



Office of the Pima County Attorney Significant Accomplishments 2018

FINANCIAL HIGHLIGHTS

1. The Victim Services Division utilized 120 trained community volunteers to provide crisis and court advocacy services to crime victims. These trained volunteers, working along with our Victim Advocates, contributed 26,041 hours last fiscal year, gifting Pima County with \$502,070.48 in donated victim services. During Fiscal Year 2017-18, volunteers provided services to victims (1,603 crisis victims on-scene and 786 victims through court or in the office).
2. The Crime Victim Compensation Program processed 270 new victim claims and paid out \$467,698.74 from the Compensation Fund and monies received from restitution awards, assisting victims' payments for medical, mental health, lost wages, crime-scene cleanup, transportation, and funeral expenses. Victims also received \$109,976.48 worth of services that did not have to be paid for because staff successfully negotiated discounts with medical and mental health providers, resulting in a combined total assistance of \$577,675.22.
3. The Adult Diversion Program collected \$21,685.61 in restitution and \$130,301.00 in revenue sent directly to the general fund for a total of \$151,986.61 for fiscal year 2017-18.
4. The Bad Check Diversion Program has served a total of 9,440 individuals and merchants participating in the program as victims of bad checks. For Fiscal Year 2017-18, the Program successfully returned \$89,928.63 in restitution to the victims of bad checks. The Bad Check Program continues to be the top program of its kind in the nation and is a pre-indictment program diverting cases from the criminal justice system.
5. The 88-CRIME Program has, since inception, approved \$1,651,670 in cash rewards and assisted in the recovery or seizure of cash and property valued at \$20,159,314; seized drugs valued at \$90,503,851; and 517 weapons. Tips received by 88-CRIME have resulted in 6,022 arrests. For fiscal year 2017-18, 88-CRIME received 3,561 tips assisting law enforcement in protecting our community.
6. The Civil Division Tort Unit has 43 open matters – 9 lawsuits and 14 claims. The lawsuits are in various stages of litigation and were filed in both the state and federal courts. The combined demand in all currently open lawsuits and claims where a demand was made totals \$38,195,001.00.

In Fiscal Year 2017-18, the Tort Unit opened 16 new civil lawsuits and closed 15. Of the 15 that were closed, 12 were resolved by motion, stipulation, or favorable ruling on appeal. Two of three closed cases were resolved by settlement, and one was resolved via an adverse jury verdict and appeal. The total demand in all of the closed cases where a demand was given was \$12,323,919.00. Not every case included a written demand. The total payout in all of the closed cases was \$1,841,435.05 (this figure

includes two settlements and one adverse jury verdict which was affirmed on appeal, saving Pima County at a minimum over \$10,000,000 in Fiscal Year 2017-18).

The types of cases handled by the Tort Unit are often complex. They include claims of wrongful death, serious personal injury, civil rights violations, and lawsuits filed by inmates at the Pima County Adult Detention Complex. The Unit also handles a number of less-serious personal injury cases where a permanent or catastrophic injury is not alleged, such as car accidents involving county employees. A majority of all tort cases are resolved in favor of the County defendants through motion practice. The lawyers in the Tort Unit also work hard to settle cases where appropriate – such as where the claimed damages are high and there is a real risk for an adverse jury verdict. Other cases are successfully resolved via motion practice, trial, or through a successful appeal.

In Fiscal Year 2017-18, lawyers in the Tort Unit briefed and argued cases before the Arizona Supreme Court, the Arizona Court of Appeals, and the United States Court of Appeals for the Ninth Circuit. An example of the skill level of the attorneys in the Tort Unit is an August 2018 decision from the Arizona Supreme Court in favor of Sheriff Mark Napier and Deputy Joseph Klein. The decision was a unanimous (7-0) published opinion in favor of the Sheriff that clarified important legal principles for all law enforcement officers across the State of Arizona limiting both the type of claims that can be brought and the parameters for expert witness testimony in the area of police practices. A full copy of the Supreme Court's opinion can be found at <https://www.jshfirm.com/wp-content/uploads/2018/03/Ryan-v-Napier.pdf>.

In addition to their litigation work, the attorneys in the Tort Unit routinely provide the elected Constables, the Pima County Sheriff's Department, the Pima County Department of Transportation, and Pima County's Risk Management team with ongoing advice regarding active lawsuits, claims, and other matters involving litigation or the potential for litigation. The Tort Unit attorneys also provide training at the corrections' academy, the deputy academy, and for other departments as requested.

7. The Civil Division Tax & Bankruptcy Unit provides legal advice and representation for the Assessor, Treasurer, and the Finance Department's property tax appeal unit. Much of the Unit's efforts are focused on defending property tax appeals and the Treasurer's interest in collecting real and personal property taxes in bankruptcies, forfeitures, eminent domain, and probate cases, as well as her interest in tax lien foreclosure and excess proceeds cases.

During Fiscal Year 2017-18, the Tax Unit filed claims in bankruptcy cases totaling \$604,800.00 and collected \$760,270.41 in real and personal property taxes. During the 2017 fiscal year the Unit handled 1,047 cases consisting of 136 bankruptcy cases, 286 excess proceeds cases, 423 tax lien foreclosure cases, 101 tax court appeals, 41 small claims tax court appeals, and 60 eminent domain cases.

8. In Fiscal Year 2017-18, the civil Forfeiture Unit completed the forfeiture of property seized by Pima County law enforcement agencies (including the Pima County Sheriff, Tucson Police Department, Pima County Counter-Narcotics Alliance, Marana Police,

Oro Valley Police, Pima Community College and University of Arizona Police) in 312 cases, thereby denying to criminals the use of assets for their criminal enterprise and depriving them of ill-gotten gains approximately valued at over \$4.6 million. In addition, this unit handles the forfeiture of criminal appearance bonds. Total criminal appearance bonds forfeited on behalf of the state were \$325,700.

9. Administration staff trained and utilized 247 volunteers in the Pima County Attorney's Office (not including the Victim Services Division Volunteers or Community Justice Board volunteers). Volunteers donated 14,163 hours calculated at \$13.33 per hour, saving Pima County \$188,792.79 in fiscal year 2017-2018.
10. Our Detectives, along with Drug Enforcement Administration (DEA) Task Force detectives, seized from criminal enterprises three residences and six vehicles used in connection with their criminal activities, resulting in assets and currency totaling \$1,000,000.00; DEA Task Force detectives seized over 40 kilos of meth, over 30 kilos of cocaine, 1.5 kilos of heroin, and made nine arrests.

Our Detectives, along with Homeland Security Investigations (HSI) Task Force detectives seized almost 23 kilos of methamphetamine, 21 kilos of cocaine, 50 kilos of marijuana, as well as about 35 kilos of other illicit miscellaneous drugs including fentanyl, \$148,502 in U.S. currency, 24 firearms, 17 vehicles, and made 23 felony arrests (narcotics and money laundering).

CRIMINAL PROSECUTION AND VICTIM SERVICES

1. The Criminal Division, during Fiscal Year 2018, reviewed a total of 10,210 criminal cases presented by 30 federal, state, and local law enforcement agencies primarily throughout Pima County. Pima County continues to maintain one of the higher crime rates per 100,000 populations in the nation, with a crime index of 4,380 exceeding both Maricopa County (3,476) and the state of Arizona (3,300). Moreover, the number of reported homicides in Pima County (63) for calendar year 2017 was a 28.6% increase over the number of reported homicides in Pima County (49) for calendar year 2015. The average caseloads of Felony prosecutors are well above the reasonable range; a year-end snapshot revealed the average felony prosecutor caseload to be 68 (more than double the average caseloads of felony defense attorneys in Pima County's public defense services agencies).

In order to protect public safety, the County Attorney places a priority on taking violent and dangerous offenders to trial. This ensures that they receive prison sentences that will hold them fully accountable and remove them from the community for as long as possible. For Fiscal Year 2017-18, a total of 81.3% of all felony trials involved defendants charged with violent and dangerous crimes, including homicides, aggravated assaults, sexual assaults, armed robberies, drive-by shootings, and felony DUIs.

2. The Misdemeanor Unit handled 18,467 cases with 11 prosecutors (1,690 cases per prosecutor) compared to the City of Tucson, which handled 33,714 cases with 16

prosecutors (2,107 cases per prosecutor). Our misdemeanor prosecutors' caseloads are now at the high end of the reasonable range.

3. The Juvenile Unit was presented 3,480 cases by law enforcement resulting in 2,125 cases filed. Our juvenile prosecutors' caseloads are in the reasonable range.
4. The Detectives Division received 9,077 requests for investigative services, served 2,966 subpoenas, conducted 371 interviews, located 892 victims, located 817 witnesses, and completed 97 special investigations during Fiscal Year 2016-17. The Detectives Division also made 15 arrests.
5. A PCAO detective is assigned to and participates with the Pima County Sheriff's Department Domestic Violence Task Force. During Fiscal Year 2016-17, Domestic Violence Detectives served 302 arrest warrants and made 15 probable cause arrests.
6. The Pima County Attorney's Office addresses domestic violence through specialized prosecution, a dedicated court, and victim advocacy. Domestic Violence Court arraigned 1,486 misdemeanor cases, channeling 640 of the most serious cases for heightened oversight. Victim advocates assisted a total of 1,096 domestic violence victims in court (through Domestic Violence Court) and 720 domestic violence victims on-scene.
7. Victim advocates made 49,509 contacts with 10,633 crime victims, providing 113,344 services (including 24-hour crisis intervention, group crisis intervention, court accompaniment, advocacy, assistance with victim compensation, and referrals to community services) during Fiscal Year 2017-18.
8. In 2012, the Pima County Attorney's Office initiated a Courthouse Dog Program with the addition of Russell, a Golden Retriever and fully-trained service dog. Russell quickly demonstrated his value and the demand was so great that in 2013 we added a second dog, Blake, a Black Labrador with the same training. Both dogs helped victims cope better with their past trauma while reducing the stress they face in the criminal justice system. Russell and Blake complemented other efforts such as our Kids and Teens in Court program. Russell retired in May of 2018, and the County Attorney's Office received two additional court house dogs (Baja and Jones) in the fall of 2018; they are in on-the-job training to provide services in any court in Pima County as well as at the Children's Advocacy Center. Between July 1, 2017 and June 30, 2018, there were 153 cases in which Blake was involved in assisting victims. Of those 153 cases, 18 went to trial. Colleen, a courthouse dog handler, had more than 228 contacts with victims where Blake was involved. Many of these were child victims of terrible abuse. Blake was able to comfort and provide a feeling of safety for these young victims.
9. The Pima County Attorney's Office maintains several multi-agency protocols for the investigation and prosecution of crimes affecting children and families. They are the Multidisciplinary Investigation of Child Abuse Protocol, the Drug-Endangered Children Multidisciplinary Protocol, the Custodial Interference Protocol, the Sexual Assault Protocol, the Domestic Violence Response Protocol, and the Drug Treatment Alternative to Prison Protocol. The protocols are available through the Pima County

Attorney's Office website at <http://www.pcao.pima.gov/>. Periodically these protocols are updated to reflect changes in legislation and service agencies. This fiscal year, the County Attorney's Office has been intimately involved in the revision of the Lethality Assessment protocol within the Domestic Violence Protocol. In December 2017, the Arizona Supreme Court adopted a new rule standardizing the form of "Lethality Assessment" or "Risk Assessment Screening Tool" that may be presented to the court at initial appearances to be used in connection with determining an arrestee's terms and conditions of release. This tool is known as the Arizona Intimate Partner Risk Assessment Instrument System (APRAIS) which is incorporated into the Form 4 (c) to be utilized by law enforcement officers at domestic violence calls involving intimate partners. The APRAIS contains questions determined by the latest intimate partner risk research to determine the potential risk posed by a perpetrator of intimate partner violence for subsequent severe re-assault that could result in serious physical injury or death to the victim. Its use affords courts evidence-based information to guide their decision-making in connection with determining terms and conditions of release for those arrested and accused of intimate partner domestic violence. Moreover, its use affords the opportunity for a survivor-centered approach to identifying and offering services to victims at elevated risk or high risk for future victimization. Finally, its use affords additional information that may be used by prosecutors in prioritizing their cases. The goal of the new tool and the accompanying protocol is to prevent domestic violence homicides and serious physical injury that might occur through re-assault by encouraging the court to impose appropriate conditions upon a suspected perpetrator's release from custody and by encouraging victims to utilize the safety planning, support, and shelter services available to them through community based domestic violence service providers. The County Attorney's Office created and produced a 15-minute video on the utilization of the APRAIS and the connected protocol that was distributed to all Law Enforcement Agencies in Pima County prior to implementation. In addition, advocates from the Victim Services Division accompanied Sergeants from the Tucson Police Department at every officer briefing in order to provide information and answer questions about the protocol for all patrol officers in the Department.

10. The Pima County Multidisciplinary Task Force (MDT) for Child Abuse Prevention is managed by the Pima County Attorney's Office Special Victims Unit and the Southern Arizona Children's Advocacy Center, a non-profit agency that began under leadership from the Pima County Attorney's Office in 1995. In Fiscal Year 2017-18, the Arizona Children's Advocacy Center served 1,368 victims of alleged child abuse and conducted 981 forensic interviews and 165 forensic medical exams. There were 768 case dispositions (including actions that occurred at issuing and after indictment) through the County Attorney's Office for 1,658 child abuse charges. Additionally, 96% of the cases presented at the Advocacy Center were jointly investigated by the Department of Child Services, the Office of Child Welfare Investigations, and law enforcement, ensuring a high level of service coordination across agencies.
11. The Pima County Attorney's Office participates in the Domestic Violence Fatality Review Team (DVFRT). DVFRT is committed to working together in a "no blame, no shame" environment to critically review systems related to a domestic violence homicide in an effort to uncover areas where the response may have been inadequate

and to make systemic improvements going forward. This year, DVFRT expanded its membership to include DV survivors and representatives from the Pascua Yaqui Tribe. This fiscal year, it has taken on another intimate partner homicide and is working to identify and implement recommendations for future interactions within Domestic Violence Cases.

12. In FY2018, the Pima County Attorney's Office and the Pima County Sheriff's Department continued to work together on a P.C. Alert protocol. The collaborative protocol, which began in 2011, connected victims of domestic violence with services and immediate access to Victim Services in the Criminal Justice System upon arrest of the perpetrator. In 2017, the protocol expanded to include arrests made from compliance checks. Currently, the Pima County Sheriff's Department DV Team (which includes a Pima County Attorney's Office Detective) performs compliance checks, which are unannounced visits to locations prohibited to the defendant by the Criminal Courts. Any defendant found to be in violation is arrested and charged. The information is forwarded to the Victim Services Division of the Pima County Attorney's Office for immediate outreach to the victim.
13. The Pima County Attorney's Office continued to facilitate and organize a forensic strangulation exam collaboration with law enforcement, victim services, and the Sexual Assault Resource Team, previously Southern Arizona Center Against Sexual Assault. Through the fiscal year, in appropriate cases, victims of strangulation were offered a free forensic exam to determine whether the victim was injured and to document evidence of domestic violence. Twenty-nine forensic strangulation exams were performed. The forensic strangulation team continues to track the cases, evaluate team agent performance, and discuss best practices to ensure victims are receiving services and cases are being investigated and prosecuted effectively.

CIVIL LEGAL SERVICES

1. In Fiscal Year 2017-18, the Employment & Elections Unit opened 17 employment related cases. These cases were administrative proceedings before the Pima County Merit System Commission and Pima County Law Enforcement Merit System Council, charges before the Arizona Civil Rights Division/Equal Employment Opportunity Commission, and Federal Court and Arizona Superior Court cases. A total of 16 employment cases are currently pending. The Unit closed 18 employment cases in the last year, with no adverse decisions to the County and two monetary settlements. The Unit also successfully defended a lawsuit filed in Arizona Superior Court against Justice Court. In total, the Employment Unit saved the County at least \$50,299,741.80 in demanded claims. In addition to handling this caseload, the Employment Unit provided legal advice and information on a daily basis to Pima County's elected officials and departments, including training all supervisors and managers on implementation of Proposition 206. The legal advice included analysis, research, and assistance in a variety of disciplinary matters and Paid Sick Time, Americans with Disabilities Act, Family and Medical Leave Act, and Fair Labor Standards Act issues.

Additionally, the Unit provided regular legal advice and representation for the Recorder, School Superintendent, and the Elections Department. In 2017-18, the Elections Unit also represented County defendants in a Help America Vote Act administrative grievance (which was denied), a federal challenge to an Arizona elections statute, and 14 candidate petition challenges.

2. The Health Law Unit during the Fiscal Year 2017-18, reviewed, revised, and drafted health-related contracts and managed approximately 2,349 active cases involving petitions for involuntary commitments to the hospitals for mental health treatment which is a significant increase from the previous year's case volume. The Unit provided numerous hours of training to law enforcement agencies and hospitals on the civil commitment process as well as several hours of training to various County departments and community organizations on topics such as legal intervention in tuberculosis cases, and open meeting and public records laws. The unit worked closely with community partners to defeat proposed legislation that would have made the current crisis system unworkable and resulted in poor service delivery for those in crisis. The Unit works with the County's Data Exchange Committee to identify the various data sources in the County's health, community services, and justice systems in order to facilitate the exchange and analysis of that data to improve outcomes for individuals utilizing County programs. Once again, the unit worked to further the safety and protection of the public through the successful prosecution of involuntary TB cases. The Unit continues to work closely with the Criminal Division in relation to non-competent, non-restorable, and guilty except insane defendants.
3. The Sheriff's Legal Advisor Unit responds to requests for legal advice and assistance on a 24-hour, seven days per week basis. During Fiscal Year 2017-18 the Unit provided 100.5 hours of training and reviewed 32 contracts and IGAs. In addition to responding daily to multiple requests for advice, the Unit reviewed approximately 3,702 public records requests.
4. The Business & Transactions Unit (BTU) provides legal advice to most Pima County departments and special taxing districts about all aspects of their operations; assists in the structuring of the County's many business transactions; handles commercial litigation matters, either in-house or with assistance of outside counsel; acts as issuer's counsel on all County debt issuances; and provides PCAO's audit-response letters to the County's auditors. BTU also provides advice and training throughout the County on open-meeting and public-records laws.

Last year the BTU attorneys reviewed, negotiated, and/or drafted hundreds of contracts, contract amendments, ordinances, and resolutions involving complex business and legal issues. They provided legal advice on issues ranging from environmental compliance and liability to state constitutional requirements and business-risk assessment. BTU lawyers are currently representing the County in several lawsuits involving statutory and constitutional interpretation, and have briefed or helped other units brief several significant appellate cases. Among other things, BTU, during the last year:

- a. Finalized the last of the documents for projects funded by major federal Neighborhood Stabilization Program grants. Under this program, over 100 foreclosed properties and vacant lots were rehabilitated or developed for homes available to low-income households.
 - b. Helped complete the donation to Pima County of eight conservation easements covering over 545 acres of land in Alley Valley.
 - c. Won an appeal of an adverse trial court ruling in a case brought by the Goldwater Institute, resulting in a published appellate opinion recognizing counties' expansive economic-development authority.
 - d. Won in the trial court on another aspect of the Goldwater case (which is currently being appealed by Goldwater).
 - e. Worked, and continues to work on, several economic-development deals involving the lease or sale of County-owned property both downtown and at the Aerospace Campus.
 - f. Advised the Board of Supervisors regarding how to interpret amendments to complex school-funding statutes, and how to calculate additional state aid for education in order to avoid taxpayer challenges.
 - g. Filed amicus briefs in both the Court of Appeals and the Arizona Supreme Court in support of the position of the Arizona Department of Revenue and the Arizona Sports & Tourism Authority regarding the constitutionality of a rental-car transaction surcharge used to fund economic development and tourism promotion.
 - h. Assisted in the formation of the first County Community Facilities District in Arizona.
 - i. Participated on behalf of the County in power company rate cases before the Arizona Corporation Commission.
 - j. Participated as issuer's counsel in several debt issuances.
5. The Land Use and Environmental Unit enforces County environmental and land use ordinances, provides legal advice, and defends claims related to County activities in these areas for the County and affiliated entities. The Unit manages an active caseload of both administrative proceedings and matters litigated in state or federal courts. And, the Unit assists the Health Department, the Regional Wastewater Reclamation Department, and the Flood Control District with code enforcement. The Unit also provides representation in defending the County from environmental liability for landfills once owned or operated by the County and is perfecting and defending the County's water rights claims in the Gila River Adjudication, which became significantly more active in Fiscal Year 2017-18.

ADMINISTRATION

1. Client Services continues to provide unparalleled customer service as reflected by an overall satisfaction feedback rating of 94.3%. This number is produced from the Help Desk ticketing system, Spiceworks, through an automated process that provides a user satisfaction survey following each completed service interaction.
2. The Client Services team upgraded Microsoft Windows 10 to version 1803 across all desktop platforms which included security baseline updates, Windows Defender updates, Windows Information Protection and Microsoft Edge security updates to improve our security profile on every desktop device.
3. The Client Services team continues to improve and provide cyber security training to all incoming employees and existing staff on a bi-monthly basis. This training emphasizes the critical nature of data security and the responsibility of each employee to protect organizational data. This training focuses on the use of strong passwords, unauthorized software use, internet use, email, social engineering, phishing scams and social media policy.
4. The Infrastructure team prides itself in its continued ability to maintain an overall network uptime of 99.837%. This number reflects 14.25 hours of total downtime from a single event which is a confirmed PCAO issue and occurred on 8/2/2018. This level of network availability comes from careful attention to hardware and software maintenance schedules, managing multiple redundant resources, and aggressive security management strategies related to constant attack vectors being attempted against our network.
5. The Infrastructure team procured and implemented 96 terabytes of additional storage on the NetApp Storage Area Network (SAN) to offset the rapidly growing needs of the office. This was completed internally by staff, saving the organization nearly \$10,000 in consulting support costs. This growth is primarily a result of body worn camera usage by law enforcement agencies, continued capacity increases in mobile devices, and growth in disclosure file size.
6. The Infrastructure team deployed additional network monitoring software to increase our ability to identify advance threat vectors and respond rapidly to those threats to further reduce our chance of any data breaches. Upon implementation of this software, we were able to immediately identify previously unrecognized threats from state sponsored countries such as China, Russia, Iran, and Lebanon, and respond accordingly to thwart any further attempts from those sources.
7. The infrastructure team removed all network dependencies in the Legal Services Building by moving all equipment from our building and vastly improving our ability to process share data between law enforcement and the courts during power outages. In addition, this also removed the need to maintain support for the SAN, ultimately saving the organization more than \$10,000 in support costs year to year.

8. The Infrastructure team replaced two critical firewalls located at our Juvenile Unit and the Children's Advocacy Center. These firewalls replace hardware that was no longer under support by either the manufacturer or third-party vendors and posed a significant security risk as security patches were no longer published for these devices.
9. The Software Development team completed and implemented a new external version of CAMMS for outside law enforcement agencies and the courts. This new version provides significant required improvements to the interface, substantially improved security, and far more accurate data than previously pervious iterations of this application.
10. The Software Development team completed and implemented a new version of the E-Discovery application for internal users. The new version adds significant functionality from the previous version and offloads the building of disclosure packages to services located on high powered servers. This approach allows users to send packages for processing while freeing up their workstations for other, more critical tasks.
11. The Software Development team developed and successfully implemented an arrest alert system for the Crime Strategies Unit as part of the Intelligence driven prosecution project. This application tracks and monitors defendants being booked into the county jail and alerts prosecutors, staff, and outside law enforcement, in real time, when individuals being tracked and identified are booked into Pima County jail.
12. The Software Development team and the Infrastructure team successfully implemented a WIKI page for the Crime Strategies Unit as part of the Intelligence driven prosecution project. This WIKI enables the Crime Strategies Unit an opportunity to manage any type of electronic information related to an individual on a single, defendant-focused page. This includes images, documents, and data. Each individual page created for the WIKI is produced from a specially developed process incorporated into CAMMS allowing the Crime Strategies Unit to identify and simply generate each initial page.
13. The Software Development team worked closely with the Victim Services Division to create additional functionality for tracking, managing, and reporting APRAIS information within CAMMS for Victim Services.
14. The Software Development team Continues to apply changes to all the applications in the CAMMS eco-system to make workflow and efficiency improvements as requested. This includes CAMMS for Felony, Misdemeanor, Juvenile, Investigation, and Victim Services. We anticipate providing quarterly updates to these application unless an issue arises needing an emergency patch.
15. The Software Development team successfully migrated the remaining 20 years of data from the CAPS database to the CAMMS database reducing the need to maintain multiple data sources for identifying historical information and reporting purposes.

16. The software Development team successfully implemented a Priors add-on component as part of the CAMMS eco-system. This add-on allows for tracking and reporting of all priors information associated to a case in addition to directly integrating with existing case data. This data integration enables felony, juvenile, and misdemeanor staff to view prior requests, activity, results and documents related to priors without leaving the CAMMS application.
17. Administrative Services prepared and submitted, on time, 791 monthly, quarterly, and annual financial reports to federal, state, and local agencies, as well as various departments during Fiscal Year 2017-18.
18. In Fiscal Year 2017-18, Arizona Criminal Justice Commission (ACJC) financial audit compliance staff conducted financial audits for nine state and federally-grant-funded programs awarded to Pima County Attorney's Office. Administration staff assisted ACJC auditors who performed the following functions: 1) compared and verified internal financial reports and records to the reports submitted to the Commission; 2) reviewed program expenditures and traced them through our accounting records; and 3) verified that grant revenue reported was the actual amount of funds distributed by the Commission. There were no instances of non-compliance identified for any of the state and federally-grant-funded programs that were reviewed.

COMMUNITY SUPPORT

1. The Community Justice Board Program, a juvenile diversion program operated by the County Attorney in collaboration with community volunteers, holds juvenile offenders accountable and provides early intervention strategies. Currently, there are 97 adult volunteers participating to operate the program. The 18 Community Justice Boards referred 321 referrals in calendar year 2018. Program compliance in 2018 is 94%. The cases referred to the Community Justice Boards are juvenile cases that are not prosecuted. Successful completion and diversion from prosecution saves the county from defense, court, and probation costs.
2. The Communities Addressing Responsible Gun Ownership Program (CARGO) attended 11 community events and distributed 616 gunlocks in 2018. The "Lock up Your Gun" campaign distributed 4,412 gunlocks to 39 participating community organizations and partners. A total of 5,028 gunlocks were distributed free to the community for calendar year 2018. Since inception of the CARGO and "Lock up Your Gun" programs, we have distributed more than 92,000 gun locks. These gunlocks are paid for with funds seized from criminal enterprises.
3. The Adult Diversion Programs diverted 814 defendants from criminal prosecution providing significant savings to the county and the courts. A new Felony Drug Diversion Program developed in partnership with Community Bridges, Inc. and the Public Defender's Office commenced in September 2017 and enrolled its first participant in November 2017. In its first calendar year of operation, during 2018, the Felony Drug Diversion Program enrolled more than 200 participants. The success rates for the various Adult Diversion Programs

were: 38% for the new Felony Drug Diversion Program, 86% for marijuana and paraphernalia charges, 92% for alcohol charges, 83% for other misdemeanors, and 92% for felonies other than drug possession, with an overall success rate of 84%.

4. The Pima County Attorney's Office, along with the Sheriff's Department and the Tucson Police Department, has taken a leadership role in providing Crisis Intervention Training (CIT) to law enforcement officers throughout Pima County. In the last fiscal year we have conducted three trainings, which included representatives from every law enforcement agency in Pima County (including Pima College, University of Arizona, and tribal police departments). Each training averages about 45 participants, and is a full 40 hour week. This training facilitates safe intervention by law enforcement officers when dealing with individuals suffering with mental health crises.
5. The Pima County Attorney's Office worked closely throughout 2017-18 with the County Administrator, the Sheriff, the Court, Pretrial Services, the Probation Department, and Indigent Defense, as well as the new Criminal Justice Reform Unit, on the MacArthur Foundation Safety + Justice Challenge to assist with implementation of strategies to reduce the Jail population and to eliminate racial disparities in that population. The Pima County Attorney's Office devoted significant staff time and office leadership toward participation in the Community Collaborative and the various committees, as well as attending national conferences and meetings.
6. As part of its commitment to the Safety + Justice Challenge, the Pima County Attorney's Office reviewed and moved to quash thousands of outstanding Justice Court misdemeanor warrants and, in some instances, dismiss misdemeanor cases altogether.
7. Also, as part of its commitment to the Safety + Justice Challenge, the Pima County Attorney's Office established the new Felony Drug Diversion Program in conjunction with Community Bridges, Inc. and the Public Defender's Office, with technical assistance from the Association of Prosecuting Attorneys. PCAO has obtained state funding for the Felony Drug Diversion Program and for services to be provided to diversion participants.
8. The Pima County Attorney's Office worked with the Presiding Superior Court Presiding Judge, through the Behavioral Health Treatment Court Collaborative, to implement a timeline and a plan to develop a Consolidated, Multi-Jurisdiction Misdemeanor Problem-Solving (COMPS) Court adding substance abuse assessment, drug testing, and addiction treatment services to the range of services available in the Misdemeanor Mental Health Courts at Justice Court and Tucson City Court. PCAO was successful in obtaining two federal grants, including one from the Department of Justice and another from the Department of Health & Human Services Substance Abuse and Mental Health Services Administration, which will provide millions of dollars over the next five years to fund the establishment of this new COMPS Court (and to provide some funding to help sustain the existing felony Drug Treatment Alternative to Prison Program and the existing standard felony Drug Court).

Once implemented during calendar year 2019, the COMPS Court is expected to reduce recidivism; thereby, reducing the use of incarceration in the Jail for non-violent, non-dangerous defendants suffering from mental illness and drug addiction, and those who are

homeless. It is expected to serve many individuals who have been frequent recidivists in the Jail.

9. The Pima County Attorney's Office has continued its leadership role in facilitating a special ethics training for law enforcement officers and prosecutors throughout Pima County known as "What You Do Matters: Lessons from the Holocaust." This training was developed by the U.S. Holocaust Memorial Museum in Washington, D.C. in conjunction with top prosecutors and law enforcement officers, and its curriculum is approved by the Museum. Arizona is the first state to bring the training out of the Museum and into the community. Facilitators underwent a year-long training to become certified and subsequently have undergone mandatory, annual refresher trainings. The ethics training, which has been presented to law enforcement academy trainees, to law enforcement agency commanders, and to law enforcement officers from a variety of local and state agencies is sponsored jointly by the Arizona Police Officer Standards and Training Board and the Arizona Prosecuting Attorneys Advisory Council, both of which offer continuing education credits for the training.



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MEMORANDUM

To: C.H. Huckelberry, County Administrator

cc: The Honorable Chairman and Members, Pima County Board of Supervisors
Wendy Petersen, Assistant County Administrator for Justice and Law Enforcement
Amelia Cramer, Chief Deputy Pima County Attorney
David Smutzer, Legal Administrator

From: Barbara LaWall, Pima County Attorney *BL*

Date: February 25, 2019

RE: Response to Your Questions Regarding my Fiscal Year 2019/20 Proposed Budget

I am pleased to know that you are seriously considering recommending that the Board of Supervisors approve funding for one or more of my supplemental budget requests for fiscal year 2019/20. Here is my response to your memorandum dated January 15, 2019 (attached for reference) requesting more information regarding these requests:

1. Digital Evidence Disclosure

Per your request, I have queried all of my colleagues at the Attorney General's Office and at the other county attorneys' offices throughout Arizona with regards to whether they are experiencing the same deluge my office is experiencing of evidence in the form of video footage from law enforcement officers' body worn cameras and other digital media. I have heard back from several of them and have also learned that this is an issue facing prosecutors nationally.

The Maricopa County Attorney reports that his office has a large number of administrative positions already dedicated to review and redaction of body worn camera footage. When our team visited that office, there were approximately two dozen staff dedicated to this form of evidence. However, despite that large number of existing staff, the Maricopa County Attorney's Office is in the same situation we are with increased workload due to the increasing volume of body worn camera footage being presented by local law enforcement agencies, so the Maricopa County Attorney told me he is seeking in his budget, for the coming year, an additional 13 positions to deal with

C.H. Huckelberry, County Administrator

February 25, 2019

Page 2

review, redaction, and disclosure of body worn camera footage. In addition, he told me the Phoenix City Attorney is seeking 10 positions to deal with footage in misdemeanor cases.

The Yavapai County Attorney's Office reports that it also is dealing with a high volume of requests from defense attorneys for law enforcement body camera video, audio, and video redactions, as well as jail video and audio telephone calls, jail surveillance video, computer and smart phone forensic files, and commercial video, etc. The Yavapai County Sheriff's Office's body cam project was the first huge impact on that prosecutor's office, and recently it has experienced the impact from the Camp Verde Marshal's Office and the Chino Valley Police Department's body camera implementations. Prescott and Prescott Valley Police Departments have not implemented body camera projects, but the Yavapai County Attorney says she hears this is coming soon. The Yavapai County Attorney is planning to address this in next year's budget to hire more personnel. Meanwhile, the Yavapai County Attorney's Office is using an Early Disposition Court (EDC) post-arrest but pre-indictment through which it is disposing of more than half of its cases before disclosure obligations come into play. This is alleviating a great deal of the burden to review, redact, and disclose body worn camera footage in Yavapai County. The possibility of implementing a similar EDC program here in Pima County has been discussed at the Pima County Criminal Justice Summit chaired by the Presiding Criminal Judge of the Superior Court, beginning more than five years ago and again as recently as January 28, 2018. However, the leaders of our Public Defense Services agencies have stated that they will not participate in such a program here in Pima County because they do not believe it comports with their obligations to their clients.

The Santa Cruz County Attorney's Office reports that it is not yet facing this issue but will soon face it as the Nogales Police Department is applying for a grant to implement the use of body worn cameras. If the grant is awarded to that police department, the Chief Criminal Deputy Santa Cruz County Attorney reports that the prosecutor's office will not have sufficient staffing to keep up with redaction and disclosure obligations. Additional personnel will be required to do so.

Attached, as Exhibit 1, is a copy of the Digital Media Supplemental Narrative that was submitted to the Pima County Finance Department electronically through its budget portal, along with my other proposed budget documents. It is entitled "PCAO Media Review and Redactions." This document contains narrative, data, charts, and graphs quantifying the increased burden my Office

is facing to explain our need for additional personnel. Also included with Exhibit 1 is the Digital Media Budget Line transmittal.

Just one of our LPS staff members assigned to perform redactions of BWC video footage has on his desk a backlog of BWC in 63 cases, involving 65 defendants, of whom 30 are in jail custody. The continuances of those 30 in-custody defendants' cases by two weeks to two months each total 37.5 months of continuances to date, costing more than \$112,000 in jail costs alone. Extrapolating from this one LPS caseload snapshot, we estimate that the jail costs alone associated with delayed disclosure of our BWC footage due to the lack of sufficient staffing total more than \$800,000.

2. Expedited Plea Negotiation Team

The performance measures pertaining to the Expedited Plea Negotiation Team were submitted with our electronic budget narrative transmittal to the Pima County Finance Department along with my other proposed budget documents. I have attached that narrative as Exhibit 2. It is entitled "Expedited Plea Negotiation Team – Supplemental." Also included with Exhibit 2 is the Negotiated Plea Budget Line transmittal

As that supplemental budget narrative states, "adding two prosecutors plus two support staff to the Operations Bureau to focus upon CES and to serve as an Expedited Plea Negotiation Team is anticipated to result in the ability to plead 160 felony cases or more 30 days earlier, for a cost savings of at least \$480,000 in jail expenses. This does not include cost savings that will ripple throughout the criminal justice system by reducing the time to disposition." Thus, as stated in our supplemental budget narrative we hope to be able to plead at least 160 felony cases at least 30 days earlier. The number and percentage of cases disposed of at various intervals of days from Arraignment is reported on a monthly and annual basis by the Pima County Superior Court.

The specific performance measure that we submitted as part of our electronic budget transmittal is to increase the percentages of cases disposed of at 31-60 days and at 61-90 days following Arraignment. Here is the chart we provided in that transmittal:

Measure 20/21	FY 18/19	FY 19/20	FY
Negotiated Plea Agreements within 30 days	8%	12%	15%
Negotiated Plea Agreements within 60 Days	25%	30%	33%

The percentages above for FY 18/19 are those reported at fiscal year-end by the Pima County Superior Court, and for FY 19/20 and FY 20/21 are the predicted outcomes if this supplemental budget request is fully funded.

It should be noted that we cannot guarantee the predicted outcomes will occur because of three variables over which we have no control: The first variable is whether we will receive approval for our first supplemental budget request to hire sufficient staff to keep up with digital evidence, thereby allowing us to make timely disclosure of evidence to defense counsel for their consideration in conjunction with evaluating our plea offers and conferring with their clients. The second variable is whether defense counsel will actively engage with us in plea negotiations, assuming this second supplemental budget request is approved and we are able to hire and assign attorneys to the Expedited Plea Negotiation Team. The third variable is whether criminal defendants will accept reasonable plea offers within a reasonable time period if such plea offers are presented to them by their defense attorneys.

An additional element that will be critical to the success of expedited plea negotiation and our ability to document system savings for those defendants housed at the Pima County Adult Detention Center will be our ability to receive Jail Release Feed data reports from the Sheriff's Office multiple times each day. Our office is in early discussions with the Sheriff's Office seeking to provide our office with data relating to defendants being detained and changes in their status, including identifying those who have been released. A key component to achieving cost savings in the system will be our ability to obtain and review accurate custody data in near real time, which will assist our team to more swiftly identify defendants for whom an expedited plea agreement should be prioritized.

Nevertheless, we are optimistic that we will be able to achieve the predicted outcome, assuming the first variable is addressed, because defense counsel has communicated to us that this is the primary stumbling block to timely acceptance of many of our plea offers.

3. Ensure Adequate Victim Services Staffing

You inquired about measurements regarding the rollout in Pima County of the new Arizona Intimate Partner Risk Assessment Instrument System (APRAIS) and our local Pima County Protocol for utilizing it to provide information to the Court regarding perpetrators, as well as to make services available to victims.

C.H. Huckelberry, County Administrator

February 25, 2019

Page 5

The APRAIS risk assessment itself is evidence-based and scientifically validated based upon measurement of the effectiveness of the questions set forth in the APRAIS. Attached, as part of Exhibit 3, is a copy of the APRAIS questionnaire, which is a two-sided document. As you can see, the back side contains references to the statistical analyses and empirical support for the utilization of this risk assessment instrument. Indeed, this scientific backing was a factor critical to the Arizona Supreme Court's decision to adopt the APRAIS risk assessment in its Order of December 13, 2017 amending Rule 41 of the Arizona Rules of Criminal Procedure to add Form 4(c) (the APRAIS tool) as its recommended domestic violence risk assessment questionnaire to be utilized statewide beginning April 2, 2018, under A.R.S. §13-3967(B)(5), which requires judges at Initial Appearances to take the results of such a domestic violence risk assessment into account when setting terms and conditions of pre-trial release of suspected domestic violence perpetrators.

Because the Supreme Court's Order implementing the Form 4(c) APRAIS instrument just became effective April 2, 2018, we have had little time to gather, evaluate, and analyze evidence measuring its effectiveness. Indeed, most of our efforts since April 2, 2018, have been dedicated to facilitating and training the county-wide rollout of the new risk assessment instrument by all patrol officers at six different law enforcement agencies, as well as the rollout of the new protocol relating to each law enforcement agency providing copies of the completed risk assessment document to Pretrial Services and the Courts, as well as to defense counsel and prosecutors for the county and for the municipalities, as well as the rollout of the new victim services protocol at the crime-scene and afterwards.

Nevertheless, in recognition of the importance of gathering, evaluating, and analyzing evidence about the effectiveness of the APRAIS instrument and our Pima County Protocol, we have partnered with Dr. Jill Messing – a professor at ASU who was one of the researchers involved in the validation of the APRAIS tool – on a two-year empirical research project. Dr. Messing has obtained federal grant funding for this research, and she selected Pima County as the jurisdiction with which to partner because of the fact that all our local law enforcement agencies in Pima County, without exception, are utilizing the APRAIS tool at domestic violence crime-scenes (something that cannot be said of other counties throughout Arizona), and because we have a robust victim services component to our protocol being implemented county-wide (likewise, something that cannot be said of other counties throughout Arizona). We will certainly be happy to provide you with research results as they are obtained from Dr. Messing's project.

In the meantime, we have substantial data demonstrating the immediate need for additional victim advocates to serve victims who have been identified through the APRAIS instrument to be at elevated risk or high risk for future assault within seven months that would lead to serious physical injury or death.

These data are contained in another part of Exhibit 3, a spreadsheet reflecting the number of APRAIS instruments administered by each law enforcement agency each month, how many of those have revealed elevated or high risk (as distinct from basic risk), as well as call-outs of our Victim Services advocates and referrals to Emerge! Center Against Domestic Abuse resulting from those revealing elevated or high risk.

Emerge! has indicated that the referrals it has received since the APRAIS protocol was instituted beginning April 2, 2018, are four times the number it received prior to the implementation of the APRAIS protocol.

The Tucson Family Foundations have supported us by funding two victim advocate positions over the past fiscal year to serve victims identified via the APRAIS instrument as being at elevated or high risk. In addition, we recently submitted, under your approval, a grant proposal to the federal Office of Violence Against Women (OVW), to fund for three years, two additional advocate positions to serve these victims. This will allow us to leverage resources to recruit, train, deploy, and manage another 10-20 volunteer victim advocates. However, we do not yet know whether we will receive the OVW funding, and we do not know whether the Tucson Family Foundations or another local, private foundation might continue to pay, in the coming fiscal year, for the two advocates we already have added for this purpose. We do not expect to learn about these other funding sources until after the Board of Supervisors approves the fiscal year 2019/20 budget. Attached as the final part of Exhibit 3 is our Victim Services Budget Line transmittal.

4. DTAP Contingency Fund

You have asked for data reflecting how many DTAP participants have successfully completed the DTAP Program over the life of the Program, as well as the number of participants enrolled per fiscal year. Since we accepted the first DTAP participant in January 2011, through early February 2019, there have been a total of 332 participants enrolled. Over the course of the first four years, the number of participants was limited by funding constraints. It was first-come, first-served in terms of our acceptance of eligible participants. In the first year, our federal grant funding covered only 20 participants. In the second and third years, our federal grant funding covered only 30 new participants per year. In the fourth year, we were without grant funding and

had to refrain from receiving any new participants for a three-month period until we were able to receive bridge funding in the form of a state appropriation. In our fifth year, we received new federal grant funding that enabled us to increase the number of participants to approximately 60 per year. I was able to expand eligibility criteria that year to include not only defendants charged with drug possession for the third time, but also some defendants charged with small hand-to-hand drug sales, and we were able to accept all eligible defendants. Since that time, there has been no cap imposed upon the number of defendants able to participate. I expanded eligibility criteria again in 2017 to include some defendants charged with non-violent, non-dangerous property offenses.

Since 2015, we have continued to have capacity to accept as participants all eligible defendants even under the expanded eligibility criteria, and we have done so. It is our goal to maintain sufficient funding to enable us to continue to be able to accept as participants all eligible defendants. This is the very reason for the request that you set aside again in fiscal year 2019/20 a contingency fund in your County Administration budget in case a funding need should arise.

Below is a chart (prepared in early February 2019) reflecting the number of participants enrolled in the DTAP Program each fiscal year since 2010/11 (which is how our data are kept for grant reporting and outside evaluation purposes), as well as the number of participants who successfully completed the Program and graduated each fiscal year:

Fiscal Year	# of Participants Accepted	# Successful Completions
2011	18	0
2012	27	1
2013	33	1
2014	17	8
2015	44	8
2016	61	22
2017	62	6
2018	55	22
2019	15 (to date)	17 (to date)

As you can see, we had a dip in the number of participants accepted in 2014, which was the year we suffered a gap in funding. And you can see the resulting dip in the number of successful completions in 2017 – three years later –

associated with the smaller number of participants who commenced the Program in 2014.

As of early February, we had 110 active DTAP participants (who entered the DTAP program in 2016, 2017, 2018, and 2019), the vast majority of whom are currently succeeding, and a number of whom have been promoted from DTAP Probation to Standard Probation and are on track to graduate soon.

In total, as of early February, we have accepted 332 participants into the DTAP Program since its inception, of whom we have had 85 graduate, and we have an additional 110 who are currently successful. This demonstrates a rolling success rate snapshot of approximately 60%. (Our annually-calculated rolling success rate has generally averaged around 65% but fluctuates up and down. As we have expanded eligibility criteria to include not only simple drug possession but also some low level property crimes, the success rate has dropped slightly. Our independent, outside evaluators are gathering ongoing data that will help us analyze this over time to determine if this is a coincidental correlation, or whether it is causation.)

We anticipate enrolling another 30 DTAP participants over the remainder of the current fiscal year, and we anticipate enrolling approximately 50-60 additional DTAP participants over the course of the 2019/2020 fiscal year. The enrollment is dependent upon how many people are arrested for crimes that make them prison-bound if convicted who also have a criminal history that comports with eligibility requirements (no violent felonies, no sexual assaults, etc.). It is possible we might enroll more than the anticipated number.

You have asked for additional information to provide you a better understanding of the various funding sources supporting the DTAP Program to provide services to these participants.

The funding for the DTAP Program is quite complex. Over the years, we have utilized funding from the following sources: Pima County, Pima County's Outside Agency Fund, the Pima County Attorney's Anti-Racketeering Fund, the Tucson Police Department's Anti-Racketeering Fund, the State of Arizona, the U.S. Department of Justice's Bureau of Justice Assistance (BJA), the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA), the Arizona Health Care Cost Containment System (AHCCCS) – Arizona's Medicaid program, the Community Foundation for Southern Arizona, Primavera Foundation, and in-kind contributions from a wide variety of community-based agencies providing services to convicted felons who have been DTAP participants.

Our current funding for the DTAP Program comes from various sources, some of them imposing restrictions on how we can utilize their funds. Moreover, our

new federal grant funding has been provided not only to support the DTAP Program, but also to support standard felony Drug Court, as well as the new Consolidated Misdemeanor Problem-Solving (COMPS) Court. This enables us to procure services using economies of scale, but it also restricts how much of the grant funding may be allocated to the DTAP Program.

Attached, as Exhibit 4, is the current DTAP Program budget reflecting costs totaling \$635,882 per year (excluding the costs of salary and ERE provided by the Superior Court for the DTAP Judge and court staff, by the Public Defender for the DTAP Public Defender, and by my Office for the DTAP Program Director, the DTAP Prosecutor, support staff, and financial administration staff).

The funding we have in-hand to cover this budget for the DTAP Program during fiscal year 2019/20 is the following:

a. AOC-funded DTAP account:

(1) Administrative Office of the Courts (AOC) provided a one-time state appropriation in 2017 (received in 2018), but the remainder that is expected to be left unspent on June 30, 2019, at the end of fiscal year 2018/19 is: \$0.

(2) AOC also provided a one-time state appropriation in 2014 (received in 2015). We currently have \$225,202 in this account; however, we anticipate that will be spent down to \$121,704 to serve current DTAP participants and new DTAP participants between today and June 30, 2019. (At the time we submitted our budget, we had thought we might still have \$189,799, but our current forecast is lower.)

b. Portion of the SAMHSA grant for problem-solving courts allocated to DTAP:

We have a portion of the SAMHSA problem-solving courts grant allocated to the DTAP Program. The grant is allocated on a federal fiscal year basis, beginning October 1. For the period October 1, 2018-September 30, 2019, we project the amount to be left unspent on June 30, 2019 at the end of the county's current fiscal year 2018/19 that will be left to roll over into the coming 2019/20 fiscal year will be: \$75,000. (We received a total of \$400,000 under the SAMHSA problem-solving courts grant beginning October 1, 2019. However, of that amount, only \$295,500 was allocated to the DTAP Program, with the remainder being allocated to Drug Court and CMPS Court (\$104,500). Currently, we have \$267,430 remaining in the SAMHSA grant account, of which \$221,640 is allocated to the DTAP Program; however, we anticipate that will be spent down to as low as \$75,000 to serve current DTAP participants and new DTAP participants between today and June 30, 2019.)

TOTAL funding in-hand for DTAP for fiscal year 2019/20: \$196,704
(AOC \$121,704 + SAMHSA \$75,000)

We have applied for renewal of our SAMHSA grant and believe that application is likely to be approved, which would bring in another \$400,000 as of October 1, 2019. However, this remains uncertain. And, even if we are successful in obtaining this new round of SAMHSA grant funding, only \$295,500 of that will be allocated to the DTAP Program, with 25% of that amount expected to be spent in fiscal year 2020/21 between July 1, 2020 and September 30, 2020, leaving us with just \$221,625 for fiscal year 2019/20. This would give us a total of \$418,329 (\$196,704 + \$221,625) for DTAP in fiscal year 2019/20 if the federal SAMHSA grant is renewed.

Thus, even if we receive the renewal grant from SAMHSA, we still will be short in the amount of \$217,553 to cover our expected expenses of \$635,882 for the DTAP Program in fiscal year 2019/20 for the expected number of participants. If we are able to enroll more participants than expected, we would be short by a greater amount to cover the services necessary for those additional participants.

Also, please note that our federal grant funding from SAMHSA is restricted; it cannot be used to pay for criminal justice system personnel, such as the judge, probation officers, surveillance officers, prosecutor, or defense counsel. It can be used only to provide treatment and social services to convicted felons who are participants in the DTAP Program, training for the DTAP Team, and outside evaluation by our research partners. We need alternative funding to sustain the salaries and ERE for probation officers and surveillance officers dedicated to this specialty court team. Depending upon funding coming to the Probation Department from the Arizona Administrative Office of the Courts, we might be short in an additional amount of \$77,628.72 needed to cover the cost of the Surveillance Officer (which is what caused us to need to tap into your contingency funding in the current fiscal year to allocate funds to the Probation Department.)

We hope someday that funding for the DTAP Program will not have to come through grant funds obtained by our Office with us serving a fiduciary responsibility with regards to managing those funds and that there will be no need for you to set aside a General Fund Contingency Fund, but rather that there will be a sustainable annual allocation from the State to cover the costs of all treatment and social services that need to be provided to participants in

C.H. Huckelberry, County Administrator

February 25, 2019

Page 11

the DTAP Program (as well as for participants in the standard felony Drug Court and COMPS Court), plus the costs of all annual training necessary for the DTAP team (the judge, probation and surveillance officers, prosecutors, defense counsel, case managers, and service providers), as well as the costs of an annual outside evaluation process designed to enable quality improvement and to facilitate efficiency and effectiveness.

We have been lobbying the state legislature, as has the County, for appropriation of sustainability funding for DTAP and these other specialty drug court programs. This year, we have been told there is the possibility of a one-time appropriation, but not a sustainable line item in the state budget. And, even that one-time appropriation remains uncertain as of this date.

In the meantime, our goal is to ensure that there are sufficient funds available to be allocated to the Probation Department and to service providers – via the DTAP Fund my Office administers – to meet all needs of the DTAP Program to serve its participants according to evidence-based Best Practice Standards as published by the National Drug Court Institute, as well as sufficient funds available to train the DTAP team, and to conduct annual evaluations of the DTAP Program by independent, outside evaluators.


Given the uncertainty associated with the County's and my lobbying efforts for state funding and uncertainty regarding our application for renewal of our federal grant funding, we are asking you to set aside a contingency fund again this year to ensure we will not suffer another gap in the DTAP Program like the one suffered in 2014 that required us to stop taking in new participants for a period of time.



MEMORANDUM

Date: January 15, 2019

To: The Honorable Barbara LaWall
Pima County Attorney

From: C.H. Huckelberry
County Administrator 

Re: Your January 14, 2019 Memorandum Regarding the County Attorney's Office Fiscal Year 2019/20 Proposed Budget

I appreciate your response and submission of your proposed budget and supplemental requests. I am seriously considering funding one or more of the supplemental budget requests you have made.

Please provide more information on the following topics:

1. Digital Evidence Disclosure – I can appreciate the increased burden that the advent of technology has placed on your office. I would like to clearly understand how all other prosecutor's offices in Arizona are dealing with this particular matter and are they experiencing the same issues you have outlined in your memorandum.
2. Expedited Plea Negotiation Team – Regarding this subject, what performance measures or milestones can be measured to demonstrate actual improvement? I am willing to fund this component of the criminal justice system if it ensures there will be reduced costs or other efficiencies gained. If funded, how can we be assured that the predicted outcome occurs? In recalling our first efforts to reduce jail population, we dramatically reduced misdemeanor violators in the Pima County Adult Detention Complex only to have that reduction of population filled with felony violators.
3. Ensure Adequate Victim Services Staffing – You mentioned the temporary funding increase in collaboration with Emerge! Center Against Domestic Abuse and others to reduce the lethality, harm and incidence of domestic violence cases in Pima County. Have there been any measurements regarding these indicators to show if this new strategy is successful?
4. DTAP Contingency Fund – As you know, we set aside \$750,000 in contingency for this program in Fiscal Year 2018/19. You indicated this program has been ongoing for eight years. Do we have information/data that would indicate how many individuals successfully completed DTAP over the life of the program and the number of individuals afforded this opportunity per fiscal year? This year only a small amount of the contingency set aside was actually used for this purpose. I would like to have a better understanding of the other funding made available for the DTAP program and the likelihood of whether this outside funding will continue.

Attachment

c: The Honorable Chairman and Members, Pima County Board of Supervisors
Wendy Petersen, Assistant County Administrator for Justice and Law Enforcement

Digital Evidence Disclosure Supplemental Pkg B

Goals and Objectives:

The goals and objectives of the County Attorney's Office are to ensure public safety and to provide justice in the criminal cases we prosecute on behalf of the State of Arizona. It is imperative that we review all the evidence in each and every case to ensure that we hold accountable through prosecution those shown by the evidence to have committed crimes, that we are in a position to dismiss cases in which the evidence does not prove that the accused actually committed the crime. Additionally it is our goal and objective to fully meet our constitutional obligation to provide any potentially exculpatory evidence to defense counsel to ensure that every defendant accused of a crime receives a fair trial and adequate legal representation. Finally, it is our goal and objective to provide public transparency, which necessitates that we disclose public records to the public regarding the cases we prosecute. We must have sufficient staffing and software to achieve these goals and objectives.

Hiring an additional 10 LPS staff members to aid in the process of redacting BWC footage will not completely cover the amount of footage being presented as evidence by local law enforcement officers, but will make a big difference in closing the gap. The graph attached in the document management tab shows the impact of adding 10 LPS staff members to the amount of BWC footage being disclosed versus the amount of undisclosed footage that is awaiting review. It is expected that there will be more than 3,000 hours of undisclosed footage at the end of the year. (This is holding all other external variables constant.)

Comparing the graph with no additional hiring of LPS and hiring 10 more LPS shows a dramatic change in the number of undisclosed BWC footage at the end of the year 2019. It is expected that approximately 10,600 hours will be reviewed, redacted and disclosed with the assistance of 10 additional LPS staff members. This will allow the County Attorney's Office to disclose about 76% more BWC footage (holding all external variables constant), as well as provide an increase in the disclosure of all other forms of media. This projection does not include the Paralegal review time but will assist in either maintaining current levels or hopefully reducing the amount of Paralegal review time which will improve the overall efficiency of each individual case.

Description:

Media Review and Redaction Times

The Pima County Attorney's Office is experiencing a massive increase in the staff time and resources necessary in felony cases to comply with our statutorily-required duty to protect the personal and confidential information of victims, as well as to protect other confidential information, contained in evidence produced using certain types of media. This is primarily in response to the dramatic increase in the number of local law enforcement officers with body worn cameras (BWC). Currently, Paralegals and Legal Processing Support (LPS) positions are required to spend almost 70% of their time reviewing and redacting BWC footage to remove victim and confidential information before the redacted version of the media can be disclosed to defense attorneys. The time required to perform redactions on BWC footage is very tremendous when compared to redacting other types of media such as audio recordings and photographs. The graph attached under the "document management tab" shows a breakdown of

the various types of media both Paralegals and LPS staff members currently go through based on one month's data and how much time is necessary to review and redact all types of media before those media can be disclosed to defense attorneys.

Paralegal Media Only Review Times

A more in-depth analysis was made for Paralegals as to how they allocate their time and resources for each type of media as part of their overall duties. Currently, Paralegals spend approximately 54% of their media review time reviewing BWC videos. While doing so, it is necessary that they take notes to record which video segments must be redacted within the video footage at which time frames. Their notes then are provided to assist LPS staff members in knowing what must be redacted from each BWC video recording. Paralegals must add this new, burdensome duty to evaluate and determine what is statutorily required to be redacted on top of their other paralegal tasks and responsibilities. Under our current staffing, Paralegals lack the time and software needed to perform all necessary BWC video reviews. The time spent on body worn cameras is impinging upon the time Paralegals need to complete their other duties, including: the maintenance of the case file; witness interviews; document redactions; review of jail calls and jail visits; and other case related preparation. The chart attached under the "document management tab" shows a current breakdown on the amount of time spent on each type of media, with documents both being created and redacted for the case being in the miscellaneous portion, jail visits in the videos portion, and jail calls in the audios portion.

LPS Media Only Redaction Times

Legal Process Support (LPS) staff are entry-level clerical staff members hired to relieve some of the burden Paralegals face when maintaining cases and to improve efficiency by handling very time consuming tasks that do not require the specialized training and experience of Paralegals. LPS staff have the knowledge and resources to take on various media evidence for cases and prepare them for disclosure to defense attorneys. Due to the sheer number of BWC recordings and the amount of footage that needs to be reviewed and redacted, more than 70% of LPS time is spent reviewing Paralegals notes and redacting BWC recordings, compared to the other media formats. The graph under the "document management tab" depicts how much time is spent by LPS staff members redacting various types of media.

Time to review and redact body worn camera footage

The contents of BWC footage varies tremendously among cases. In some cases, BWC footage contains an immense amount of victim information that needs to be redacted; while in other cases, BWC footage contains hardly any victim information at all. There are numerous factors that can make a few minutes'

worth of footage take hours to prepare for disclosure. Some of these factors include: the type of the crime; type of information that needs to be protected; how aware the officer is to where the body worn camera is positioned; and the number of officers at a scene recording evidence with body worn cameras. The graph attached in the "document management" tab compares how long it takes on average to review and redact BWC footage versus the actual length of the footage for a one month basis. It takes approximately twice as long to review and redact the footage as compared to the actual footage length.

Total time to complete all processes necessary to prepare body worn camera footage for disclosure

There are four major processes that require time to prepare BWC footage for disclosure. The first process is transferring a copy of the file from the law enforcement agencies flash drive or CD to the County Attorney's Office computer server so that the original version of the media is preserved. The second process is reviewing and redacting the BWC media footage. The third process is rendering and creating a new copy of the footage with all redactions implemented. The final process is disclosing the redacted footage to the defense attorney. The percentage graph attached in the "document management" tab shows a breakdown of how long each of these four processes takes to create the final edited footage for each BWC file that must be uploaded, reviewed, redacted, rendered and then disclosed to defense counsel.

It takes 3% of the total process time to upload a copy of the footage for editing. 78.5% of the time goes to reviewing and redacting the BWC footage. 16.5% of the time is spent on rendering a redacted copy of the BWC footage. Disclosing the redacted version of the BWC footage to defense attorneys takes 2% of the time. Each of these variable times is calculated based on a BWC with one hour of footage that has a moderate amount of information to redact. Each BWC recording that requires redacting is considered a separate project that must go through all four of these processes.

Personnel Services:

Hiring an additional 10 LPS staff members to aid in the process of redacting BWC footage will not completely cover the amount of footage being presented as evidence by local law enforcement officers, but will make a big difference in closing the gap. The graph below shows the impact of adding 10 LPS staff members to the amount of BWC footage being disclosed versus the amount of undisclosed footage that is awaiting review. It is expected that there will be more than 3,000 hours of undisclosed footage at the end of the year. (This is holding all other external variables constant.)

Supplies and Services:

We require funding in the amount of \$14,600 to pay for specialized computer equipment, as well as additional funding in the amount of \$8,800 to pay for software that will allow expedited downloading of video and re-uploading of redacted video from and back to the cloud storage site in compressed format, rather than in real time. \$3,500 to pay for operating supplies and services to include phones, port

charges, office supplies and small tools and office equipment for the staff working with the digital evidence.

Capital: None

Revenue: None

Impact if Not funded:

PCAO is receiving as evidence approximately 1,500 hours of unredacted BWC footage each month presented by local law enforcement agencies. Currently we only have 10 LPS staff members available with the proper software to perform all redactions on BWC, which has created a bottleneck in operations. All BWC footage must be redacted by LPS staff members before the footage can be disclosed. Approximately 400 hours of BWC footage can be reviewed, redacted and disclosed each month with the current LPS staffing. The graph below shows the expected amount of BWC footage that can be disclosed versus the amount of undisclosed BWC footage that still needs to be reviewed and redacted over the course of the year 2019. It is expected that there will be more than 13,900 hours of undisclosed footage, holding all other external variables constant (such as a change in the number of officers wearing BWC or the number of cases with major felony charges).

Growth Related: Yes

Mandates:

Arizona Revised Statutes

1. A.R.S. 11-532 (Powers and Duties of the County Attorney): The County Attorney shall:

Attend the superior and other courts within the county and conduct all prosecutions for public offenses (Title 13 and A.R.S. 25-511(A): failure to provide support for a child is a class 6 felony) (A.R.S. 11-532(A)(1)-(2));

Attend upon the magistrates and advise the grand jury (A.R.S. 11-532(A)(3));

Draw indictments and informations (A.R.S. 11-532(A)(4)); and

Furnish the attorney general with facts, authorities and citations regarding criminal appeals (A.R.S. 11-532(B)).

New Mandate: No

New Program: No

Revenue Enhancement: No

Expanded Program: Yes

Capital: No

Other: N/A

Impact if Positions not funded: (1 – 3145, 9 – 3139)

If the Pima County Attorney's Office continues with the current staffing level for the next year, it is expected that we will have to pay approximately \$674,913 in overtime to complete the 13,944.6 hours of BWC footage (Twice as long to redact equals 27,889.2 hours) for the year 2019. There are not enough hours available for any one of the existing 10 LPS staff to work that many additional hours in a year. Combined with vacations, sick leave, and turnover it is unrealistic to address the issue with the existing staff, even if we were to pay that much in overtime. Looking at the cost in staff hours, it will take each of the 10 LPS staff members who have to do the redactions 2,789 hours to complete all the footage, due to the fact that it takes twice as long to review and redact the BWC footage as there is of actual footage. This approach assumes no increase in the amount of BWC footage. However, we do anticipate an increase next fiscal year, as local law enforcement agencies have reported they plan to increase the number of active BWC and patrol car cameras.

The annual hours one LPS is paid to work in a year is 2,080 hours. After accounting for 80 hours of annual leave for vacation and another potential 40 hours of sick leaving, the projected annual work hours is 1,960 per LPS. LPS staff members have other media to review and redact in addition to BWC footage, allowing only 75% of their time available to redact BWC. The annual hours each LPS can spend redacting BWC thus is approximately 1,470 hours.

Hiring 10 additional LPS staff members will dramatically improve the speed of disclosure, as well as save costs for the County by expediting the time necessary to reach a plea agreement in any case where there is BWC footage, because defense counsel will not recommend that their client accept a plea offer until they have received the disclosure of all evidence, including BWC footage and other media recordings. It will take an additional \$81,070 in overtime to complete the remaining 3,350 hours of BWC footage. Looking at the cost of completing the remaining 3,350 hours BWC footage in staff hours, it will take each of the 20 LPS 167.5 hours to complete the footage.

By hiring 10 additional LPS staff members to work on redactions, we expect to save the County approximately 31.8% in costs to redact all the expected BWC footage for the year 2019 as opposed to continuing with the current staff on hand and attempting to utilize overtime.

Financial Breakdown

If the Pima County Attorney's Office continues with the current staffing level for the next year, it is expected that we will have to pay approximately \$674,913 in overtime to complete the 13,944.6 hours of BWC footage (Twice as long to redact equals 27,889.2 hours) for the year 2019. There are not enough hours available for any one of the existing 10 LPS staff to work that many additional hours in a year. Combined with vacations, sick leave, and turnover it is unrealistic to address the issue with the existing staff, even if we were to pay that much in overtime. Looking at the cost in staff hours, it will take each of the 10 LPS staff members who have to do the redactions 2,789 hours to complete all the footage, due to the fact that it takes twice as long to review and redact the BWC footage as there is of actual footage. This approach assumes no increase in the amount of BWC footage. However, we do anticipate an increase next fiscal year, as local law enforcement agencies have reported they plan to increase the number of active BWC and patrol car cameras.

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Other Factors

There are two other factors that impact our ability to meet disclosure deadlines. The more complex the case, the more BWC footage and associated increased review and redaction time. For example, a recent first degree homicide involved 16 police officers at the crime scene, each with a BWC running nonstop. The resulted in 42 separate BWC video files that were created in that one case, generating over 40 hours of BWC footage. In addition to the reviewing time, another 125 hours was required by staff to perform the redactions.

Another factor is the increasing number of BWC coming on line next fiscal year. The Tucson Police Department now utilizes over 500 BWC and is expected to receive grant funding for another 129 BWC, which will further exacerbate the strain on our resources. Sahuarita Police Department currently has 49 BWC and plans to add 31 cameras to their patrol cars. Marana Police Department currently as 60 BWC and will add another 5 BWC along with their current 60 in-car cameras. Oro Valley currently has 65 BWC and University of Arizona Police Department have 56 BWC along with 20- in-car cameras.

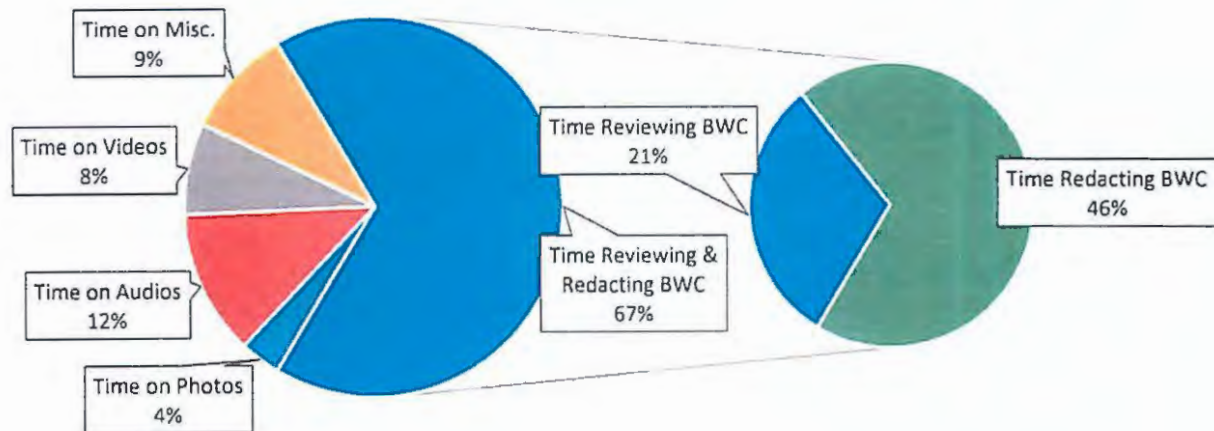
We have negotiated a stipulation with Public Defense Services whereby defense attorneys could receive BWC video footage mostly unredacted (with the exception of confidential data recorded from the computer mounted to the dashboard inside each patrol vehicle which still must be redacted), and we would need to redact the BWC footage only if requested by defense counsel. Presiding Superior Court Judge Kyle Bryson has entered an Administrative Order, pursuant to this stipulation, and we anticipate being able soon to eliminate a significant amount of redaction time in some cases. However, the other three processes of downloading, reviewing, and rendering still will be required for every BWC recording. Moreover, we still will have to redact some data that cannot legally be covered by the stipulation and Order. Furthermore, we will not be able to utilize this Order in every case, though we will be able to use it in a substantial percentage of cases. We expect that utilizing this Order, plus the addition of the additional 10 LPS staff members *might* put us in a position to catch up on BWC production. We believe an additional 10 LPS staff positions is the very minimum we will need to do so.

PCAO Media Review and Redaction

Media Review and Redaction Times

The Pima County Attorney's Office is experiencing a massive increase in the staff time and resources necessary in felony cases to comply with our statutorily-required duty to protect the personal and confidential information of victims, as well as to protect other confidential information, contained in evidence produced using certain types of media. This is primarily in response to the dramatic increase in the number of local law enforcement officers with body worn cameras (BWC). Currently, Paralegals and Legal Processing Support (LPS) positions are required to spend almost 70% of their time reviewing and redacting BWC footage to remove victim and confidential information before the redacted version of the media can be disclosed to defense attorneys. The time required to perform redactions on BWC footage is very tremendous when compared to redacting other types of media such as audio recordings and photographs. The graph below shows a breakdown of the various types of media both Paralegals and LPS staff members currently go through based on one month's data and how much time is necessary to review and redact all types of media before those media can be disclosed to defense attorneys.

PCAO Media Only Review & Redaction Times



PCAO Media Review & Redaction
(for one month) Time in Hours

