroller. Mr. Garcia came up behind her and put a gun to her head. He directed her to take the baby out of the stroller and go down into a nearby wash into a tunnel under the road. Mr. Garcia made M.P. walk in the pitch-black drainage tunnel for about a mile at gunpoint, carrying her baby. He then directed her to stop and disrobe. She was struggling with disrobing while holding her baby, so Mr. Garcia grabbed the baby from her and put him on a baby blanket on the ground of the tunnel. He then sexually assaulted M.P. in multiple ways. M.P. could see the graffiti overhead that read, “Welcome to Hell.” When the baby started crying, Mr. Garcia stopped the assault. He directed M.P. to pick up her baby and start walking back the way they came. As they neared the opening of the tunnel, he directed M.P. to put her clothes back on, again grabbing the baby from her so she could get dressed. He then fled on foot. Meanwhile, M.P.’s boyfriend got worried that she wasn’t home yet. He went looking for her and found the stroller abandoned on the pathway just blocks from their home. He called 911. As M.P. came out of tunnel, bloody and holding her baby, she heard her boyfriend calling for her. TPD responded quickly and officers were there as her boyfriend helped her and the baby out of the wash back to the pathway. The TPD case detective responded to the hospital where M.P. was examined and submitted to a sex assault exam. M.P. remembered that Mr. Garcia had picked up a spray paint can along the way. The case detective relayed that to other detectives on scene. They had the scene locked down and were able to locate a spray paint can. That can was

examined for prints. The prints came back to Mr. Garcia. The next day, Mr. Garcia was arrested. Later, his DNA came back a match to the swabs from M.P.'s sexual assault examination. We did not offer a plea in this case, seeking maximum accountability. At trial, the jury found Mr. Garcia guilty of all counts, and the judge sentenced him to 59 years in prison.

- iii. The County Attorney's goals were achieved in these cases by taking them to trial: full Accountability for these predators, and Empowerment of their victims through the criminal justice process, transforming them into survivors.

***g. Neighborhood Crimes***

County Attorney LaWall just established a new Community Protection Bureau – geographic-based units aligned with TPD and Sheriff geographic districts; to afford better sharing of information on crime drivers in neighborhoods. Will report next year on the results.

***h. Opioid Epidemic***

- i. Aggressively prosecuting drug traffickers and dealers involved in importation and bulk transportation of meth, heroin, and fentanyl, as well as local distributors and drug dealers, especially those selling to children and teens in schools and parks. Yesterday, one dealer pled guilty to negligent homicide for providing a fatal overdose of fentanyl to one of his customers.

***Criminal Justice Reform - 10 projects this past year***

The Pima County Attorney has assigned multiple professionals in her office to devote a significant proportion of our time to criminal justice reform projects. We completed 10 criminal justice reform projects this year:

1. **New Felony Drug Diversion Program** implemented with new state and federal funding support, in collaboration and cooperation with Community Bridges, Inc. (CBI) and the Public Defender's Office – approximately 70 participants enrolled since November 2017; only 7 have failed; the remainder are actively participating in their assigned treatment, with 11 having successfully completed the program so far
2. **Expansion of DTAP eligibility criteria and participants** – now allow participation not only for those who have repeatedly been convicted of dangerous or narcotic drug possession, but also for those involved in hand-to-hand sales or certain felony property crimes when those crimes are committed to support the addiction

3. **A project to expedite misdemeanor case dispositions** and to expand participation in the County Attorney's misdemeanor diversion programs. This involved our misdemeanor supervisor coordinating with Justice Court Administration (Judge Watters, along with Court Administrators Lisa Royal and Micci Tilton) to implement a new, consolidated misdemeanor Arraignment Calendar, and also implementation of a new process to provide expedited in-office, pre-Arraignment case review.  
A total of 62% of misdemeanor cases are now resolved at arraignment (dismissal, diversion, or plea).
4. Ms. LaWall assigned multiple misdemeanor prosecutors to participate in multiple after-hours monthly night and weekend **warrant resolution court events** at Justice Court
5. Independent of night and weekend warrant resolution court events, our misdemeanor prosecutors reviewed thousands of outstanding warrants and filed motions resulting in the **quashing of 1,138 misdemeanor warrants**, as well as the dismissal of several hundred of the older cases altogether
6. The Pima County Attorney took the lead in initiating and facilitating the establishment of a **UofA Law School Clinic for those arrested for Driving on a Suspended License (DSL) for failure to pay fines and fees** - in collaboration with the Tucson City Public Defender - to help defendants not only with resolution of the warrant and the court case, but also with getting their driver's license reinstated
7. In November, the Pima County Attorney hosted the **national Leadership Institute on "Prosecutors as Change Agents"** paid for by the MacArthur Foundation and organized by the national Association of Prosecuting Attorneys – PCAO was the first among the MacArthur Safety + Justice Challenge prosecutors to be asked to host the Leadership Institute, because PCAO is a leading prosecution office in criminal justice reform nationally
8. Participated in the events and public forum sponsored by **The Atlantic** addressing the Safety + Justice Challenge
9. **Published a joint Op-Ed with the Public Defense Services Director** promoting public support for our collaboration and cooperation in Criminal Justice Reform efforts
10. **Active participation on all Safety + Justice Challenge data collection projects, committees, the community collaborative, and new projects to address Jail super-users and house the homeless. The Pima County Attorney also allocated personal to provide assistance with grant writing** to County Administration to obtain funds to facilitate further Criminal Justice system reforms

**Supplemental Budget Requests – *Reducing our requests here from four supplemental requests to just two, and reducing the amounts of each of those, cutting the total requested from more than \$800,000 to a new total of just over \$200,000 – an increase that would add less than 1% to our General Fund budget:***

1. ***Victim Services request (E) – Withdrawn:*** This request sought contingency funding to add staffing to address the increased volume anticipated from the new DV risk assessment being utilized at all DV crime scenes, now including misdemeanor crime scenes, due to private grant funding obtained from The Tucson Foundations - for this year – which will pay for that added staffing
2. ***Charging Unit Staffing (C) – Deferred:*** As we have done with misdemeanors, the County Attorney’s Office has been looking for ways to expedite case processing of felonies. This was just one suggestion. Various means are being now being explored by the Safety + Justice Challenge, with technical assistance from two outside agencies, to determine how best to expedite case processing for felonies. Maybe this supplemental request can be re-evaluated later this year after the outside evaluations have been completed in the context of the recommendations provided by the technical experts. We will discuss this further with Ms. Petersen and Mr. Huckelberry at that time if appropriate.
3. ***Victim Services request (D) – Reduced:*** This request seeks overtime funding based upon Fair Labor Standards Act changes effective 2016. The amount needed was estimated in the late fall. *With updated information, a revised estimate indicates this request can be reduced to \$50,000.*
4. ***Digital Evidence Processing (B) – Reduced:*** *With updated information, this request also can be reduced from approximately \$254,000 to \$157,429.40:*
  - a. Not just the tablets at the Jail, but also other factors *not* addressed in Assistant County Administrator Petersen’s memo, drive the need for additional staffing and computer hardware and software. One such factor is ***body worn cameras*** used by TPD and some of the other local police agencies. Some video footage includes multiple camera shots lasting multiple hours each at just one crime scene.
  - b. 7 of our 25 paralegals in 2017 tracked footage from 119 BWC currently in use by TPD over a two-month period. They reported a total of 112 hours of footage reviewed in just a two-month period; this translates to an estimated total of 800 hours of BWC footage reviewed in 2017. Redaction takes place in ¼ of the time, so redaction time is estimated at 200 hours. Disclosure takes 1/5 of the time (to download, upload, burn to disc, process for checkout, and resave after redaction) – this is estimated at 160 hours.
  - c. *TPD is looking to quadruple the number of BWC, which would cause us 6,100 hours for review, processing, redaction, and disclosure in 2018-2019. A single*

*staff member works 2,080 hours per year, so that represents **three full-time employees needed just to review BWC footage.***

- d. Also, there is an increasing volume of **video footage taken by convenience stores, retailers, and witnesses to crimes** – many witnesses using hand-held cameras on their phones. This too must be reviewed, processed, redacted, and disclosed to the defense.
- e. And, despite the helpful GTL technology for Jail calls, allowing word searches and transcripts, there still is a need for additional staffing for **Jail call videos** to perform redactions and to review video and to review transcripts and edit them to be accurate enough for use in court and for disclosure. Transcripts and word-search capability alone are helpful but not sufficient. Let me give an example where head gestures and tone of voice would not be captured in auto-generated transcripts or by doing a word search:
  - i. *State v. Ralph (“Pops”) Carter* – On November 6, 2016, victim Juan “Martin” Cuen-Amavizca picked up Mr. Carter from a day labor site to help with renovating a house in midtown Tucson. Later that morning at the job site, Mr. Carter severely bludgeoned Martin in the head and body with a large metal stake used for forming concrete. Leaving Martin to die, Mr. Carter stole his wallet, cash, ID, and work truck. Martin was found a short time later by friends/co-workers, but he died from his injuries soon after arrival at the hospital. Later the same day, driving the stolen truck, Mr. Carter led police on a dangerous high-speed pursuit lasting more than 30 minutes before he was apprehended. He had Martin’s ID and cash in his pockets, and blood with DNA matching Martin on his shoes. In a recorded jail visitation with his girlfriend, Mr. Carter told her the State would have to prove the shoes he was wearing with the blood on them were his, but he said to her that they were not. His girlfriend, obviously not understanding he was urging her to lie, said he had been wearing his blue and white Nikes the day of the murder; these were the shoes with the victim’s blood on them. Mr. Carter then called her an idiot and literally shook his head in disbelief. He told her no, those were not his shoes, and got her to agree with him, using facial gestures as cues to her, including eye rolling and winking. Prosecutors played the video clip from this video recording at trial and relied upon it heavily in argument. At trial, Mr. Carter was convicted of first degree murder, armed robbery theft of means of transportation, and unlawful flight from law enforcement, for which he was sentenced to natural life in prison. After the trial, members of the jury told prosecutors this video clip was more powerful evidence of guilt than the DNA. Estimate of 3,505 jail calls for 2 month period; estimated



time for review only is 379 hours; adding redaction / upload / download / disclosure time at ¼ is 94.75 hours. GTL technology will not alleviate that process.

We hope the Board of Supervisors will fund at least the computer hardware and software needed for body worn camera review, plus three of the five requested support staff positions presented in this supplemental request. The computer hardware and software costs are \$38,000 (this is for redaction software needed for body worn camera video footage). Salary and ERE for each staff member is \$39,809.80. Our original request was \$253,667. *Utilizing the new contract negotiated by the County Administrator and the Sheriff with the GTL technology vendor to provide us access to the software to review Jail recordings, we could probably get by with a reduced amount of \$157,429.40.*

***Accordingly, the County Attorney's requests for supplemental funding for this budget are reduced from our original requests totaling \$832,474 to a total of \$207,429.40 - representing just the reduced calculation for victim advocate overtime and the reduced calculation for processing of digital evidence.***