



2018



Annual Report
Arizona Attorney General
Mark Brnovich

Table of Contents

Message from AG Brnovich	4
Executive Office	5
Employee Recognition	6-9
Communications Division	10-14
Solicitor General's Office	15-24
Operations Division	25-33
Civil Litigation Division	34-51
Child & Family Protection Division	52-61
Criminal Division	62-92
State Government Division	93-117

Arizona Attorney General's Office

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It has been my continued honor to serve as Arizona's Attorney General and oversee an agency filled with so many talented and dedicated public servants. The motto of the Attorney General's Office is "Fiat Justitia," or "Let Justice Be Done." Because we work for every single Arizonan as the "People's Lawyer," justice must serve as the guiding principle in every action we take at the Office of the Arizona Attorney General.

Whether it be returning \$4.65 million to Arizona consumers as a result of a settlement with Theranos, passing one of the most consumer-friendly data breach notification laws in the country, successfully prosecuting multiple online predators for the sexual exploitation of children, or directing \$20 million from a consumer fraud settlement to the state budget for education purposes, employees of the Attorney General's Office are helping make a difference in the lives of Arizonans every single day.

I am proud to present the Fiscal Year 2018 Annual Report for the Office of the Arizona Attorney General. This report is just a snapshot of the immensely diverse and significant work performed by the Department of Law's nearly 1,100 statewide employees whose work spans a broad spectrum of legal jurisdictions ranging from criminal to civil, to protecting vulnerable children and seniors, to the quality representation of state agencies, to the enforcement of the state's civil rights statutes.

I am grateful for the dedicated work of the employees of the Attorney General's Office and I look forward to faithfully upholding the law and defending the rights of all Arizonans in the upcoming year.

Respectfully,

A handwritten signature in black ink that reads "Mark Brnovich". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Mark Brnovich
Arizona Attorney General



Attorney General Mark Brnovich

Mark Brnovich is the Attorney General for the State of Arizona. The Attorney General is a statewide elected, constitutionally-independent officer. Elected to a four-year term, the Attorney General is the state's chief legal officer and law enforcer.

Michael Bailey is Chief Deputy Attorney General and Chief of Staff. He serves as the primary advisor to Attorney General Brnovich and oversees the day-to-day operations of all divisions of the Attorney General's Office.



Chief Deputy Michael Bailey

The Attorney General serves as the chief legal officer of the State. The Attorney General is mandated by our constitution and elected to a four-year term by the people of Arizona.

The Attorney General's Office (AGO) brings and defends lawsuits on behalf of the State and prepares formal legal opinions requested by State officers, legislators, or county attorneys on issues of law. It represents and provides legal advice to most State agencies; enforces consumer protection and civil rights laws; and prosecutes criminals charged with complex financial crimes and certain conspiracies involving illegal drugs. In addition, all appeals statewide from felony convictions are handed down by this Office.

The Child and Family Protection Division provides legal services to all the divisions of the Department of Economic Security (DES), including the Division of Child Support Services (DCSS). It also provides legal services to the Department of Child Safety.

The AGO has jurisdiction over Arizona's Consumer Fraud Act, white collar crime, organized crime, public corruption, environmental laws, civil rights laws, and crimes committed in more than one county. Additionally, this Office prosecutes cases normally handled by county attorneys when they have a conflict.

The AGO is the largest law office in the State and is divided into:

- Criminal Division
- State Government Division
- Child and Family Protection Division
- Civil Litigation Division
- Solicitor General's Office
- Executive Office
- Operations Division
- Communications Division

2017 Employee Awards Ceremony

The 2017 Employee Awards Ceremony was held at the Talking Stick Arena where hundreds of employees gathered to recognize their hard work and celebrate their successes. Employees were nominated using a certain set of criteria across several different categories, and winners were chosen by the Executive Office and Division Chiefs. Congratulations to the 2017 Winners!



2017 Emerging Star

Ransom Young
Catherine Melissa Pfeiffer
Aaron Duell
Denise Luque
Erika Shellenberger
Ana Gonzalez
Jessica Klein
Glendalynn Cobb
Elizabeth Garcia
Sarah Fifer

Excellence in Service

Monica Stein
Cassandra Kasperski
Jelena Momich

2017 Career Service Award

Janet Sell
Mirna Theirgart
Elizabeth Wright
Lisa Rodriguez
Dave Bailey
William Jameson
Irma Tarango

2017 Outstanding Team Prosecution of Gustavo Nunez

Josh Moser
Jordan Emerson

2017 Outstanding Team Court Document Pilot Program

Kera Schlotfeld
Maracia Rigsby
Sherre Devine
Ashly Carley
Elli Balstad

2017 Employee of the Year

Yolanda Aparicio
Guinevere Cassidy
Allison Bradford
Michelle James
Linnie Guins
Susan Peerson

2017 Leadership in Action

Debbie Oelze
Mary Applebee
Matthew Silverman
Tammy Miller
Blain Gadow
Eric Rothblum
Shelby Tarrant
Cindy Palmer
Robert McCright
Maria De La Rosa
Paula Bickett
Leticia Kugler

2017 Outstanding Team Saban's Trial Team

Matthew Du Mee
Timothy Watson
Mitchell Allee
Diane Davenport
Nyla Hunsinger

Legacy Award

Leslie Welch

2017 Attorney Of the Year

Alejandra Valdez
OH Skinner
Jason Crowley
John Fry
Adele Ponce

2017 Michael C. Cudahy Award for Mentoring

Catherine Monro
Sandy Daniels
Matthew Du Mee
Patricia Bianchi
Kimberly Ortiz
Amy Bocks
Marc Harris
Laura Dominguez
Jeffrey Sparks
Elizabeth Gordon

2017 Outstanding Team - Feldman Litigation Team

Kara Karlson
Karen Hartman-Tellez
Joseph La Rue
Maureen Riordan
Sarah Fifer
Susan Peterson
Elizabeth Gordon

2017 Outstanding Team Player

Donna Quinonez

2017 Case Processing Guru

Eric Schwarz

Employee Recognition



Employee Recognition





Division Ryan Anderson

MISSION:

The Communications Division provides a crucial interface between the Attorney General's Office and the state's policy makers, law enforcement, media and the general public. It reports on the agency's activities while promoting efficiency and transparency in state government.

Division Summary

The Communications Division is comprised of members of the executive office who assist with legislative affairs, media relations, public information and community outreach.

53RD ARIZONA LEGISLATURE, FIRST REGULAR SESSION

Arizona's 53rd Legislature, Second Regular Session began on Monday, January 8, 2018, and adjourned Sine Die on Friday May 4, 2018. Though leadership remained consistent, there were a handful of resignations and one expulsion that resulted in the appointment of new lawmakers.

In total, 1,206 bills were introduced between the Senate and the House. By the end of the 116 day session, 346 bills were signed in to law and 23 were vetoed by the governor. The general effective date for all bills not containing an emergency clause or delayed effective date was August 3, 2018.

Members of the Attorney General's Communications Division tracked over 300 bills and advocated on behalf of the Office to provide amendments and support when necessary. This effort could not have been successful without the hard work of countless attorneys and subject-area experts around the Office who dedicated their valuable time to providing technical feedback and input.

The following is a brief overview of 2018 legislation that reflects priorities for the Attorney General's Office ("AGO").

YOUTH FOCUSED OPIOID EDUCATION COMMUNITY GRANTS

On Monday, January 22, 2018, the governor called a special legislative session to address the opioid epidemic in Arizona. The law, House Bill 2001, was passed over the course of one week with unanimous, bipartisan support. A provision of the law allowed for the AGO to distribute \$400,000 in community grant money for the purposes of educating youth on the dangers of opioid addiction. The office had previously secured the funds in a settlement with a drug manufacturer and needed appropriation authority to expend. The bill also allocated an additional \$400,000 in AGO settlement dollars to the Department of Health Services for the establishment of an opioid abuse prevention campaign.

UPDATING ARIZONA'S DATA PRIVACY LAWS

Theft of personal data has become the new frontier for tech savvy criminal enterprise. While most businesses have built extensive defense systems to protect personal data they collect, Arizona was in desperate need of an updated, clear, forward-thinking, and fair policy for companies to handle breach notifications. In the aftermath of a breach, it is essential that consumers be promptly informed that their personal data may have been compromised. With sufficient notice, consumers can begin taking steps to protect themselves from the potentially devastating impact of identity theft.

To address these issues, the AGO worked with a diverse group of stakeholders to pass House Bill 2154 (personal information; data security breaches). The law balances the need to strengthen safeguards and protections for consumers while not unduly burdening businesses that are often victims of data breaches. By updating definitions to reflect 21st century technology and instituting a specific timeline for notification of consumers, credit reporting agencies, and the AGO, we have helped ensure that Arizona consumers and companies are better informed and better prepared to respond to data breaches in the future.

FINTECH REGULATORY SANDBOX

In March of 2018, the nation's first regulatory sandbox for the FinTech industry was signed into law, thanks to the hard work of the AGO. House Bill 2434 (financial products; regulatory exemption program) eases the burden on entrepreneurs navigating the fractured and redundant regulatory system facing FinTech companies in the United States, while maintaining a strong focus on consumer protection. Once admitted to the sandbox, entrepreneurial startups and established companies alike can temporarily test their products on a limited scale without being required to complete the lengthy and costly licensing process. The sandbox is being administered and monitored by the same members of the AGO's Civil Division who enforce Arizona consumer protections laws.

Arizona has always been home to trailblazers and innovators. The FinTech sandbox has opened yet another door for them and will serve as a catalyst for capital investment, high quality jobs, and the development of innovative financial products that enrich the lives of Arizonans.

OTHER BILLS OF INTEREST

Other key pieces of legislation advanced by the AGO include:

Senate Bill 1274 (illegal payments; recovery; public monies): Clarified statute about stopping and recovering illegal payments of public monies through the civil justice system and ensured that guilty parties can be held accountable for their actions. Expanded the parties that the AGO may bring an action against to recover the illegal payments of public money.

Senate Bill 1077 (fund solicitations; charities; unlawful acts): Addressed an ambiguity in the charity solicitation statutes that allowed unscrupulous non-profits to falsely claim that a donation was eligible for a tax deduction or the state's dollar-for-dollar charitable tax credit. The law now makes it illegal for a person to knowingly solicit a donation for a charitable purpose and misrepresent the donation as:

- Being tax deductible;
- Going to a non-profit corporation; or
- Qualifying for a tax credit.

Senate Bill 1386 (high tech tax fraud): Outlawed the possession or use of software that can be employed to evade or suppress sales taxes.

House Bill 2065 (public meetings; definitions; penalties): Enacted stricter penalties for individuals who repeatedly violate Arizona's Open Meeting Law. The changes to the law were attended to address serial offenders of the open meeting law and enact stricter financial penalties for multiple offenses. The new law will permit the court to impose civil penalties for any person who knowingly commits an open meeting law violation in the following amounts:

- Up to \$500 for a second offense; and
- Up to \$2,500 for the third and any subsequent offenses.

House Bill 2522 (traffic violations; penalties): Closed a loophole in the law by ensuring that people who cause serious harm and death in traffic accidents and are driving on a suspended license are held financially and legally responsible for their actions.

In addition to legislative the legislative items identified above, the Communications Team helped secure \$1.4 million dollars in one-time funding for the AGO Criminal Division to assist with an ongoing RICO fund shortfall. These funds will help move the AGO off of a reliance upon forfeiture dollars and pay salaries for existing Criminal Division employees in future fiscal years.

Other highlights include:

- Increasing the carry-forward balance for the Collections Enforcement Revolving Fund from \$500,000 to \$1,000,000;
- Securing \$1.489 million to pay for a one-time update to the AGO's outdated Case Management System; and
- \$961,000 and new FTE's for the AGO's newly created Government Accountability and Special Litigation Unit.

COMMUNITY OUTREACH

The Community Outreach Division of the Arizona Attorney’s General Office is committed to protecting Arizona and its citizens through prevention programs and education. Community Outreach provides diverse presentations and programs designed to provide education and community awareness for children and adults on important topics such as anti-bullying, consumer scams, human trafficking, life-care planning, ID theft prevention, and internet safety. At the end of FY2018, Community Outreach unveiled new education programs for suicide prevention and opioid addiction and prevention. From July 31, 2017 to July 31, 2018, the Community Outreach Division conducted 620 presentations across the state, including 51 presentations in Spanish. Community Outreach conducted presentations in 12 counties during FY2018 and reached 52,512 seniors, parents, students, and other members of the community. Community Outreach staffed educational tables at another 64 community events and were exposed to another 20,000 Arizonans.

Law Enforcement Training

The Arizona Attorney General’s Office is committed to supporting local law enforcement officers, agencies, and communities across Arizona. In partnership with federal, local, and state law enforcement agencies, the Attorney General’s Office provides tools, resources, and training to licensed and commissioned Arizona Peace Officers statewide. These partnerships focus on officer safety, law enforcement community relations, continuing and enhancing technical skills, and protecting Arizonans. In the past year, the AGO has sponsored a number of free educational classes tailored to law enforcement officials including “Street Medicine” life-saving trauma courses,

Life Care Planning Packets Delivered: 8,304

Community Events Attended/Attendees: 64 / 20,150

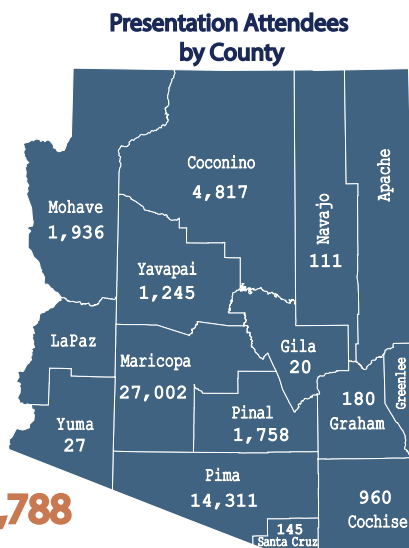
Constituent Calls: 1,224

Constituent Emails: 637

New Programs Created: 2

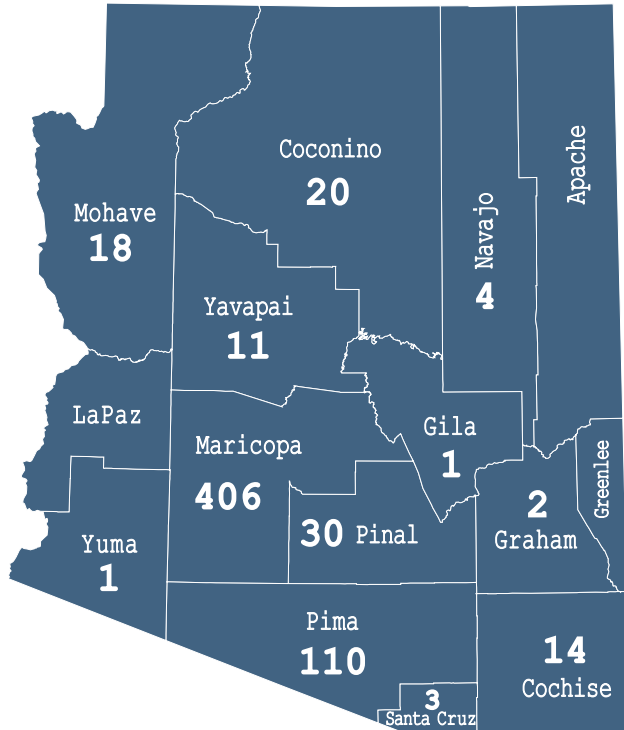
Senior Scam Alerts Delivered: 1,788

Shred-a-thon Documents Destroyed (Lbs): 39,829



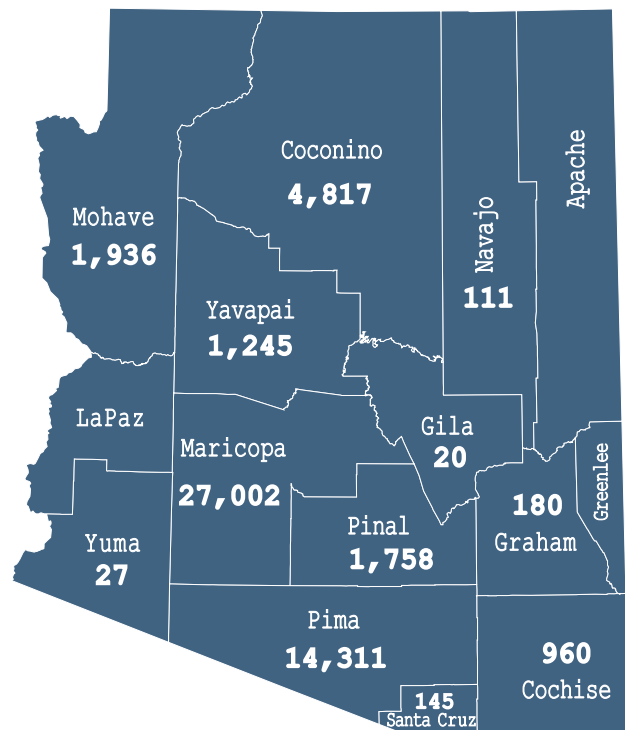
American Heart CPR/AED classes, handgun technical training, and opioid reversal drug (Narcan) administration classes. Highlights of that instruction include 121 in-depth “train the trainer” classes on the administration of Narcan, and an additional 253 officers instructed on how to administer Narcan. Varying law enforcement classes were conducted in 13 different counties during FY2018. Approximately 200 officers were trained in Basic and Advanced Street Medicine statewide, and another 2,700 students were taught at the Phoenix Police Department Module during service training. In total, over 4,000 members of law enforcement were taught life-saving techniques last fiscal year alone.

Total: 620
51 Spanish Presentations



Community Outreach & Education
Presentations Per County

Total: 52,512
963 Spanish Speakers



Community Outreach & Education
Attendees Per County

Fiscal Year 2018



Solicitor General Dominic Draye

MISSION:

The Solicitor General's Office provides leadership in federalism litigation, criminal appeals and capital litigation, civil appeals, legal opinions, library and research services, and ethics. It is committed to excellence, fairness, and integrity.

Division Summary

The Solicitor General's Office is responsible for:

- Protecting the State of Arizona's interests through federalism litigation
- Managing the State of Arizona's civil and criminal appellate litigation
- Managing the State of Arizona's criminal and post-conviction litigation
- Overseeing the preparation and publication of Attorney General Opinions
- Reviewing constitutional challenges to Arizona state laws
- Providing advice to all attorneys employed by the Attorney General with respect to ethics and professionalism issues
- Management of the Attorney General's Office Law Library

The Federalism Unit

Overview of Accomplishments

The Federalism Unit had a busy year defending and enforcing state laws, leading amicus brief coalitions before the United States Supreme Court, and opposing petitions for writs of certiorari to the United States Supreme Court. Among other things, the Federalism Unit obtained (1) a unanimous victory at the Arizona Supreme Court enforcing an Arizona law which prohibits in-state tuition to aliens "without lawful immigration status," and (2) an award of over \$50,000 in attorneys' fees after successfully defending H.B. 2440 against a challenge brought by the City of Phoenix.

Section Highlights

In-State Tuition – The Federalism Unit obtained a victory at the Arizona Supreme Court in *Arizona ex rel. Brnovich v. Maricopa County Cmty. Coll. Dist. Bd.*, CV-17-0215-PR, 2018 WL 2016076, at *1 (Ariz. May 1, 2018), which addressed whether Deferred Action for Childhood Arrival ("DACA") recipients are entitled to in-state tuition. The court unanimously held that DACA recipients are not "lawfully present" in the United States and, therefore, are prohibited from receiving in-state tuition under federal law.

Roosevelt Row – The Federalism Unit won a case brought against the State by the City of Phoenix. The Maricopa County Superior Court granted the State's motion for summary judgment and held that HB 2440—which provides taxpayer protections when forming special taxation districts—applied to the Roosevelt Row Business Improvement District and that HB 2440 was not special legislation. The court awarded the State over \$50,000 in attorneys' fees.

Heritage Academy – The Federalism Unit also worked with the Education and Health Section in *Doe v. Heritage Academy, Inc.*, No. 17-16703 (9th Cir.). This case concerned allegations that the Arizona State Board for Charter Schools improperly supervised a charter school and allowed a violation of the Establishment Clause. Plaintiff (the parent of a child at the school) appealed to the Ninth Circuit after the district court dismissed the case due to plaintiff's refusal to use his true initials rather than a pseudonym. The ACLU submitted an amicus brief on plaintiff's behalf. The Federalism Unit drafted the answering brief and plaintiff voluntarily dismissed the case before filing a reply brief.

Arizona Supreme Court Amicus Briefs – The Federalism Unit filed amicus briefs in two cases before the Arizona Supreme Court challenging two categorical bail restrictions under Ariz. Const. art. 2, § 22(A)(2). In *Morreno v. Brickner*, CV-17-0193-SA, 2018 WL 2032442 (Ariz. May 2, 2018), the Arizona Supreme Court upheld the constitutionality of the “on-release” bail provision, which prohibits bail after a judge finds strong evidence that a person committed another felony while already on release for a separate felony. In *State v. Goodman*, No. CR-17-0221-PR, the Arizona Supreme Court struck down the sexual assault bail provision, which prohibits bail after a judge finds strong evidence that a person committed the crime of sexual assault. The Federalism Unit is filing a petition for certiorari to the United States Supreme Court seeking review of the *Goodman* decision.

SCOTUS Amicus Briefs – In the U.S. Supreme Court, the Federalism Unit filed a merits-stage amicus brief on behalf of a bipartisan coalition of fifteen States in *Byrd v. United States*, No. 16-1371, a case testing whether a driver can challenge the search of a rental car that he is not authorized to drive. The Court held that drivers of rental cars have rights protecting them from unconstitutional searches by police, even if they are not listed on the rental agreement. The Federalism Unit also led a thirteen-State coalition urging the Court to review the Ninth Circuit decision in *Kennedy v. Bremerton Sch. Dist.*, 869 F.3d 813 (9th Cir. 2017), which held that schools have the absolute ability to regulate all observable religious expressions of teachers.

SCOTUS Briefs in Opposition – The Federalism Unit also filed briefs in three cases opposing review by the U.S. Supreme Court in which the State had obtained victories in the courts below: (1) *Lazar v. Kroncke*, No. 17-521, a constitutional challenge to an Arizona statute that automatically revokes beneficiary designations in (among other things) life insurance policies upon divorce and (2) *Gonzalez v. Arizona*, No. 17-7085, a case where the petitioner claimed that she was denied due process through a civil asset forfeiture even though she failed to appear in the case after receiving notice.

AGO Criminal Appeals Section and Capital Litigation Section

Overview of Accomplishments

In fiscal year 2018, the Criminal Appeals Section and Capital Litigation Section worked to uphold the convictions and sentences of criminal defendants in Arizona. The Sections filed 586 briefs, habeas answers, petitions for review, responses to petitions for review, and other substantive motions and responses, including evidentiary hearing and oral arguments. Members of the Sections have also been involved in providing education and training on a variety of criminal law and procedure issues to prosecutors throughout the State.

Section Highlights

The Criminal Appeals Section represents the State in the Arizona Court of Appeals, the Arizona Supreme Court, and the United States Supreme Court when criminal defendants appeal their non-capital felony convictions. The Section also represents the State in the United States District Court, the Ninth Circuit Court of Appeals, and the United States Supreme Court when defendants challenge their convictions and sentences in federal habeas corpus petitions. In addition to representing the State in criminal appellate litigation, the Section provides periodic legal advice to County Attorneys throughout Arizona regarding criminal trial prosecutions.

The Section provides unique benefits to the State. By representing the State in all non-capital felony appeals, the Section maintains consistent and uniform positions regarding issues of criminal law, which allows for the orderly and consistent development of criminal law in the state and federal courts. In addition, because the attorneys in the Section are appellate specialists, they provide consistent, efficient, and high-quality appellate representation that individual counties are unable to provide. This increases the likelihood that dangerous criminals will have their convictions and sentences affirmed on appeal, protecting the community and saving resources that would otherwise be expended on expensive retrials and re-sentencings.

The Capital Litigation Section handles all appellate and post-conviction proceedings involving death-row inmates in Arizona. Those proceedings include the direct appeal to the Arizona Supreme Court and the United States Supreme Court following conviction and sentencing; state post-conviction relief proceedings in the trial court and the Arizona Supreme Court; federal habeas proceedings in federal district court, the United States Court of Appeals for the Ninth Circuit and the United States Supreme Court; and federal-court lawsuits challenging Arizona's lethal-injection protocol under 42 U.S.C. § 1983. The Section also assists trial lawyers with research and advice regarding death penalty issues. Section members also conduct periodic death-penalty and habeas-corpus seminars in connection with the Arizona Prosecuting Attorneys' Advisory Council and the National Attorneys General Training and Research Institute.

In addition to handling all post-verdict capital case proceedings in the State, the Section has assisted the Office with criminal issues that affect other sections. Further, in the last fiscal year, Section members served on the Arizona Supreme Court's Capital Case Oversight Committee, the Arizona Supreme Court's Task Force on Rule 32, and the Arizona Forensic Science Advisory Committee.

Major Accomplishments – Criminal Appeals Section

Fiscal year 2018 was a year of moderate transition for CAS. Four attorneys left CAS and were replaced with four attorneys, all of whom are performing quite well. The attorney caseloads remain heavy, though manageable. The quality of the work is very good. Productivity is adversely affected by the Supreme Court's decision in *Martinez v. Ryan*, which requires attorneys to spend an inordinate amount of time responding to claims in federal habeas corpus petitions that would have previously been barred from federal court review.

One of our attorneys was chosen for a National Association of Attorneys General (NAAG) Supreme Court Fellowship. He was in Washington, D.C. from January through March, attended several Supreme Court arguments, participated in moot court arguments for States' attorneys arguing cases in the Supreme Court, analyzed and summarized Supreme Court opinions, and wrote an amicus brief on behalf of the State of Arizona and approximately 25 other States.

The State prevailed in the overwhelming number of appeals handled by CAS. The following published opinions are some of the successful cases:

State v. Haskie – The Arizona Supreme Court held that, although expert testimony regarding a defendant's characteristics (profile evidence) is inadmissible to prove the defendant's guilt, expert testimony regarding common characteristics of behavior of victims is admissible to assist the jurors in understanding "counterintuitive behaviors of domestic violence victims," even if it incidentally refers to "an abuser's characteristics." The court held such testimony is admissible as long as it "primarily served the purpose of victim behavior." This is an important holding in prosecutions of domestic abuse and child sexual abuse cases.

State v. Francis – The court of appeals had held that, to prove a defendant guilty of the offense of possession of prison "contraband," the State was required to prove beyond a reasonable doubt that the defendant *knew* that the item he possessed in jail or prison was prohibited by the facility. Contraband is broadly defined; the statute lists many items, and also includes any "other article whose possession would endanger the safety, security or preservation of order in a correctional facility." Thus, it would be extremely difficult for the State to prove that an inmate knew that the item he possessed was "contraband." We petitioned for review, and the Arizona Supreme Court agreed with CAS that the State need only prove beyond a reasonable doubt that the defendant "knowingly" possessed the item – *not* that "he knew it was contraband." This holding will make it far easier to prosecute prison contraband cases.

State v. Jean – In a series of divided opinions, the Arizona Supreme Court held that the warrantless placing of a GPS tracking device on a vehicle in which Jean was a passenger, and sometimes drove, but did not own, constituted an unconstitutional search under the Fourth Amendment. However, CAS convinced a majority of the court (5 of 7 justices) that the 2,140 pounds of marijuana seized as a result of the stop and search of the truck was *not* to be suppressed under the exclusionary rule because the officers who placed the GPS device on the truck, acted in "good faith" reliance upon the United States Supreme Court opinions in *United States v. Knotts* and *United States v. Karo*. This holding is important because, prior to Jean, officers commonly placed GPS devices on vehicles without obtaining a warrant and the evidence in all of those cases would be suppressed, but for the majority's holding.

State v. Hernandez – A police officer turned on his vehicle's emergency lights to initiate a traffic stop for canceled insurance. Hernandez drove onto the shoulder of the road, then turned into a private driveway and drove

the length of the driveway, into the backyard. The officer followed and, after Hernandez stopped, the officer approached the vehicle, smelled marijuana, and later found marijuana and drug paraphernalia inside the vehicle. In a 2-1 decision, the court of appeals upheld the stop under the “hot pursuit” exception to the Fourth Amendment. The dissenting judge concluded that the officer’s encroachment “upon constitutionally protected curtilage was unreasonable and the State had “failed to show exigent circumstances.” The Arizona Supreme Court granted review and held that, by driving onto private property while he knew the officer was attempting to make a traffic stop, Hernandez “impliedly consented to the officer’s entry to complete the traffic stop.” The court did not reach the “hot pursuit” issue.

State v. Jacobsen – Jacobsen killed her boyfriend and sought to admit expert testimony of a PTSD diagnosis as well as “cold” expert testimony regarding the effect of increased cortisol levels in the late stages of pregnancy” to attempt to negate the element of “premeditation.” In *State v. Richter*, another panel of the court of appeals had held that PTSD evidence was admissible as evidence of a character trait for impulsivity to negate premeditation. We convinced the court that *Richter* was wrongly decided, and that both the PTSD and pregnancy testimony was “diminished capacity” evidence and, therefore, inadmissible to negate the element of premeditation. The Arizona Supreme Court subsequently denied Jacobsen’s petition for review and granted our petition for review in *Richter*. The *Richter* case was argued in May.

State v. Zeitner – Zeitner sought a state-funded abortion through AHCCCS, but AHCCCS does not fund abortions, absent an exception, which includes those necessary to protect the patient’s health. Zeitner went to several doctors, claiming that she had cancer and had undergone extensive radiation and chemotherapy treatments. She also forged a letter purportedly from a treating physician stating that she had to undergo additional chemotherapy and radiation treatment, and that it was “urgent” that she receive an abortion to avoid “third term life-threatening certainties to the patient.” She then received an AHCCCS-funded abortion. It was later determined that Zeitner never had cancer or cancer treatment, and that the letter was falsified. She was charged with various offenses, including defrauding AHCCCS. Zeitner claimed that all of her medical records were “privileged” and not subject to disclosure under the physician-patient privilege. The trial court disagreed, the records were disclosed and used against her at trial, and she was convicted. On appeal, the court of appeals held that the “common-law exception for crimes of fraud” had not been included by the Legislature in the statutory physician-patient privilege so that, as a general rule, that exception to the privilege does not exist in Arizona. However, the court agreed with CAS that, though not “explicit,” the AHCCCS statutes abrogated the privilege “by implication when fraud is suspected by imposing disclosure obligations on physicians that are entirely inconsistent with the privilege.”

State v. Medina – Medina was charged with possession of a firearm by a prohibited possessor and sought to raise a “necessity” defense, claiming that his life had been threatened “about a month prior” to his arrest. The trial court precluded him from raising the defense. The court of appeals agreed, noting that although a defendant need only present the “slightest evidence” to obtain a justification (necessity) jury instruction, here there was no “imminence,” only an “eventual harm.” The court wrote, “imminence is at the heart of the defense of necessity—without it, a necessity does not exist.”

State v. Jones – The AMMA immunized the possession and the use of up to 2½ ounces of usable marijuana by an AMMA card holder for medical purposes. The AMMA defines usable marijuana as “the dried flowers of the marijuana plant, and any mixture or preparation thereof.” Jones was charged and convicted of “possession of the narcotic drug cannabis.” “Cannabis” is statutorily defined as “the resin extracted from any part of a plant of the genus cannabis, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, it’s

seeds or its resin.” Jones possessed .05 of an ounce of “resin extracted” from the marijuana plant—“hashish.” The court agreed with CAS that the “resin” of the marijuana plant—which is far more potent than the plant itself—does not fall within the AMMA definition of marijuana, but remains a prohibited “narcotic drug.” A petition for review is pending in the Arizona Supreme Court.

Major Accomplishments – Capital Litigation Section

The Capital Litigation Section’s attorneys effectively litigated a tremendous number of complicated, high-stakes, high-profile capital cases in state and federal court during the last fiscal year. The number of cases pending in superior court on post-conviction review continues to decline as the post-conviction crisis from several years ago resolves. Currently, there are 27 cases pending in Rule 32 proceedings in superior courts statewide, down from 50 two years ago and 32 last year. However, this decrease in state proceedings has translated to an increase in federal habeas petitions. These federal petitions, which have no applicable page limits, consume a tremendous amount of the Section’s resources. In addition, the Section is still grappling with several cases remanded from the Ninth Circuit under *Martinez v. Ryan*, and the Section’s attorneys conducted complicated and resource-intensive evidentiary hearings in two of those cases last year. This trend is expected to continue in the coming years and to create additional challenges for the Section.

Execution Update

There is currently no legal impediment to resuming executions in Arizona. However, there is a *practical* impediment: ADC lacks the drugs necessary to carry out executions and has been unable to replenish its supply of drugs due to a nationwide shortage. If and when lethal-injection drugs are obtained, 10 inmates have exhausted their of-right appeals and are ready to be executed. Two more inmates have recently been denied relief by the Ninth Circuit and are in their final stages of appeal before the United States Supreme Court; these inmates will likely be eligible for execution by the end of 2018.

Significant Cases

The United States Supreme Court’s decision in *Lynch v. Arizona* resulted in the Arizona Supreme Court overturning two death sentences this fiscal year and one last fiscal year. However, the Section had some considerable successes in federal court, as follows:

Frank Jarvis Atwood v. Charles Ryan – In 1984, Atwood, a twice-convicted sex offender who had skipped parole in California, kidnapped 8-year-old Vicki Lynn Hoskinson as she rode her pink bicycle near her Tucson home. Atwood was arrested in Texas several days after Vicki went missing. Pink paint of the same chemical composition as Vicki’s bicycle was on his car’s front bumper. Several months later, Vicki’s bones were found in the desert outside of Tucson. Atwood was thereafter convicted of kidnapping and first-degree murder and sentenced to death. The end of Atwood’s 34-year odyssey of litigation is now in sight. In September 2017, a unanimous Ninth Circuit panel affirmed the district court’s denial of relief on Atwood’s claims of police misconduct, Eighth Amendment error, and ineffective assistance of counsel. Atwood has appealed to the United States Supreme Court; in so doing, he missed a filing deadline and is now pleading with the Court to accept his petition late. Assuming his petition is denied, Atwood will have exhausted his appeals by the end of the year.

Michael Apelt v. Charles Ryan – Apelt married a Phoenix woman, Cindy Monkman, in 1988 for the sole purpose of obtaining a life-insurance policy and murdering her to collect on that policy. He and his brother carried out their plan two days before Christmas, brutally stabbing Cindy and leaving her to die in the desert near Apache Junction. In 2015, a district court judge found that Apelt's attorney was ineffective at sentencing and granted habeas relief as to Apelt's death sentence. The Section appealed and, following briefing and argument, a unanimous Ninth Circuit panel reversed the district court's decision and reinstated Apelt's death sentence. Apelt's petition for rehearing *en banc* is pending before the Ninth Circuit. Assuming that motion is denied, and the United States Supreme Court does not intervene, Apelt will have exhausted his appeals.

Guardian News and Media, et. al v. Ryan – A group of media organizations sued the Arizona Department of Corrections in federal court, challenging, on First Amendment grounds, the Department's refusal to disclose information related to its sources of lethal-injection drugs. The type of information the media sought is frequently pursued by death-row inmates and death penalty abolitionists who, after obtaining the information, pressure the drug sources not to sell their products to state correctional departments. Accordingly, Arizona law protects this information's confidentiality. See A.R.S. § 13-757(C). After a trial, District Court Judge Snow ruled in the Department's favor, thereby preserving the confidentiality of the Department's drug sources. The case is currently pending in the Ninth Circuit Court of Appeals.

Civil Appeals Section

Overview of Accomplishments

Appellate briefing was prolific in fiscal year 2018; the number of briefs reviewed increased by 110 briefs from fiscal year 2017. Civil appellate attorneys reviewed 603 appellate briefs in fiscal year 2018 spanning work in Arizona state appellate courts (495 briefs), the Ninth Circuit Court of Appeals (47 briefs), the United States Supreme Court (6 briefs), and other courts (55 briefs). SGO civil appellate attorneys also participated in 47 moot court exercises which is an increase of 10 moot courts from fiscal year 2017.

Section Highlights

The Civil Appeals Section participates in all state court civil appeals in the Attorney General's Office by evaluating whether to take appeals, substantially editing briefs, and preparing advocates for oral argument. These appellate matters involve a broad range of legal issues, including state and federal constitutional law, tax, employment, torts, juvenile law, administrative law, and workers' compensation.

Major Accomplishments

United States Supreme Court Practice

Kisela v. Hughes – In this case, the Solicitor General's Office and the Liability Management Section filed a petition for certiorari challenging the Ninth Circuit's decision denying qualified immunity to a police officer who shot the plaintiff after she, "holding a large kitchen knife, had taken steps toward another woman [Chadwick] standing

nearby, and had refused to drop the knife after at least two commands to do so.” 138 S. Ct. 1148, 1150 (2018). The Supreme Court granted certiorari and summarily reversed. The Court concluded that the officer was entitled to qualified immunity because “[t]his is far from the obvious case in which any competent officer would have known that shooting Hughes to protect Chadwick would violate the Fourth Amendment.” *Id.* at 1153. The Court faulted the Ninth Circuit for failing to recognize that and for relying on circuit precedents that involved very different situations or were decided after the incident at issue.

Ninth Circuit Court of Appeals Practice

Feldman v. Reagan – In this lawsuit, the Democratic Party and other plaintiffs challenged certain Arizona election practices and laws including a new law concerning the collection of early ballots (HB 2023) and a long-standing law that requires voters to vote in the correct precinct. The plaintiffs alleged that the laws violate the Voting Rights Act and the First and Fourteenth Amendments and requested preliminary and permanent injunctive relief. After a ten-day trial, the district court denied plaintiffs’ request for permanent injunctive relief, both as to HB 2023 and out-of-precinct voting. The plaintiffs appealed. After expedited briefing, the Ninth Circuit held argument in July 2018 and recently issued an opinion affirming the State’s victory in the district court. Plaintiffs have filed a petition for rehearing en banc.

Carter v. Tahsuda – Plaintiffs, Indian children, their adoptive parents, and next friends, sued the federal government and the Director of the Arizona Department of Child Safety, challenging the constitutionality of the Indian Child Welfare Act. The district court held that the plaintiffs lacked standing to challenge the Act. The Ninth Circuit affirmed holding that the case was moot because the Indian children had been adopted by the plaintiff adoptive parents and the Act no longer applied to them.

Libertarian Party of Arizona v. Reagan – Plaintiffs brought this action in district court claiming that Arizona’s ballot access requirements, which require candidates to establish a significant modicum of support, violate their First and Fourteenth Amendment rights. The district court held that the ballot access requirements are constitutional. Plaintiffs appealed, briefing is completed but the Ninth Circuit has not yet scheduled oral argument.

Additionally the Solicitor General’s Office participates in all federal appeals in the Attorney General’s Office by evaluating whether to take appeals, substantially editing briefs, and preparing advocates for oral argument. These appellate matters involve a broad range of civil matters, including environmental law, habeas corpus claims, civil rights, § 1983, preemption, and federal constitutional law.

Arizona Appellate Court Practice

Solarcity v. Arizona Department of Revenue – The SGO worked with the Tax Section in preparing a petition for review of the court of appeals decision holding that taxpayers’ solar panels must be given a zero value and that this construction of the tax statute did not violate the Exemptions Clause or the Uniformity Clause of the Arizona Constitution. The Arizona Supreme Court granted review and after argument, issued its opinion vacating the court of appeals decision. Although the court held that the Department of Revenue lacked statutory authority to value the Taxpayers’ solar panels, it remanded the case to the tax court to determine if the counties were authorized to value the solar panels, whether § 42-11054(C) requires a zero valuation, and if so, whether that provision violates the Exemptions Clause or the Uniformity Clause.

BSI Holdings v. Arizona Department of Transportation – The SGO worked with the Tax Section to prepare the briefs in the court of appeals and the Arizona Supreme Court. At issue was the construction of a tax statute, A.R.S. § 28-8336, which established a license tax for “a nonresident whose aircraft is based in this state for more than ninety days but less than two hundred and ten days in a calendar year.” Because neither the parties nor the lower courts addressed the meaning of “based in” the state, the supreme court remanded the case after oral argument to the tax court for purposes of addressing that issue.

Alma S. v. Department of Child Safety – The SGO and the Protective Services Section sought review of a court of appeals’ decision that reversed the juvenile court’s severance of mother’s parental rights, finding that there was insufficient evidence under a best-interest standard. After granting review, briefing, and oral argument, the court took the matter under advisement and has not yet issued its opinion.

Attorney General Opinions

The Solicitor General’s Office coordinates the drafting and publication of Attorney General opinions. An Assistant Solicitor General chairs the AGO Opinion Review Committee. In fiscal year 2018, the Attorney General received 28 opinion requests and issued 10 formal opinions. Those opinions addressed topics including whether Arizona’s Public Records law extends to privately sent messages; whether A.R.S. § 37-931 authorizes Arizona employees and political subdivisions to use, access, maintain and guarantee access to rights-of-way across federal lands; voter registration database requirements; the Legislature’s authority to define the powers and duties of the Arizona Board of Regents; Joint Technical Education District governing board member eligibility; whether certain activities of unlicensed assistants are exempt from real estate licensing requirements; whether a joint operating entity is proper under A.R.S. § 48-805.01; city noise code enforcement under Arizona law; the sale and delivery of alcohol by unlicensed businesses using mobile device applications; and the use of anti-racketeering funds to review and approve a county attorney’s request to spend anti-racketeering funds.

Ethics

During fiscal year 2018, an Assistant Solicitor General continued to serve as Ethics Counsel to the office. A general summary of the services she provided follows:

- Provided daily office-wide assistance and advice on a broad range of ethical issues, including: attorney ethics; judicial ethics; public employee ethics; secondary employment and volunteer/pro bono activity; unauthorized practice of law; conflict-of-interest and screening
- Served as Chair of AGO Ethics Committee
- Coordinated Ethics CLE training
- Served as Independent Advice counsel for the Governor’s Regulatory Review Council and the State Land Board of Appeals
- Coordinated revision of the Arizona Agency Handbook
- Coordinated revision of AGO policies, including the outside (secondary) employment policy

AGO Library and Research Services (LRS)

The Solicitor General's Office assumed management responsibility for the AGO law library in fiscal year 2009. Since that time the library has tracked library usage, streamlined procedures for ordering books, increased legal research training opportunities, drafted successful grant proposals for the Office, reduced the library budget monies spent on print materials, created a virtual law library on the Office's Intranet, and placed an increased emphasis on electronic research tools.

The AGO library's print collection was drastically weeded in response to the foreseen move of the library to its new location. The only print materials that continue to be purchased are treatises and practice materials that are not available on-line, and in which inter-library loans for this material would be difficult if not impossible to attain.

Infrastructure to support and account for the AGO library's print and electronic collections was created in fiscal year 2018, with future plans to imbed this infrastructure on the AGO Intranet. An assortment of trainings and self-help aids were created for AGO researchers in various media formats. Specialized research and writing projects were delivered to requesting AGO sections in fiscal year 2018 as well. Overall, the AGO Library and Research Services section is functioning efficiently and in a cost-effective manner while delivering specialized services to AGO researchers.



Director Leslie Welch

MISSION:

In support of the Attorney General's Office, the Operations Division is a team of professionals committed to providing the highest quality internal and external customer service in the most efficient and cost-effective manner consistent with State of Arizona laws, policies, and best practices.

Division Summary

The Operations Division is made up of Human Resources, Procurement, Facilities Management & Planning, Budget/Financial Services and Information Services.

Fiscal Year 2018 proved to be an exciting one for the Operations Division with the closure of the old Law Building. The move consisted of nearly 400 people relocating to the new Central Avenue location, as well as a major reorganization at the Cap Center. It took months of planning and coordination across all areas of the Division. However challenging the move may have been, the outcome was a great success with minimal interruptions to the day-to-day operations of the AGO.



Information Services Section

The Information Services Section (ISS) is comprised of system/security engineers, software developers, web administrators, litigation support professionals, and help desk technicians. ISS is responsible for managing the information technology infrastructure as well as providing technical support services.

Overview of Accomplishments

Law Building to Palm Move – All ISS staff planned for and moved AGO computers, printers, WiFi, and peripheral

devices between the Law Building, CapCenter, and Palm facilities. During the move ISS overcame complications related to partial deliveries, power issues, hardware breakage, and office furniture preparation to ensure that AGO staff could begin using their equipment as soon as possible.

Law Building Server Room to IO Datacenter Move – The engineering team designed and configured a new datacenter in the IO facility in preparation of the closure of the Law building. All Law building storage and servers were successfully moved to the new facility and linked back to the agency without any unplanned interruption in service. Systems not moved to IO were relocated to the CapCenter server room. The migration of the Law building server room increased the resilience of the AGO disaster recovery plan due to the much greater distance between sites. Even though the sites are now separated by several miles the AGO data mirroring and failover systems are still functioning as usual.



Citrix Terminal Removal – All WYSE terminals in use have been removed and replaced with full computers in preparation of the shutdown of the AGO Citrix solution. For years the Citrix solution has provided access to outlying locations but changes in our applications and aging infrastructure necessitate the shutdown. The new computers provide our outlying users the flexibility and agility needed to address the changing application loads.



New Tele-work Solution – ISS has replaced the Citrix VPN solution with Barracuda. Barracuda allows AGO staff to remotely control their work computer. Since the machine is the same one they work on every day there is a consistent experience. The Barracuda solution also allows the AGO to leverage Google's Authenticator cell phone application (a free application) to provide 2 factor authentication. The average cost of the RSA 2 factor token was approx. \$150 per user so this will be a significant saving to the office.

Heightened Security – The entire AGO infrastructure is undergoing an increase in security. ISS is working to identify and mitigate security issues in technology, policy, and practice. In order to provide the most secure environment possible we are working with ADOA tools to identify risks. As risks are identified we are working to remove them by patching, solution upgrade, or solution replacement. We are also working to identify potential risk in the day to day operations at the AGO so that they can be addressed in training.

Data Growth at the AGO – The AGO data capacity need has grown predictably. In an effort to provide the fastest and most cost effective storage we have added a new Tier 1 storage solution to the storage pools. The new storage has the ability to cache frequently hit data in order to speed replies from server requests. This Tier is part of our overall solution that allows older data that has not been accessed to gradually migrate seamlessly to less expensive, high capacity online storage. The AGO is consuming over 130TB of capacity and will continue to grow as we all more multi-media data.



Human Resources Section

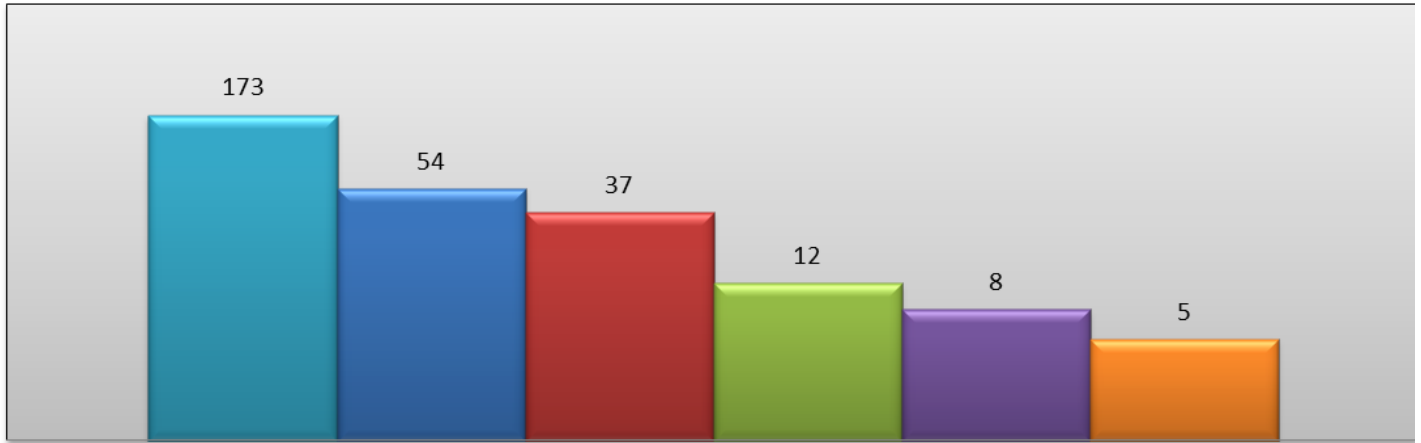
The Human Resources Section (HRS) oversees all activities necessary to develop, support and manage the Attorney General's workforce-from recruitment through retirement. The section strives to provide high quality customer service to all prospective, current and past employees. Human Resources supports all vital personnel functions, specifically focuses on management and processing of personnel actions, enforces compliance with federal and state employment regulations, recruitment, on-boarding, employee benefits, medical leave requests, accommodations, and industrial injuries.

Overview of Accomplishments

- Annual Employee Awards Event
- Assist with Office relocation to the Palm and Capitol Center buildings
- Benefit Open Enrollment – 100% employee participation
- Benefits Premium Policy
- Drug Free Workplace training
- EEO Plan
- Human Resources Information System (HRIS) Section reorganization
- Launch of FMLA Sharepoint page
- Merit Incentive Program for FY2018
- Participation in AGO101 CLE training
- PSPRS Cancer Insurance Program for FY2018
- PSPRS Pension Reform and refund payments
- Public Records Requests
- Recruitment and hiring of Civil Litigation Division Fintech Regulatory Sandbox positions
- Recruitment Process update
- Streamlining of new hire background process
- Wellness Events
- Workplace Harassment training

Onboarding

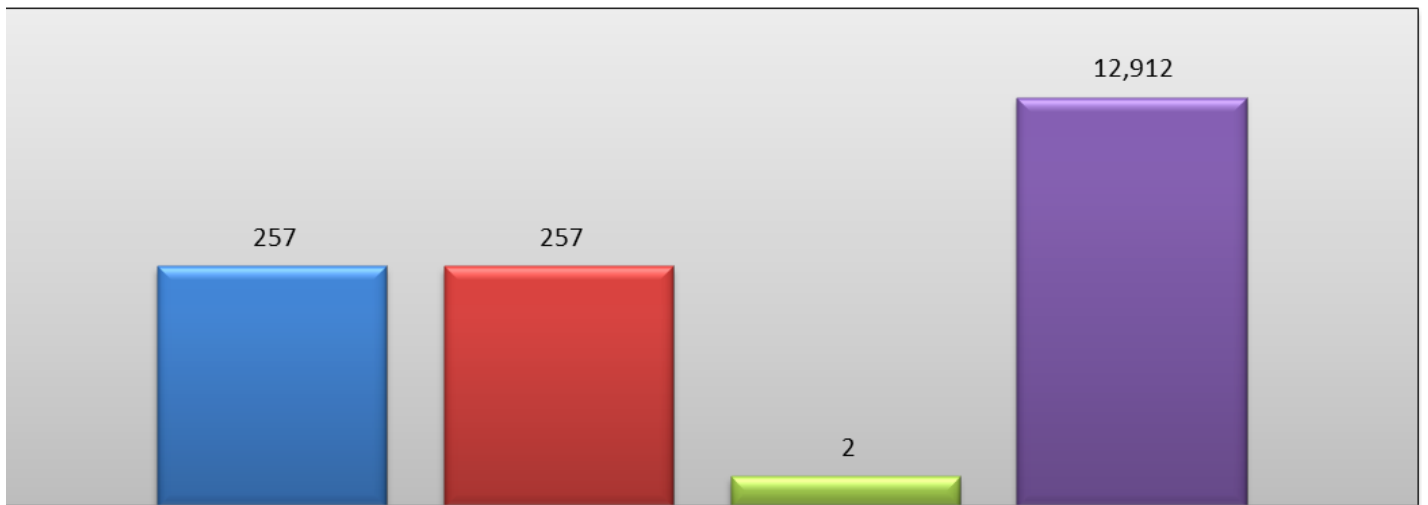
- # of New Employees
- # of Law Externs/Interns
- # of Undergrad Interns
- # of Volunteers
- # of Paid Interns
- # of Temp Employees



FY2018

Recruitment

- Advertisements Placed
- Hire Lists Processed
- Job Fairs YTD
- Resumes Received to Process



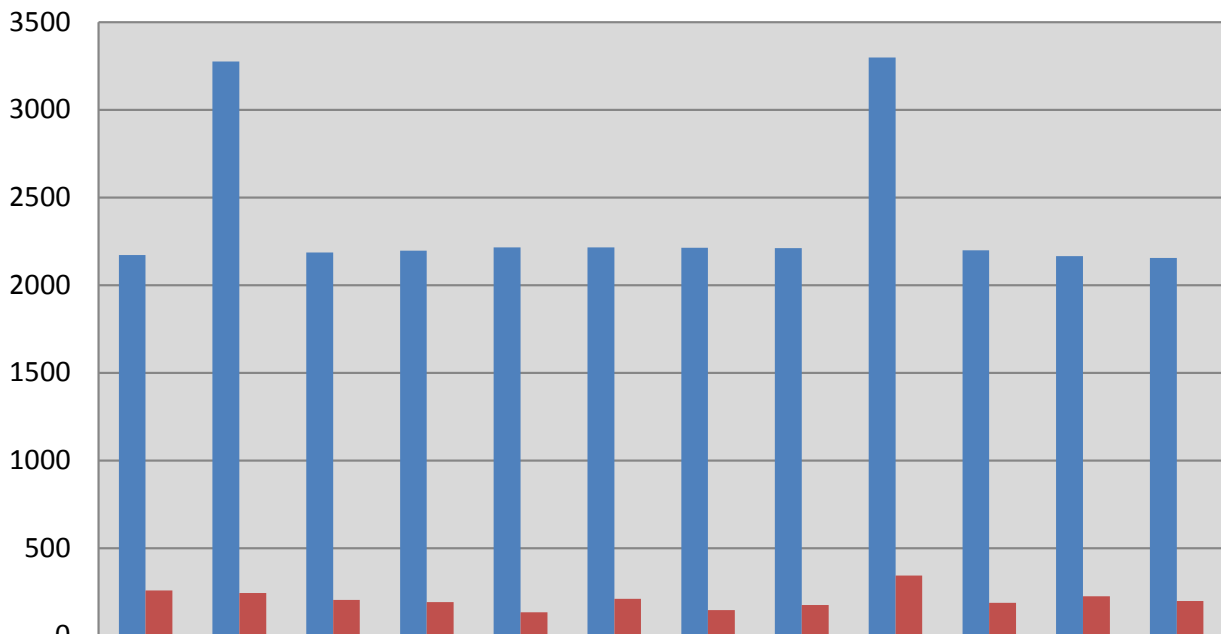
FY2018

Budget & Finance Section

The Budget and Finance Section is responsible for all agency financial functions including, payroll, accounts payable, general ledger, fixed assets, financial reporting, budget preparation and monitoring and grants management.

- Payroll issued 28,503 paycheck to employees and 2,519 travel & employee reimbursements
- Accounts Payable paid out \$36,822,445 to vendors in FY18
- 1,349 transfers were completed between the AGO and other state Agencies
- 4,445 Deposits processed totaling more than \$49 million dollars.

FY18 Paychecks Issued and Travel & Employee Reimbursement Processed



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
■ paychecks	2172	3275	2186	2197	2216	2216	2213	2211	3298	2199	2165	2155
■ Travel claims	259	243	205	192	133	211	147	175	343	187	226	198

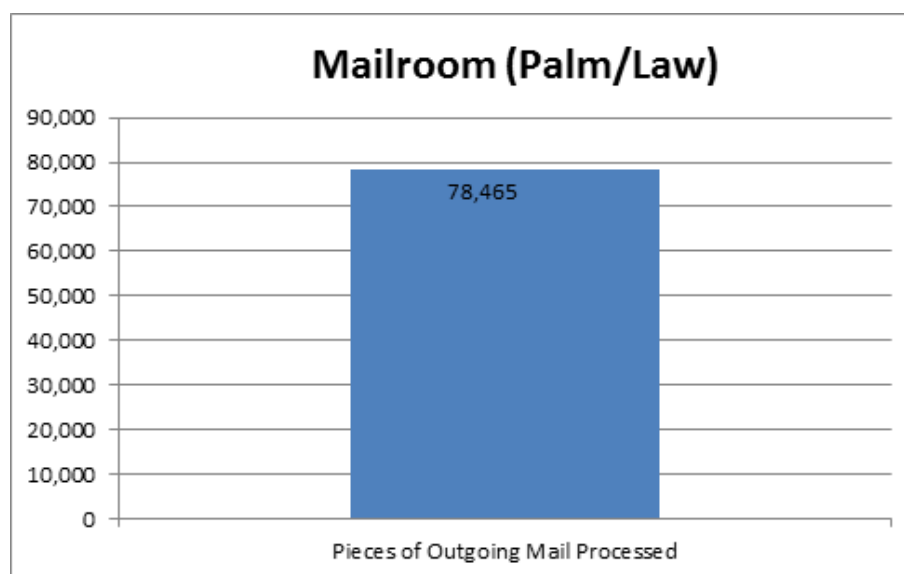
Facilities Management & Planning Section

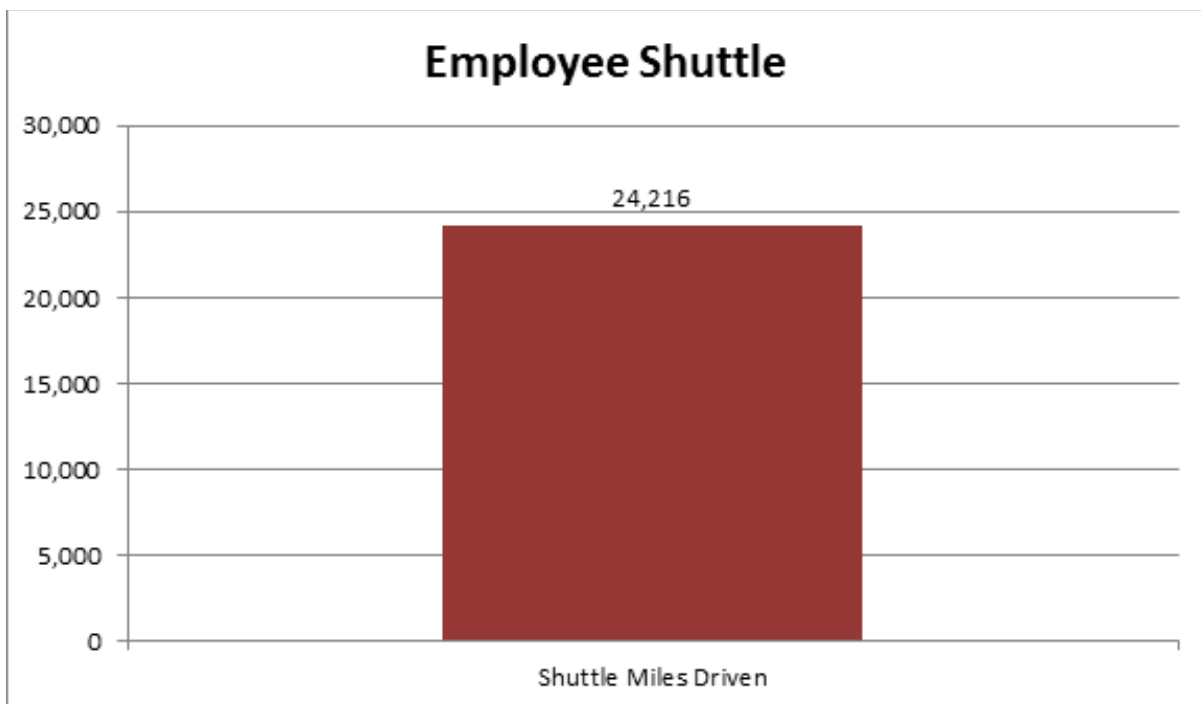
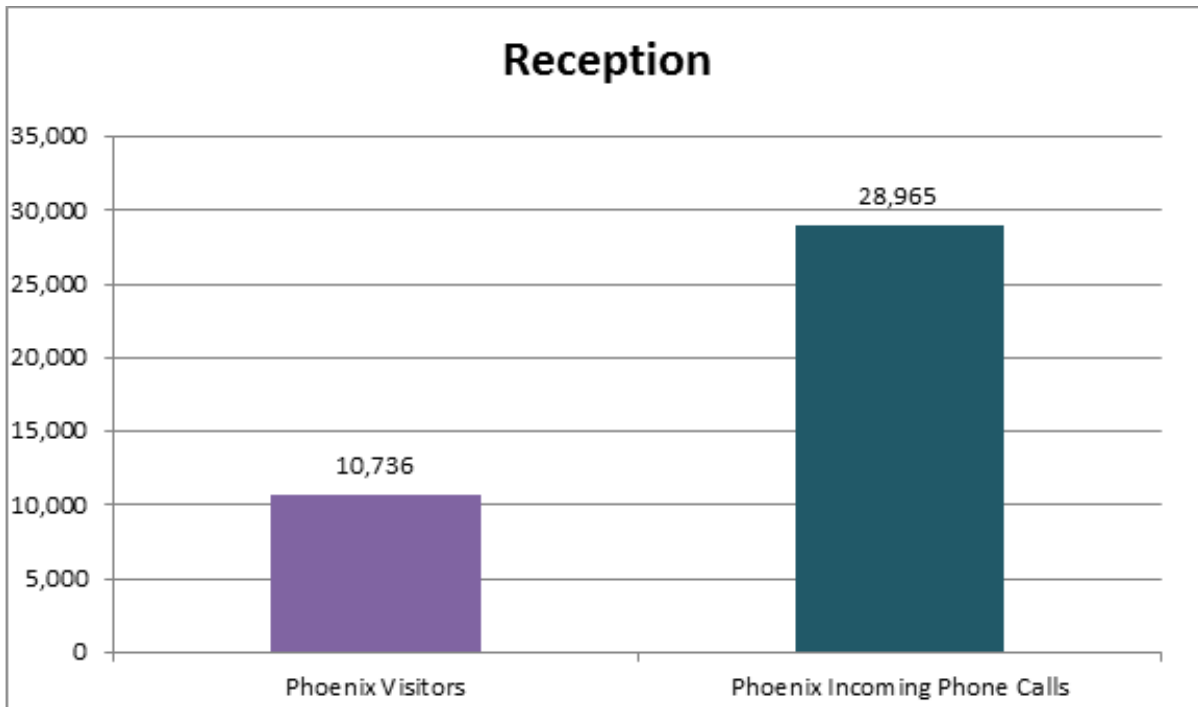
The Facilities Management and Planning Section manages the day-to-day operations and maintenance of the agency's occupied buildings and office spaces. Primary areas of focus include:

- Daily operations: Coordination of maintenance/building renewal, tenant improvement projects, surplus, agency fleet vehicles, parking assignments, employee move/furniture requests and telecommunications service requests across the agency as well as consultation with division management in the area of space planning.
- Safety and security: The program development and system oversight to include physical security system operations, evacuation procedures, and continuation of operations planning, as well as employee awareness campaigns designed to maximize personnel safety and security.
- Central services: Centralized services in shuttle transportation, mail room operation, main building receptionist functions, electronic imaging, and copy center services that support the needs of the agency.

2018 Accomplishments

- Participated in the planning and relocation of the Law Building to the Palm location as well as the Cap Center reorganization
- Improved safety and security in main building by adding new security cameras and badge readers
- Agency cost savings/increased efficiency in transporting employees to and from court in new 12 passenger vehicle



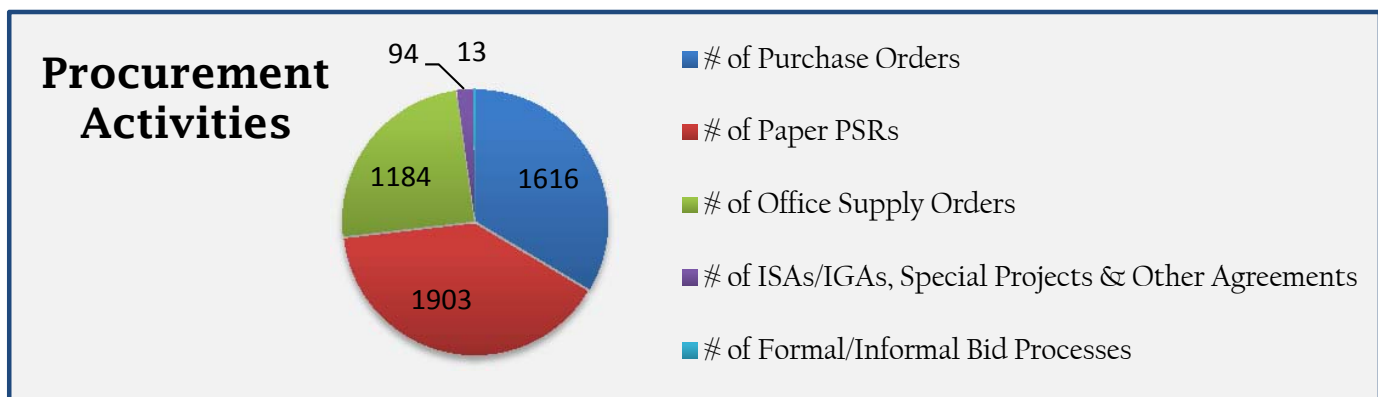


Procurement Section

The Procurement Section (PRS) is responsible for establishing contracts and purchasing goods and services as well as management of contracts for the office. The PRS endeavors to provide high professional procurement standards including (1) a valued resource to the office providing effective procurement strategies to support Agency goals and maximizing the value of public monies; (2) equitable treatment of all vendors and (3) complying with all AZ State procurement statutes and rules.

Responsibilities Include:

- Cellphone Administrator
- P-Card Administrator
- ProcureAZ Administrator
- Office Supply Account Administrator
- Procurement Services:
 - Approve All AGO purchases
 - Facilitate procurement processes for the AGO
 - Create, advertise, evaluate and award all AGO procurement solicitations
 - Review and sign all contracts and agreements for the AGO
 - Post-award contract management.



Overview of Accomplishments

- Solicit and award contracts to hire a fund administrator for the Theranos and Volkswagen Settlement.
- Solicit and award the Outside Counsel Contract for Calendar Year 2018 to approx. 100 firms.
- Solicit and award a supplemental Outside Counsel Contract for CY2018 to approx. 20 firms.
- Solicit and award a contract for Outside Counsel, Consumer Fraud and Related Civil Actions on a Contingency Fee basis to 15 firms.

- Solicit and award contracts to distribute funds to provide education programs for Opioid Misuse/Abuse from Amgen Settlement.
- Negotiate multiple Outside Counsel Agreements to support special needs of other Agencies; including the Arizona Power Authority (9 contracts).
- Negotiate multiple Governmental Agreements to coordinate AGO with Federal, County and City Agencies.
- Participate in design sessions for the new Source to Pay (S2P) e-procurement system: Arizona Procurement Portal (APP). Developed the hierarchy and organizational structure for the AGO within the new APP system.



Acting Division Chief
Beau Roysden

MISSION:

To enforce state law against those who violate the civil rights, or threaten the economic well-being of Arizonans.

Division Summary

The Civil Litigation Division consists of the Consumer Protection and Advocacy Section, Government Accountability, Special Litigation, & Antitrust Section, Division of Civil Rights Section and Bankruptcy Collection and Enforcement Section.

Consumer Protection & Advocacy Section

The Consumer Protection & Advocacy Section (“CPA”), with offices in Phoenix and Tucson, protects the public from consumer fraud and educates the public regarding consumer protection issues. CPA contains the Consumer Litigation Unit and the Consumer Information and Complaints Unit. CPA handles hundreds of cases and responds to thousands of consumer complaints each year.

Overview of Accomplishments

- Secured a \$40 million settlement with Volkswagen, including \$10 million in consumer restitution, over Volkswagen’s advertising of its “clean diesel” cars
- Secured a \$2.25 million judgment, including \$1 million in consumer restitution, after a six-week trial against Phoenix Car Rental, also known as Saban’s Rent-A-Car, and its principal, Dennis N. Saban
- Settled the State’s complaint against GM relating to widespread vehicle defects for \$7.2 million, including \$6.2 million in consumer restitution
- Secured a \$400,000 settlement with Mandatory Poster Agency, of which over \$175,000 will be used to give full refunds to Arizona businesses who were defrauded into paying \$125 to satisfy a fake “Annual Minutes Requirement”
- Filed a lawsuit against Chandler-based Insys Therapeutics, alleging that the company engaged in a fraudulent marketing scheme designed to increase the sales of a highly addictive opioid prescription drug containing fentanyl
- Resolved investigations of two Arizona businesses that made illegal telemarketing calls with settlements requiring the businesses to pay a total of \$1.34 million in penalties and banning them from telemarketing for five and six years, respectively

- Members of the Consumer Information & Complaints Unit participated in a phone bank broadcast by Univision Arizona
- Secured over \$24 million in consumer restitution and pre-investigation recoveries, an increase of over 75% from FY 2017.

Consumer Litigation Unit

Auto

\$2.25 million verdict obtained against car rental company

After six weeks of trial, the AGO obtained a \$1.85 million judgment against Phoenix Car Rental, also known as Saban's Rent-A-Car, and its principal, Dennis N. Saban. The State was subsequently awarded an additional \$400,000 in attorneys' fees as part of the judgment. The Court found that Phoenix Car Rental engaged in practices of quoting inaccurate prices, charging hidden fees, and renting unsafe cars. The Court ordered defendants to pay nearly \$1 million in restitution to consumers and entered injunctive relief to protect consumers in the future.

\$40 million settlement with Volkswagen

The AGO settled its lawsuit against Volkswagen for \$40 million, of which over \$10 million will go to consumers in restitution. The AGO's lawsuit related to Volkswagen's advertising of its "clean diesel" cars. The AGO alleged that the cars emitted far greater amounts of NOA than conventional engines, but Volkswagen had concealed this fact by installing software in the cars that tricked consumers and governmental authorities into thinking that the cars met emissions standards. Although other states settled with VW, Arizona was the first state to obtain direct restitution for consumers.

\$7.2 million settlement with GM

The AGO settled its lawsuit against GM for \$7.2 million, of which up to \$6.2 million will go to consumers in restitution. The AGO's lawsuit related to various defects in GM vehicles, including defects in ignition switches that resulted in some vehicles switching off while consumers were driving. Although other states settled with GM, Arizona was the only state to obtain direct restitution for consumers.

\$175,000 settlement with ABC Nissan

After an investigation, the AGO settled with ABC Nissan for \$175,000, of which up to \$130,000 will go to consumers in restitution. The AGO's investigation related to false advertising practices, including allegedly listing vehicles on the Internet for an "Internet Price" that included every potential rebate and excluded mandatory dealer "add-ons" that had already been applied to vehicles. The investigation also related to the alleged practice of falsifying credit applications. As part of the settlement, Defendants agreed to engage in truthful advertising and credit applications in the future.

Data Privacy & Security

Data breach notification legislation

The AGO authored HB2154, which updates and strengthens Arizona's data breach consumer protection statute. The bill was sponsored by Representative T.J. Shope and was signed into law by Governor Ducey in April 2018. The new law expands the definition of protected "personal information," requires that notice of a breach be provided to affected individuals within 45 days after determining that a breach has occurred, adds requirements for notification of certain breaches to the attorney general and the three largest nationwide consumer reporting agencies, and increases the maximum civil penalty for a knowing or willful violation of the statute from \$10,000 to \$500,000 per breach.

\$260,000 settlement with Nationwide Insurance

After a multistate investigation, the AGO settled with Nationwide Insurance for over \$260,000. The investigation related to a 2012 data breach involving consumer information. Nationwide also agreed to abide by injunctive terms designed to protect against additional data breaches.

\$83,000 settlement with Lenovo

After a multistate investigation, the AGO settled with technology company Lenovo for over \$83,000. The investigation related to allegations that Lenovo violated state consumer protection laws by pre-installing software on laptop computers sold to Arizona consumers that made consumers' personal information vulnerable to hackers. The settlement, which was coordinated with the Federal Trade Commission, also required Lenovo to change its consumer disclosures about pre-installed advertising software, to require a consumer's affirmative consent to using the software on their device, and to provide a reasonable and effective means for consumers to opt-out, disable or remove the software.

Travel & Entertainment

\$160,000 settlement with Bullhead City jet-ski company

The AGO settled its lawsuit against Bullhead City-based Malows Jetski Rentals for \$160,000, of which up to \$100,000 will go to consumers in restitution. The AGO's lawsuit related to Malows' alleged practice of advertising "\$65 ALL DAY" rentals and charging consumers up to \$299 for rentals on Fridays, weekends, and holidays. The lawsuit also alleged that Malows imposed other improper charges. As part of the settlement, Defendants also agreed to engage in truthful advertising in the future.

Nearly \$60,000 settlement with concert promoter

After an investigation, the AGO settled with BTWConcerts.com and BTWCruises.com for nearly \$60,000, of which about \$54,000 will go to consumers in restitution. The AGO's investigation related to BTW's cancellation of a concert and a cruise, and corresponding failure to refund consumers. As part of the settlement, Defendants agreed to be banned from promoting concerts or events in the future.

Nearly \$50,000 settlement with Tucson musical instrument seller

The AGO settled its lawsuit with Tucson-based Sticks N Strings Music Center and its owner for \$47,000, of which \$42,000 will go to consumers in restitution. The AGO's lawsuit related to Sticks N Strings' alleged practice of accepting prepayments from consumers but failing to deliver the promised merchandise or a refund, as well as the alleged practices of failing to honor consignment contracts or warranties. As part of the settlement, Defendants agreed to engage in truthful advertising in the future.

\$55,000 settlement with Flagstaff hunting service

The AGO settled its lawsuit with Flagstaff-based Sonoran Outfitters Adventures for \$55,000, of which \$45,000 will go to consumers in restitution. The AGO's lawsuit related to Sonoran Outfitters' alleged practice of accepting prepayments for consumers but failing to deliver the promised services or a refund. As part of the settlement, Defendants agreed to provide services or refunds in the future.

Healthcare*Over \$4.65 million sent to consumers from Theranos settlement*

After an investigation, the AGO settled with Theranos for \$4.85 million in April 2017, including \$4.65 million in restitution to cover the full amount of out-of-pocket testing fees incurred by Arizona consumers. In December 2017, the AGO sent checks for those amounts to consumers.

Lawsuit filed against Insys Therapeutics

In August 2017, the AGO filed a consumer fraud lawsuit against Chandler-based Insys Therapeutics Inc., alleging that Insys engaged in a fraudulent marketing scheme designed to increase the sales of Subsys, a highly addictive opioid prescription drug that contains fentanyl. The lawsuit alleges that Insys provided insurers with false and misleading information to obtain prior authorization for Subsys prescriptions for patients; provided health care providers with false and misleading information that the FDA had approved Subsys for more uses than the FDA had actually approved; and paid doctors to write prescriptions for Subsys through a sham "speaker fee" program. The AGO is seeking remedies that include an injunction to stop Insys from continuing the alleged deceptions and misrepresentations, restitution for consumers, and disgorgement of all profits and gains obtained as a result of the alleged illegal conduct.

\$366,000 settlement with Boehringer Ingelheim Pharmaceuticals

After a multistate investigation, the AGO settled with Boehringer Ingelheim for over \$366,000. The investigation related to deceptive and misleading representations allegedly made by Boehringer Ingelheim in its promotion of four of its prescription drugs: Micardis[®], Aggrenox[®], Atrovent[®], and Combivent[®]. Boehringer Ingelheim also agreed to abide by injunctive terms designed to protect against misleading advertising.

Real Estate

\$240,000 default judgment against mortgage relief scam

The AGO obtained a judgment of over \$240,000 against Eric Brown and his company, Mortgage Relief Solutions, for taking prepayments and promising to provide mortgage relief, but failing to make promised payments, resulting in damage to consumers. In addition to the monetary judgment the AGO obtained injunctive relief prohibiting the defendant's from working in real estate or debt relief in the future.

Small Business Scams

\$400,000 settlement with fake government mailer company

The AGO settled its lawsuit against Mandatory Poster Agency for \$400,000, of which over \$175,000 will be used to give full refunds to Arizona businesses who were defrauded. The AGO's lawsuit related to over 65,000 deceptive mailers sent to Arizona businesses in an effort to trick each business into paying \$125 to fulfill a fake "Annual Minutes Requirement." Mandatory Poster Agency is also banned from sending deceptive mailers in the future.

\$170,000 settlement with fake government mailer company

After an investigation, the AGO settled with Compliance Filings Services for over \$170,000, of which nearly \$90,000 will be used to give full refunds to Arizona businesses who were defrauded. The AGO's lawsuit related to over 129,000 deceptive mailers sent to Arizona businesses in an effort to trick the business into paying \$150 to fulfill purported "corporate records requirements" of Arizona law. Compliance Filings is also banned from sending deceptive mailers in the future.

Lawsuit filed against alleged "toner pirate"

After an investigation, the AGO filed a lawsuit against INT Sourcing / Premiere Office Supplies. The Defendants allegedly sent fake invoices to businesses for toner, hoping that businesses would not realize that they had not ordered any such toner.

Telemarketing

\$1 million Do Not Call settlement with carpet cleaning company

After an investigation, the AGO settled with Adobe Carpet Cleaning for \$1,000,000. The AGO's investigation related to the company's telemarketing practices, under which consumers on the Do Not Call list were frequently subjected to unwanted and unlawful sales calls. Adobe also agreed to be banned from telemarketing for six years.

\$340,000 Do Not Call settlement with air conditioning company

After an investigation, the AGO settled with Desert Valley Aire for \$340,000. The AGO's investigation related to the company's telemarketing practices, under which consumers on the Do Not Call list were frequently subjected to unwanted and unlawful sales calls. In addition, when consumers confronted Desert Valley Aire about the Do Not Call violations, the company claimed to be exempt from the Do Not Call law or hung up. Desert Valley Aire also agreed to be banned from telemarketing for five years.

\$1.3 million default judgment against business opportunity scam

The AGO obtained a judgment of over \$1.3 million against eleven corporate and personal defendants involved in a business opportunity scam. The business would call consumers and promise substantial amounts of income in exchange for paying the business to set up a website for the consumers. The default judgment bars defendants from doing telemarketing in the future and orders defendants to pay nearly \$800,000 in restitution to consumers.

\$480,000 default judgment against grant scam

The AGO obtained a judgment of over \$480,000 against Biz World Services and its proprietor, Santiago De Alejandro, for perpetrating a grant scam. Defendants would call consumers and promise to obtain substantial government grant money for the consumer, in exchange for an up-front payment. The default judgment bars defendants from doing telemarketing in the future and orders defendants to pay nearly \$90,000 in restitution to consumers.

Lawsuit filed against telemarketer

After an investigation, the AGO filed a lawsuit against Stellar Graphix. The defendant sold promotional products through telemarketing, but the lawsuit alleges that the products were not what were advertised and that Stellar Graphix failed to comply with Arizona's Telephone Solicitations Statute.

Timeshares

AGO saves consumers millions by helping them get out of timeshare contracts

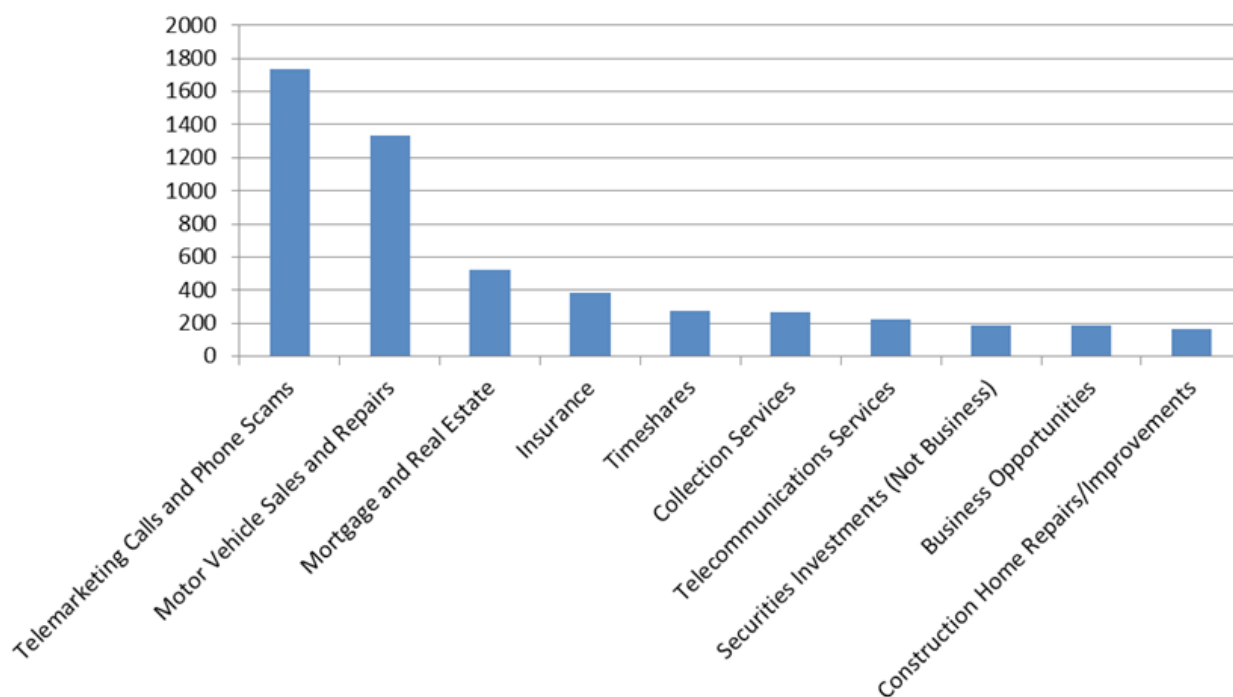
After an investigation, the AGO settled with Diamond Resorts International for \$800,000 in December 2016. The AGO's investigation related to Diamond's alleged deceptive practices in selling timeshares. As part of the settlement, Diamond agreed to consider letting consumers out of their timeshare contracts if consumers alleged the contracts were obtained through deceptive practices. Around 600 consumers asked the AGO for this relief, and after lengthy negotiations and court filings, the AGO was able to get nearly all of the consumers out of their timeshares, saving them up to tens of thousands of dollars each in additional fees that would have been charged by Diamond.

Consumer Information & Complaints

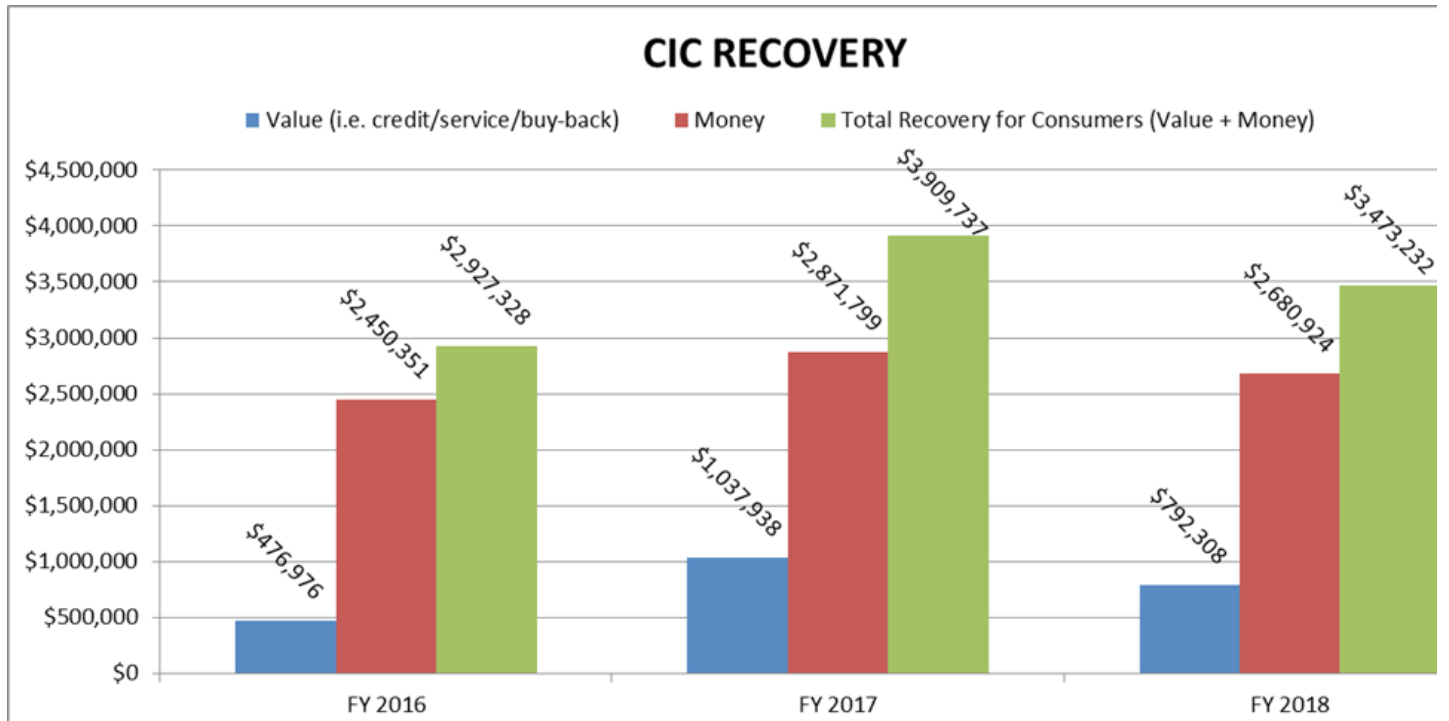
The Consumer Information and Complaints Unit (“CIC”) received over 16,000 consumer complaints and inquiries in fiscal year 2018. CIC staff, most of whom are bilingual in Spanish and English, answered more than 45,000 consumer phone calls throughout the year.

Common consumer complaint areas this year include the following:

CIC Complaints and Trends - FY2018



CIC staff and volunteers conciliate consumer complaints and work to obtain recovery (i.e., pre-investigation recoveries) for consumers whenever possible. In FY2018, CIC recovered over \$3.47 million for consumers throughout Arizona.



Consumers may file complaints online at www.azag.gov (go to “Consumer,” then “File a Complaint”), or may request a copy of a complaint form by calling CIC [Phoenix - (602) 542-5763; Tucson - (520) 628-6648; outside Phoenix and Tucson metro areas - (800) 352-8431].

Government Accountability; Special Litigation & Antitrust Section

The GASL (“GASL”) and Antitrust Section (“ATU”) serves the public through handling investigations and litigation related to legislator complaints filed pursuant to A.R.S. § 41-194.01 (SB 1487), anticompetitive conduct, election-related complaints, Open Meetings Law complaints, and matters concerning the illegal expenditure of public monies. In addition, GASL successfully defends state statutes when they are challenged by various individuals and groups. The section also assists the Consumer Protection & Advocacy Section’s mission by handling certain major high-profile cases arising under the Arizona Consumer Fraud Act, as well as in acting under the federal Class Action Fairness Act, 28 U.S.C. § 1715, to protect Arizona consumers from class action settlement abuse. Moreover, the section advocates in courts and federal agencies for actions that would reduce regulatory burdens on businesses, promote job growth, and foster federalism by allowing states to exercise their authority rather than imposing a one-size-fits-all federal approach to the detriment of consumers and Arizona residents.

Overview of Accomplishments

- Prompting the City of Bisbee and City of Sedona to rectify city ordinances and come into compliance with state law through a SB 1487 investigative report, without need for litigation.
- Resolving a separate SB 1487 investigation involving the City of Tempe after filing a Special Action in the Arizona Supreme Court and then obtaining the relief requested therein through a prompt settlement.
- Concluding the Deutsche Bank LIBOR investigation with a 45-state, \$220 million dollar settlement where Arizona government and not for profit organizations recovered over \$1.4 million dollars.
- Resolving investigation into Henry Schein’s involvement in a conspiracy to boycott a new entrant competitor in the dental supply market with a \$150,000 settlement requiring extensive antitrust training.
- Protecting victims’ rights by successfully defending the Office against a federal court challenge to Arizona’s voter-enacted victims’ rights structure, obtaining a dismissal.
- Continuing to spearhead an initiative to protect consumers from class-action settlement abuse. This includes filing briefs in federal courts across the country (including the U.S. Supreme Court) on behalf of multi-state, bipartisan coalitions. This initiative has resulted in the rejection of imbalanced settlements and positive results for consumers. See e.g. *Allen v. Similasan Corp.*, No. 12-cv-376, Dkts. 219, 223, 257, 261, 268 (S.D. Cal.) (after Arizona-led coalition filed amicus brief and District Court rejected initial deal, revised settlement was reached that increased class’ cash recovery from \$0 to -\$700,000); *Hiroyuki Oda, et al. v. Wilson Sporting Goods Co.*, No. 15-02131, Dkts. 143, 145 (C.D. Cal.) (“As a result of the letter submitted by the Arizona Attorney General,” parties amended their proposed settlement agreement, removing both the expiration date and the non-transferability provision originally placed on vouchers available to class members); *Cannon v. Ashburn Corp.*, No. 16-CV-01452, Dkts. 68, 107 (D.N.J.) (After hearing from Arizona-led coalition of 19 state attorneys general, court rejected the proposed imbalanced settlement).

Government Accountability & Special Litigation Unit (GASL)

The Attorney General’s Office (AGO) has responsibility for civilly enforcing several statutes related to government accountability. GASL was recently established to improve efficiency of these investigations. GASL’s responsibilities within the AGO include the following:

- Matters arising under S.B. 1487, which provides for withholding of state-shared revenue for violations of state law by counties, cities, and towns;
- Citizen election complaints and referrals by the Secretary of State and others for violations of state election laws and lobbying under Titles 16, 19 and 41 of the A.R.S.;
- Complaints alleging Open Meeting Law violations, A.R.S. § 38-431 et seq.; and
- Matters concerning public monies illegally paid under A.R.S. § 35-211 et seq.

GASL also acts as the State's defense counsel when State statutes are challenged in court. This has led to the successful defense of a victims' rights statute as well as several other ongoing representations.

In addition, an important part of GASL's workload is handling certain major high-profile fraud cases arising under the Consumer Fraud Act (CFA). GASL also takes steps under the federal Class Action Fairness Act, 28 U.S.C. § 1715, to protect Arizona consumers from class action settlement abuse.

Finally, GASL's responsibilities include advocating in courts and federal agencies for actions that would reduce regulatory burdens on businesses, promote job growth, and foster federalism by allowing state and local governments to exercise their authority rather than imposing a one-size-fits-all federal approach to the detriment of consumers and Arizona residents. And it similarly entails pushing back against other states that seek to impose their own burdensome regulatory regimes outside their borders in ways that impact Arizonans and our state as a whole.

The following are several indicative examples of recent GASL-related efforts (many of which are ongoing):

- Concluding the Volkswagen Clean Diesel litigation with a \$40 million dollar settlement that is allowing affected Arizona consumers to claim up to \$1,000 each in relief. This settlement related to VW's Diesel engine deceptive advertising scheme and tripled the value-per-car settlement reached by all the forty-plus states that had already settled their VW claims. It also sent \$20M to the states' fund for education measures.
- Prompting the City of Bisbee and City of Sedona to rectify, through a SB 1487 investigative report, city ordinances that were noncompliant with state law. The City of Bisbee passed an ordinance regarding plastic and carryout bag regulations that violated the state law that prohibits municipalities from regulating the sale or use of disposable carryout bags by private businesses, but promptly reversed the action upon notification of violation under SBI487. The City of Sedona passed a city code that required short-term rentals to obtain city business licenses, which violates A.R.S. § 9-1304. Sedona fixed the issue after the investigation determined that this was a violation of state law.
- Resolving a separate SB 1487 report after filing a Special Action in the Arizona Supreme Court involving the City of Tempe and then obtaining the relief requested therein through a prompt settlement. The petition asked the Court to review the statute that allows cities to conditionally impose the lower GPLET rate and conclude that Tempe violated state law by not abiding by the statute's requirements. The petition also asked the Court to declare that the City may never again use the general authorizing resolution that covers the entire City.
- Continuing to spearhead an initiative to protect consumers from class-action settlement abuse. This includes filing briefs in federal courts across the country (including the U.S. Supreme Court) on behalf of multi-state, bipartisan coalitions. This initiative has resulted in the rejection of imbalanced settlements and positive

results for consumers. See *Allen v. Similasan Corp.*, No. 12-cv-376, Dkts. 219, 223, 257, 261, 268 (S.D. Cal.) (after Arizona-led coalition filed amicus brief and District Court rejected initial deal, revised settlement was reached that increased class' cash recovery from \$0 to ~\$700,000); *Hiroyuki Oda, et al. v. Wilson Sporting Goods Co.*, No. 15-02131, Dkts. 143, 145 (C.D. Cal.) (“As a result of the letter submitted by the Arizona Attorney General,” parties amended their proposed settlement agreement, removing both the expiration date and the non-transferability provision originally placed on vouchers available to class members); *Cannon v. Ashburn Corp.*, No. 16-CV-01452, Dkts. 68, 107 (D.N.J.) (After hearing from Arizona-led coalition of 19 state attorneys general, court rejected the proposed imbalanced settlement).

- Defending the State’s victims’ rights law against a challenge in Federal District Court. This involved briefing several important procedural and substantive issues crucial to protecting Arizona’s voter-enacted victims’ rights structure and obtaining a dismissal of all claims against the Attorney General’s Office.
- Leading certain federalism efforts on behalf of the State by filing comment letters with federal agencies to ensure that the state’s ability to regulate and other state interests are not infringed. One recent example included filing a comment with the CFPB encouraging the agency to file all enforcement actions in an Article III court unless the respondents voluntarily consent to participating in an administrative adjudication proceeding, while further recommending that the CFPB adopt and conduct any voluntary administrative adjudication proceedings in full compliance with the Federal Rules of Civil Procedure and Evidence. In another instance, Arizona led a five-state coalition of Attorneys General urging the Department of Energy to engage in rulemaking that would permit more consumer choice in the residential dishwasher market by creating a new product class for dishwashers with shorter cycle times in response to consumer demand.
- Several ongoing investigations that cannot be disclosed at the present time.

Antitrust Unit (ATU)

Cephalon (Provigil)

Arizona’s Antitrust Unit joined a multistate action against the makers of the prescription wakefulness drug Provigil. The States alleged that Cephalon, Inc. committed fraud on the patent office and entered pay for delay agreements with generic drug manufacturers to extend its patent and resultant monopoly on Provigil. On July 25, 2017 Arizona, along with 48 other states entered into a \$125 million dollar settlement resolving these allegations against Cephalon. As a result of the settlement, Arizona recovered approximately \$2.8 million dollars. Arizona state agencies received over \$1 million in restitution and eligible consumers received more than \$1 million.

LIBOR

Arizona’s Antitrust Unit joined a 45-state, \$220 million dollar settlement with Deutsche Bank resolving allegations that Deutsche Bank engaged in fraudulent and anticompetitive conduct involving the manipulation of U.S. Dollar LIBOR (the “London Interbank Offered Rate”). The states’ investigation found that Deutsche Bank manipulated LIBOR rates in two ways. First, at various times during the financial crisis Deutsche Bank submitted misleading LIBOR rates to avoid the appearance that Deutsche Bank was in financial difficulty and needed to pay a higher rate to borrow money than some of its competitors. Second, Deutsche Bank traders asked Deutsche Bank LIBOR submitters to change their LIBOR submissions to benefit the traders’ positions, rather than making truthful submissions reflecting Deutsche Banks’ true borrowing costs. As a result, government entities and not for profit organizations throughout the country and Arizona were defrauded out of millions

of dollars when entering into swaps and other LIBOR-linked financial agreements with Deutsche Bank. The settlement provides for Arizona government entities and not for profit organizations to recover over \$1.4 million dollars.

Henry Schein

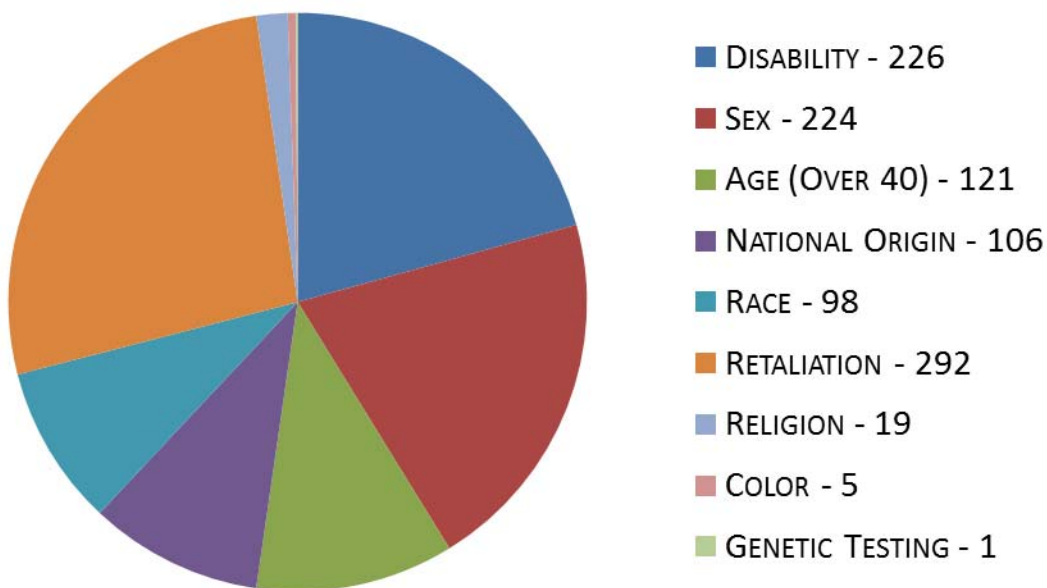
Arizona's Antitrust Unit began an antitrust investigation into an alleged boycott in the dental supply market. In April, 2018 Arizona entered into a settlement with Henry Schein, resolving allegations that Schein and two of its competitors worked together and came to an agreement to prevent entry of SourceOne Dental, a low cost online sales platform of dental supplies, into the market. The State also alleged that Henry Schein along with two of its competitors agreed to boycott the AzDA Western Regional Dental Convention because they perceived that AzDA, through its partnership with SourceOne, had positioned itself as a competitor. Through the settlement, Schein is prohibited from engaging in anticompetitive conduct in the future. The settlement also required Schein to receive comprehensive antitrust training and pay \$150,000 for the costs and fees of the investigation.

Division of Civil Rights Section

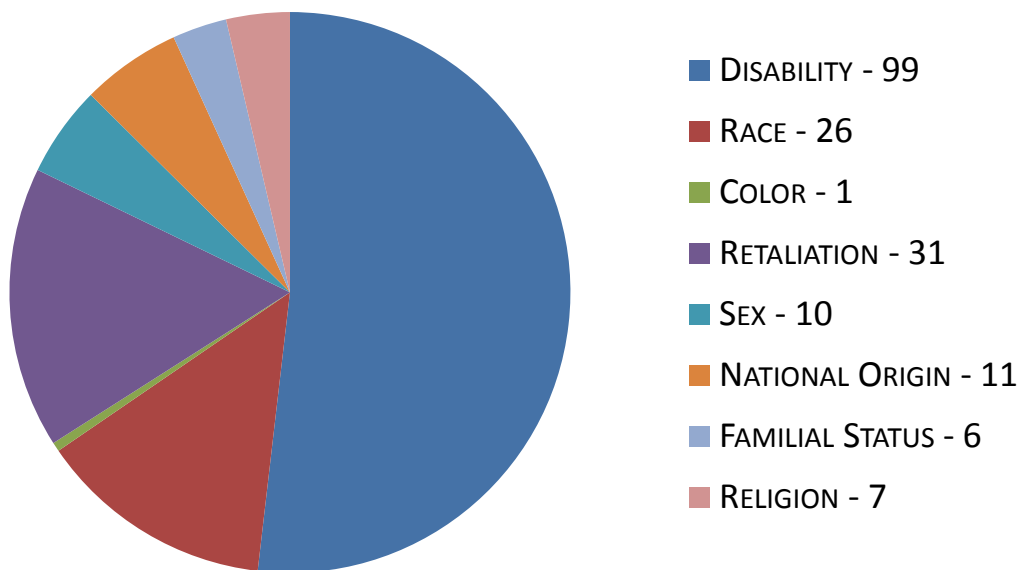
The Division of Civil Rights Section (“DCRS”) enforces the Arizona Civil Rights Act (“ACRA”). ACRA prohibits discrimination in employment, housing, public accommodations, and voting. The DCRS investigates, mediates, and litigates complaints alleging violations of ACRA and seeks to reduce discriminatory conduct through education, outreach, conflict resolution services, and mediation training programs. Within the DCRS is the Arizona Civil Rights Advisory Board, which publishes studies that work to eliminate discrimination.

Arizonans can file charges with the DCRS online, by phone, mail, or in person. In FY 2018, the DCRS investigated 1,786 discrimination charges that potentially violated ACRA. DCRS investigated charges alleging the following types of discrimination:

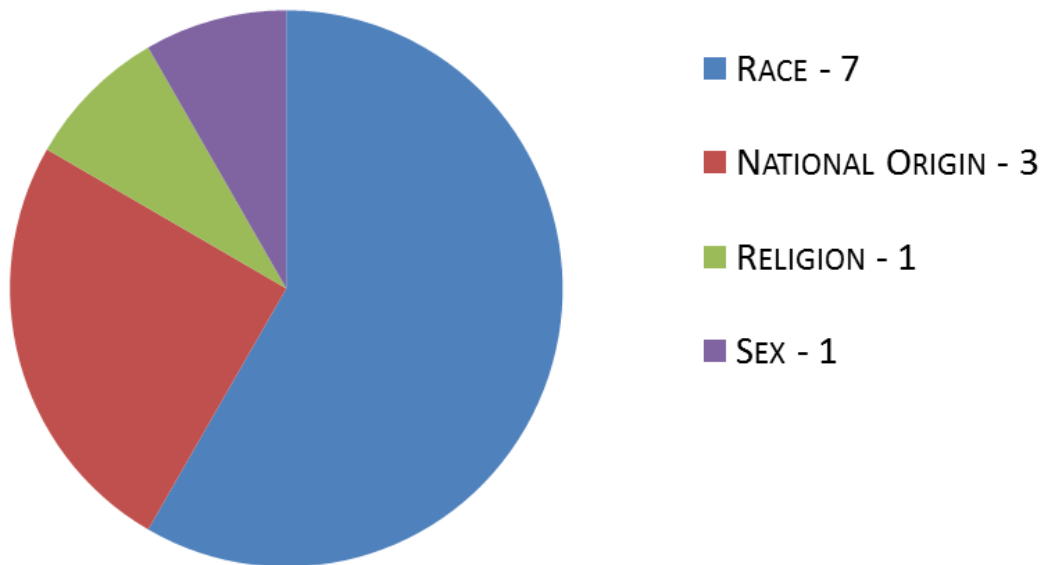
ALLEGATIONS OF DISCRIMINATION IN EMPLOYMENT



ALLEGATIONS OF DISCRIMINATION IN HOUSING



ALLEGATIONS OF DISCRIMINATION BY A PUBLIC ACCOMMODATION



ALLEGATIONS OF VIOLATION OF THE ARIZONANS WITH DISABILITY ACT

Disability – 43

Where possible, the DCRS seeks to resolve disputes through various forms of conflict resolution. In FY 2018, the DCRS resolved 145 charges of discrimination through mediation, conciliation, or litigation settlements. As a result of these efforts, the DCRS obtained a total of \$796,763.49 in monetary relief for Charging Parties and for future monitoring and enforcement activities, along with a wide variety of injunctive relief to prevent future civil rights violations.

Highlights of cases litigated by DCRS this past year include the following:

State v. Rumors Sports Bar & Grill, LLC – In two employment cases involving sex discrimination, an owner/supervisor is alleged to have subjected two female bartenders to unwelcome verbal and physical conduct of a harassing nature. The alleged harassing conduct was sufficiently severe or pervasive that it altered the terms and conditions of employment for both female employees. Defendant owner made sexually explicit comments while intoxicated on a daily basis, propositioned one female bartender for dates on multiple occasions, physically groped one female bartender on multiple occasions, and physically groped the other on one occasion. The alleged sexual harassment culminated in termination for both female employees. The cases are pending in Maricopa County Superior Court.

State v. Sparky's Investments, LLC – In this employment case involving sex discrimination, an owner/supervisor allegedly subjected the sole, female employee to unwelcome verbal and physical conduct of a harassing nature. The alleged harassing conduct was sufficiently severe and pervasive that it altered the terms and conditions of her employment, with weekly sexually offensive comments, text messages, and physical touching, creating a hostile work environment. Defendant allegedly touched the female employee's back, hips, and smacked her buttocks, viewed a pornographic video at work in her presence, and responded to her text messages with sexually-explicit comments and propositions. The case is pending settlement in Maricopa County Superior Court.

State v. GEO – In this employment class action involving sex discrimination, female employees were allegedly subjected to sexual harassment, a sexually hostile work environment, and retaliation. The employees were allegedly subjected to various forms of sexual harassment ranging from inappropriate sexualized comments to unwelcome sexual physical contact. The State settled the lawsuit with a Consent Decree. GEO agreed to pay \$550,000 in compensatory damages and back pay along with injunctive relief to help prevent future civil rights violations.

State v. Southern Arizona Legal Aid (SALA) – In this employment case involving disability discrimination, the employer allegedly denied an employee a reasonable accommodation for her disability and retaliated against her after she complained. The employee had a long-standing accommodation for her disability in the form of a flexible schedule. SALA reviewed her accommodation, limited her hours, and eventually transferred her to a less desirable position. The parties resolved this matter with a Consent Decree. The State obtained injunctive relief in the form of a court order against further non-compliance with the Arizona Civil Rights Act. In addition, SALA was ordered to update its reasonable accommodation/anti-retaliation policies and procedures, and conduct training for all current employees and new hires.

State v. Northwest Medical Center – In this employment case involving disability discrimination, the employer allegedly denied an employee’s request for a reasonable accommodation of medical leave to allow the disabled employee time to recover from surgery, and instead terminated the employee’s employment. The case is pending before the Pima County Superior Court.

State v. Smith’s Food and Drug Centers – In this employment case involving disability discrimination, the employer allegedly denied an employee a reasonable accommodation for her disability and retaliated against her. The employee had a mobility impairment which required her to use a cane and a stool while at work. Her employer denied her the accommodation, and when she was unable to return to work without her requested accommodation she was terminated. This case is pending in Pima County Superior Court.

In addition to its investigation and enforcement activities, the DCRS participated in or sponsored 28 education and outreach events to inform the community about civil rights laws and the DCRS’s complaint and resolution process.

Bankruptcy & Collection Enforcement Section

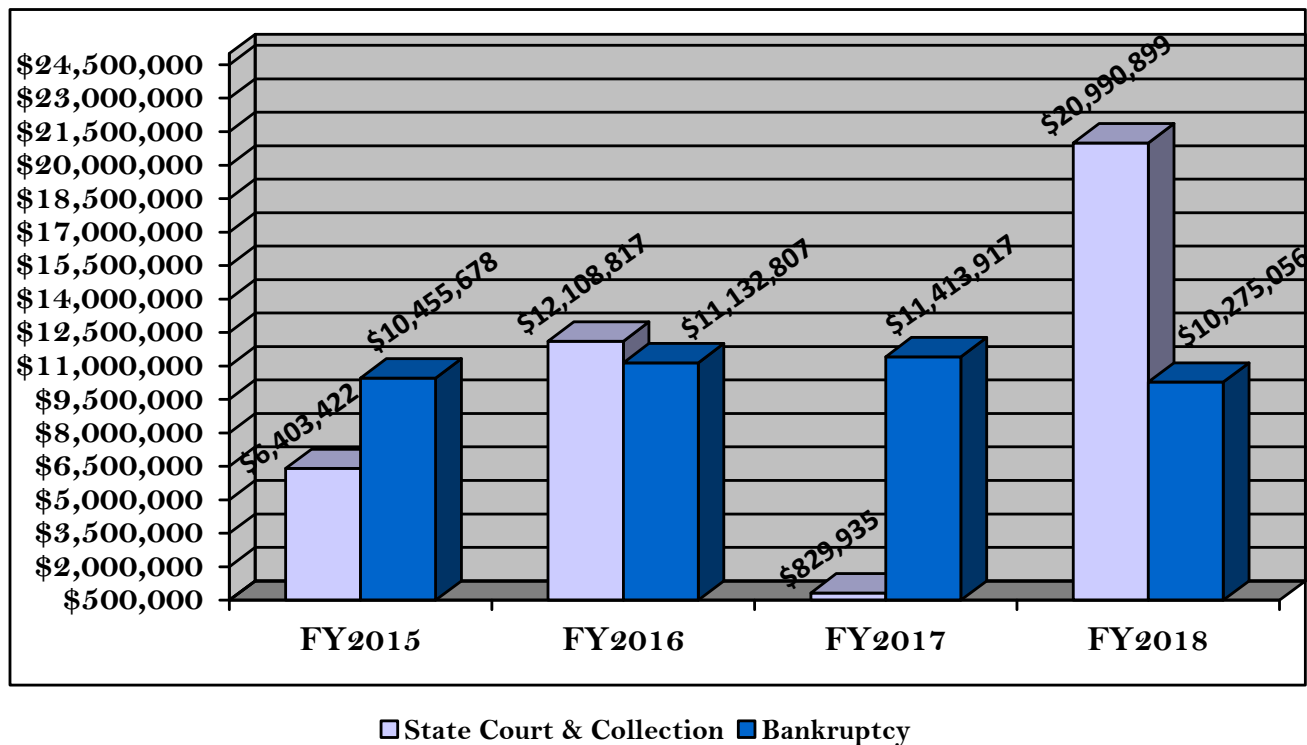
The Bankruptcy and Collection Enforcement Section (“BCE”) comprised of the Bankruptcy Unit, Collection Enforcement Unit and State Court Unit, is a cross functional team of attorneys, legal staff and debt collection professionals. BCE’s mission is to collect debts owed to the State of Arizona, efficiently, expeditiously and fairly in order to maximize revenue.

BCE represents nearly all state agencies, boards, commissions and departments in bankruptcy, state court litigation and collection matters, and its responsibilities range from routine collection and bankruptcy matters to complex litigation to establish debt.

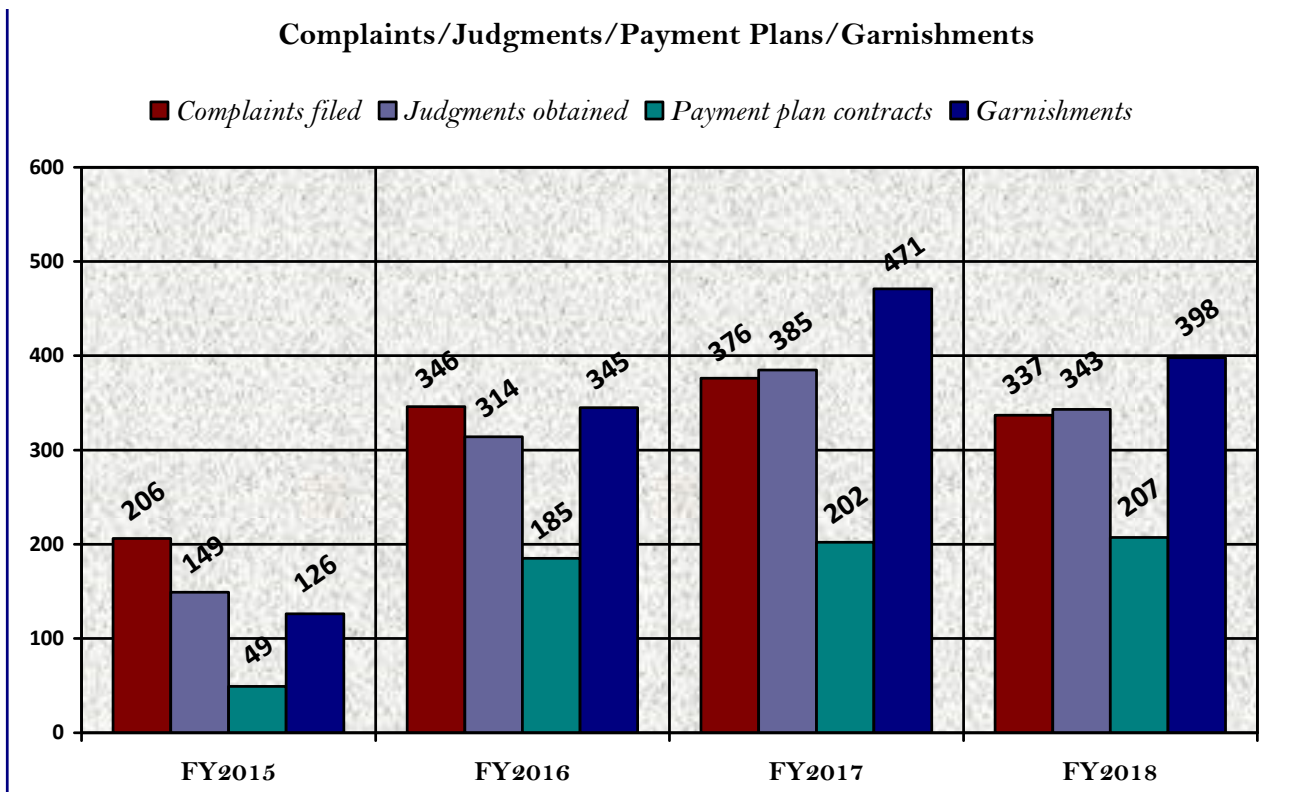
Accomplishments

In FY2018, BCE collected approximately \$31.3 million dollars on behalf of the state. This was a record year for BCE and a 26% increase over its last record year from FY2016 of \$23.2 million. BCE has continued to focus on its Agency-Client relationships resulting in increased case referrals and continued improvements in BCE operations have steadily increased revenues as a result of increased debt collection benefiting both the Attorney General’s Office (AGO) and the State of Arizona.

COLLECTION ENFORCEMENT REVOLVING FUND
Revenue by Fiscal Year



BCE has continued to produce consistently at the increased levels they established since FY2015 in the amount of Complaints filed, Judgments Obtained, Payment Plan Contracts and Garnishments. In FY2015, BCE filed 206 Complaints. In FY2016 that was increased to 346 and in FY2017, it filed 376, an 83% increase over FY2015; and in FY2018 it filed 337. In FY2015, BCE obtained 149 judgments. In FY2016 that was increased to 314 and in FY2017, it obtained 385, a 158% increase over FY2015; and in FY2018 it obtained 343 judgments. In FY2015, BCE entered into 49 payment agreements. In FY2016, that number increased to 185 and 202 in FY2017, a 312% increase over FY2015; and in FY2018 it entered into 207 payment agreements. The same trend was seen in garnishments. In FY2015, BCE filed 126 garnishments. In FY2016, BCE increased that to 345 garnishments and 471 in FY2017, a 274% increase over FY2015; and in FY2018 it filed 398 garnishments. These consistent increases in directed collection activity have resulted in significant increases in collection dollars and have paved the way for continued increases in the years to come.



Child and Family Protection Division



Division Chief John Johnson

MISSION:

To provide the Arizona Department of Economic Security (DES) and the Department of Child Safety (DCS) with high quality representation and timely legal advice that promotes the safety, well-being and highest degree of self-sufficiency of children, vulnerable adults and families.

Division Summary

The Child and Family Protection Division (CFPD) provides comprehensive legal representation to DES and DCS with more than 435 employees in locations statewide. CFPD is divided into three parts: Protective Services Section (PSS), Child Support Services Section (CSS) and Civil and Criminal Litigation and Advice Section (CLA). The Division also has an Appellate Practice Group that represents DES and DCS in the Arizona Court of Appeals, the Arizona Supreme Court, and the Federal Courts. The Appellate Practice Group prevails in an overwhelming majority of all resolved appeals.

Protective Services Section

PSS provides comprehensive legal representation to DCS. PSS shares the goals of DCS in protecting abused and neglected children, providing services to preserve families and achieving timely permanency for Arizona's children in foster care. PSS has 276.20 full time equivalent positions, 153.70 attorneys and 122.50 support staff. Attorneys and staff in PSS provide legal representation to DCS throughout Arizona's 15 counties with ten offices located in Flagstaff, Gila/Pinal, Kingman, Mesa, Phoenix I, Phoenix II, Prescott, Sierra Vista, Tucson and Yuma.

Trial Practice

PSS attorneys engage in a high-volume, fast-paced, litigation-focused practice in the Juvenile Division of the Arizona Superior Court. Trial attorneys in PSS handle thousands of legal actions each year, generally referred to as "dependency cases." These court processes involve dependency, guardianship, severance and adoption proceedings. These proceedings serve to protect abused and neglected children in both in-home and out-of-home placements. The children are legally in the custody of DCS, and progress towards permanency is monitored by the courts. Protective and remedial social services are provided to the family in an effort to remedy the circumstances that brought the children into care in order to achieve successful reunification. If attempts to reunite families prove unsuccessful in a judicial or legislatively determined period of time, PSS attorneys represent DCS in actions to achieve the permanent placement of children through guardianship, severance of parental rights and adoption proceedings.

Policy & Training

PSS lawyers advise DCS on a wide spectrum of legal issues arising from federal, state and agency statutes, rules, regulations, policies, procedures and court decisions. The PSS Litigation Support Unit trains all incoming PSS attorneys. The Litigation Support attorneys mentor new PSS attorneys, second chair trials, litigate high-profile cases and assist with straight to severance cases. In addition, Litigation Support attorneys provide substantive and ongoing training to the PSS attorneys, DCS caseworkers and supervisors, members of the judiciary and various child welfare system stakeholders throughout Arizona.

PSS Appeals

The CFPD Appeals Unit regularly appears before the Arizona Court of Appeals and the Arizona Supreme Court to defend and/or challenge trial court decisions and to file and respond to appeals and special actions arising from dependency, guardianship and termination matters. In FY2018, the Appeals Unit filed approximately 308 briefs on behalf of PSS, in addition to numerous substantive motions and research and writing projects for PSS trial attorneys. The Supreme Court and Court of Appeals issued ten opinions and over 200 memorandum decisions in FY2018, in cases that were briefed by the Appeals Unit.

In addition to the items listed above, the Appeals Unit assists PSS by:

- Training new-hire attorneys during mandatory initial training, training all PSS AAGs on changes in the law or other “hot topics,” and training attorneys and judges around the state on various topics through the Supreme Court’s Court Improvement Program.
- Meeting regularly with DCS to discuss policy and appellate issues.
- Serving on various committees both within and outside of the AGO (including the State Bar’s Bar Leadership Institute, the Conference of Western Attorneys General’s Legislative Action Committee, the National Association of Counsel for Children, the State-Federal-Tribal Court Forum’s ICWA Subcommittee, and various court committees and initiatives).

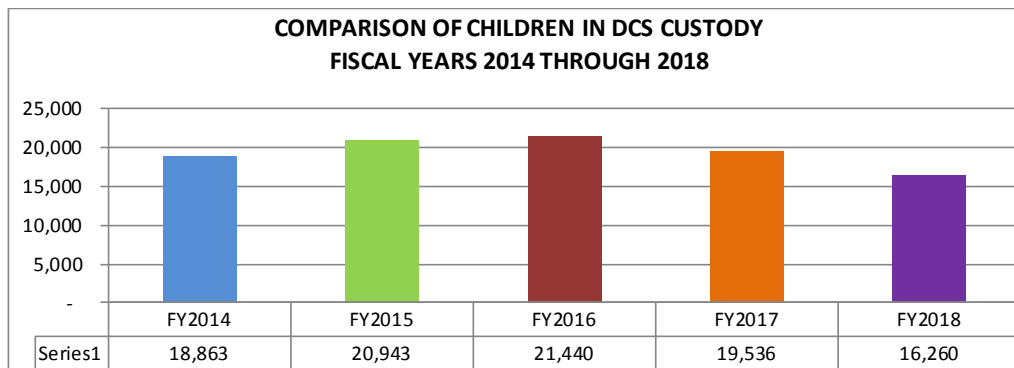
Significant in FY2018, the Appeals Unit helped to secure dismissal of a federal class-action lawsuit directed at DCS and others challenging the constitutionality and application of the federal Indian Child Welfare Act (ICWA) (*Carter v. Washburn*). The Ninth Circuit Court of Appeals dismissed the action consistent with the Unit’s arguments. In addition to this significant ICWA case, the Appeals Unit has become nationally known for expertise in ICWA matters, as recognized by Casey Family Services and the Conference of Western Attorneys General.

Overview of Accomplishments

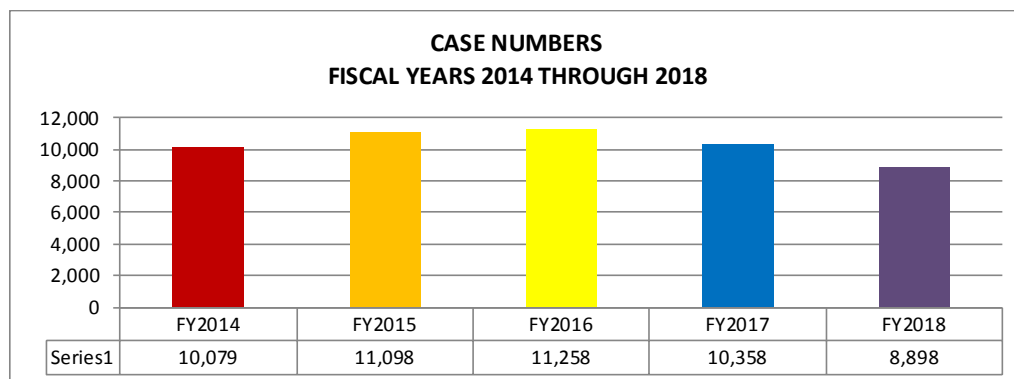
- PSS attorneys prepared for and/or attended 73,632 court appearances.
- PSS attorneys prepared for and represented DCS in trial a total of 7,610 days in FY2018.
- The PSS Litigation Support Unit trained 25 new attorneys during FY2018.
- The PSS Litigation Support Unit trained an average of 60 new case managers every month both in Phoenix and Tucson. They also provided training to the DCS Advanced Investigator Academy.
- The PSS Litigation Support Unit conducted a Trial College and Intermediate/Advanced Trial College.
- The PSS Litigation Support Unit held a Summer Conference for approximately 130 attorneys.
- PSS assisted DCS in protecting more than 16,260 children from abuse and neglect.

Child and Family Protection Division

- PSS filed 4,687 new dependency petitions.
- PSS filed 2,337 severance motions and petitions.¹
- PSS filed 403 guardianship motions.
- PSS filed 256 adoption petitions.
- PSS assisted DCS in reuniting 3,164 children with their parents.
- PSS assisted DCS in placing 623 children with permanent guardians.
- PSS assisted in the adoption of 3,564 children by relatives or foster parents.



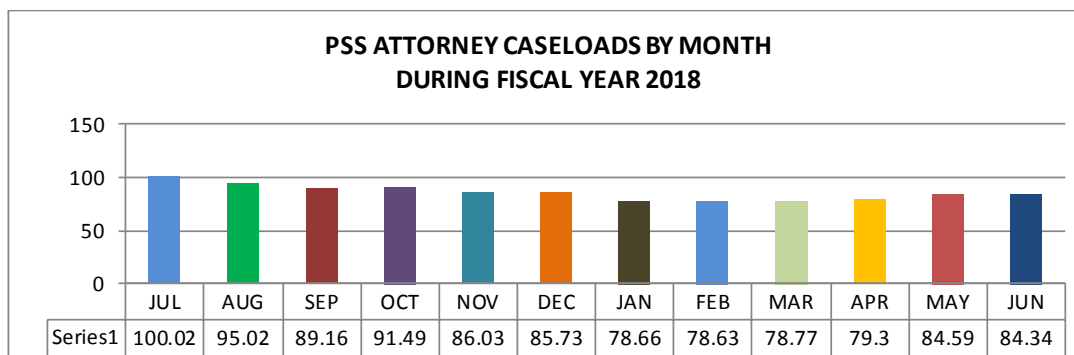
The number of children in care at the end of FY2018 was the lowest DCS has seen in the past five years.



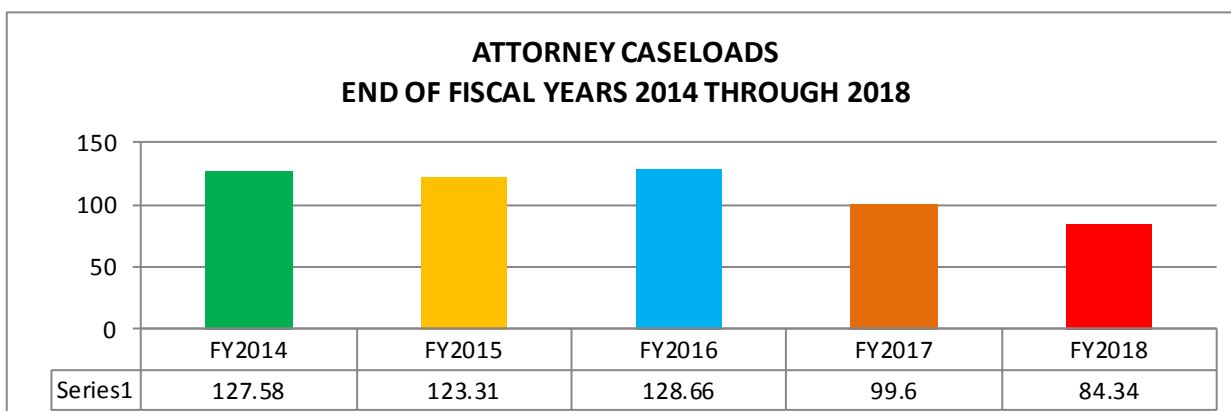
Similarly, PSS also has seen a significant reduction in the number of open cases at the end of FY2018.

¹ Establishing permanency is the goal for all children in DCS's custody. If reunification with a parent cannot be achieved, DCS will proceed with severance of parental rights to free the child for adoption. PSS has continued its efforts with the Case Permanency Staffings to ensure timely review of cases for permanency and to identify grounds for and barriers to severance as early as possible. In addition, the straight to severance procedures implemented for cases in which reunification is determined not to be in the child's best interests (i.e. severe abuse cases, surviving siblings in child death cases and new babies to parents whose rights were recently severed) have freed children for adoption at a much earlier stage in the proceedings.

Child and Family Protection Division



The additional attorneys allocated by the legislature in FY2017 have enabled PSS to maintain its average caseload by attorney below 100 cases during FY2018.



At the end of FY2018, the average caseload reached the lowest it has been in over five years.

Child Support Services Section

CSS seeks to ensure that children receive financial support from both parents. The Section provides legal advice and representation to DES's Division of Child Support Services (DCSS). CSS handles a high-volume litigation caseload to establish paternity and to establish, modify and enforce child support orders. CSS attorneys and staff are co-located with our client, DCSS, in 11 offices statewide in the following counties: Cochise, Coconino, Maricopa, Mohave, Pima, Pinal, Yavapai and Yuma. CSS also handles the litigation and covers court hearings in the following six counties: Apache, Graham, Greenlee, La Paz, Navajo, and Santa Cruz.

Trial Practice

CSS attorneys engage in fast-paced litigation in the Family Court Division of the Arizona Superior Court. Because approximately 45% of Arizona's children are born to unwed parents, establishing paternity is often the first step in the child support process. DCSS is number one in the nation with respect to its efforts in establishment of paternity. The vast majority of paternity orders are entered by the Voluntary Acknowledgment process through the Hospital Paternity Program and do not require litigation. During FY2018, the number of paternity orders entered by the court remained stable and the number of children for whom paternity was established decreased

slightly. The number of new child support orders established by the court increased by 3.5%. Now 90.6% of the DCSS cases have child support orders in place.

Ensuring that the child support order is the “right size” for a paying parent is important both when establishing and later modifying orders. Parents are more likely to pay a support order consistently when it is a reasonable amount based on their actual income. Many parents seek assistance from DCSS to modify or collect their child support. Modifications constituted 23% of the litigation caseload.

CSS trial attorneys prepared for and/or attended 23,469 court appearances, provided legal advice on 5,756 cases, and reviewed 18,942 cases for litigation. To increase the overall collections for both current support and arrears, CSS attorneys filed 1,018 new enforcement actions. Overall, the CSS litigation caseload increased by 5% to 7,994 cases at the close of FY2018.

Policy and Training

CSS attorneys advise DCSS on various legal issues arising from federal and state statutes, regulations, policies, and court decisions. The CSS Training Team created and presented training for both the AGO and the client staff to implement the changes required by the Final Rule. In addition to these special projects, the CSS Training Team oversees the core training for all incoming staff and coordinated and presented two, full day training programs for the attorneys and paralegals statewide, including the County Partner.

CSS Appellate Matters

The Appeals Unit dedicates one attorney to handle all CSS appeals, with additional support provided by other team members as needed. Attorneys handling CSS appeals discuss each case with an experienced reviewer in the Solicitor General’s Office, which results in resolving many of those matters through substantive motions rather than appellate briefing. The Appeals Unit filed approximately five appellate briefs and numerous substantive motions in FY2018, and provided a great deal of assistance to CSS trial attorneys.

FY2018 Accomplishments:

- Judicially established paternity for 1,008 children.¹
- Established new child support orders for 4,086 families.
- Obtained child support judgments of over \$30 million.
- Resolved 3,906 actions for modification of support.
- Filed 1,018 judicial contempt actions.
- Represented DCSS in 23,469 court appearances.
- Assisted DCSS to collect over \$343,969,413 in support.
- Contributed to increased current support collections from 58.22% to 59.45% for every child support dollar owed.
- In bankruptcy cases, collected \$510,922 in support.
- In non-Family Court litigation, collected \$1,617,450 in support² ; a 19% increase from FY2017.

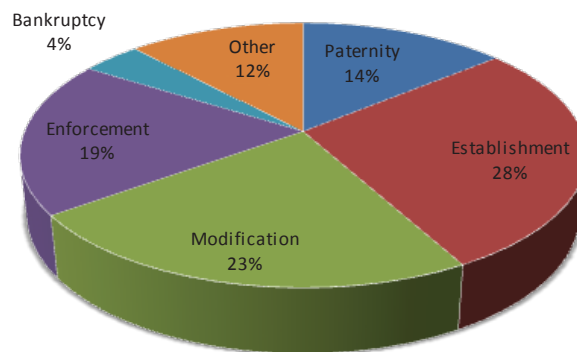
¹ DCSS is number one in the nation with respect to its efforts in establishment of paternity.

² Non-Family Court litigation consists of liens, insurance claim seizures, probate, and settlements.

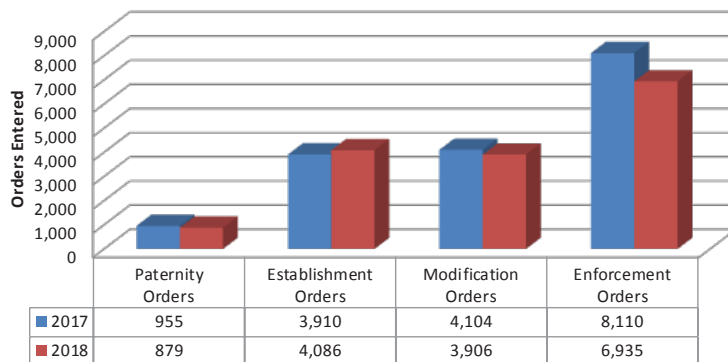
Child and Family Protection Division

- Implemented policies and litigation strategies in accordance with the Final Rule.
- Developed strategies and training in conjunction with the DCSS Procedural Justice Grant.

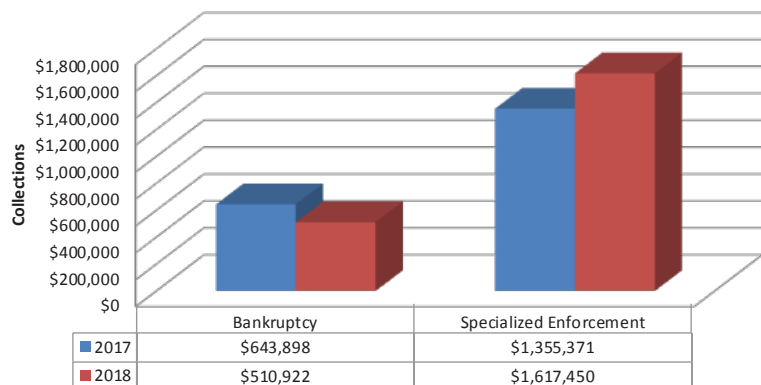
Child Support Services Section Caseload Composition



Child Support Services Section Litigation Results



Specialized Enforcement Collections



Civil and Criminal Litigation and Advice

CLA provides legal advice and representation to all DES programs except DCSS and advises and represents DCS in all matters other than cases handled by PSS. CLA advises and represents DES and DCS in matters regarding business operations, including the review of service provider contracts, intergovernmental agreements, department policies, proposed legislation, personnel matters (including the hiring and discipline of employees), facilities management, and the collection of debts owed to the agencies by consumers for the overpayment or fraudulent collection of public benefits. CLA advises and represents the following DES and DCS programs: Adoption and Guardianship Subsidies, Adult Protective Services, Procurement, Unemployment Insurance Benefits, Vocational Rehabilitation, Child Care Administration, Benefits and Medical Eligibility, SNAP, Cash Assistance, Foster Care Licensing, Developmental Disabilities, and the medical and dental program for dependent children, among others. The CLA Criminal Team prosecutes individuals and contractors who defraud the State through DES programs, parents who willfully fail to provide support for their children, and incarcerated individuals who escape from the child support work furlough program.

CLA Appellate Matters

The Appeals Unit's work for CLA largely consists of appeals from final agency decisions in unemployment insurance tax and benefits cases, followed by Superior Court decisions regarding substantiating allegations of child abuse and placement on the DCS central registry. The Unit has two attorneys dedicated to CLA appeals, with additional support from other team members as needed. In FY2018, the Appeals Unit filed approximately ten appellate briefs.

In FY2018, the CLA Civil Practice Team:

- Opened, litigated and/or reviewed 1,680 administrative litigation and civil cases.
- Opened and reviewed 194 contracts, leases, Intergovernmental Agreements and/or amendments. This is an increase of 65 from FY2017.
- Obtained 407 civil judgments in civil collections cases totaling \$1,203,907.13, a decrease of \$395,360.30 from FY2017.
- Secured an additional \$53,140.95 in civil judgment collections without the need for reducing multiple matters to a judgment, a \$7,319.31 decrease from FY2017.
- Collected \$699,494.67 through wage and bank garnishments. Collections through wage garnishments increased by \$107,837.40.
- Filed 686 civil collections cases. This is an increase of 254 cases from FY2017.
- Opened 143 "matter" files for tracking significant legal advice provided to DES. The number of opened matter files increased by 40 in FY2018.
- Responded to 831 subpoenas and requests for public records, a decrease of 150 from FY2017.

Child and Family Protection Division

Administrative, Civil and Appellate Litigation Resolved (Cases Closed)

Program	Cases Closed
(AHCCCS) 3 – Funds	1
Adult Protective Services	2
Adult Protective Services Review Team	225
Bankruptcy P04	1
Comprehensive Medical And Dental Program	3
Contracts/Leases/IGA	96
Department of Child Safety (DCS)	2
Department of Economic Security (DES/DMR)	2
Division of Developmental Disabled: Grievances	92
Division of Developmental Disab:Long Term Care	15
Division of Developmental Disabilities	21
Equal Employment Opportunity Comm (Matters)	6
Food Stamp Administration	18
Foster Care Licensing	15
Licensing/Agency	1
Mental Health (CYF/CPS Cases)	1
Personnel Department of Child Safety	8
Personnel Division of Benefits & Med Eligibility	4
Personnel Division Of Business and Finance	2
Personnel Division Of Developmental Disabilities	5
Personnel Division Of Employ Of Rehab Services	3
Personnel Division of Technology Services	1
Personnel Division of Child Support	1
Protective Services Review Team	123
SNAP	2
TANF	1
Unemployment Insurance Benefits	407
Unemployment Insurance Contributions	4
Vocational Rehab & Blind Services	20
Grand Total	1082

Child and Family Protection Division

FY2018 - CLA Civil Collections Unit:

Civil Collections by Program			
Program	Filed	Judgments Entered	Total Judgments
Cash Assistance	1	1	\$1,797.00
Childcare Administration	1	1	\$5,260.90
Combination Cases	7	5	\$14,047.40
Employee Day Care (CCA)	1	0	0
Employment Overpayment	3	1	\$2,585.92
Food Stamp	8	3	\$4,739.00
Unemployment Insurance Benefits	665	396	\$1,175,477.81
Grand Total	686	407	\$1,203,907.13

Civil Collections by Program		
Program	Collections Rec'd Judgment not Filed	Collections without Reducing Matter to Judgment
Combination Cases	1	\$2,154.00
Employee Day Care (CCA)	1	\$1,112.80
Unemployment Insurance Benefits	25	\$49,874.15
Grand Total	27	\$53,140.95

Garnishment Collection Summary	
1st Quarter 2018	\$188,248.35
2nd Quarter 2018	\$161,652.16
3rd Quarter 2018	\$165,357.05
4th Quarter 2018	\$184,237.11
Grand Total	\$699,494.67

Child and Family Protection Division

In FY2018, the CLA Criminal Practice Team:

- Filed 312 criminal cases.
- Obtained 235 criminal sentences.
- Obtained restitution orders totaling \$675,194.81.
- Collected \$911,692.93 in restitution prior to sentencing.
- Obtained orders in fines totaling \$25,800.
- Obtained orders for 3,429 hours of community service.

Criminal Cases						
Program	Cases Filed	Cases Sentenced	Restitution Ordered	Restitution Paid prior to Sentencing	Fines Collected	Community Service Hours
Combination Case	0	1	\$0.00	\$1,885.00	\$200	0
Food Stamp	39	6	\$31,212.00	\$34,825.00	\$600.00	24
Unemployment Insurance Benefits	273	228	\$643,982.81	\$876,867.93	\$25,800.00	3,405
Grand Total	312	235	\$675,194.81	\$911,692.94	\$25,800.00	3,429



Division Chief Paul Ahler

MISSION:

To protect the citizens of Arizona by investigating and prosecuting crimes within the State of Arizona. To promote and facilitate safety, justice, healing and restitution for Arizona's crime victims. To investigate and prosecute Medicaid fraud; fraud in the Medicaid program; abuse, neglect and exploitation committed in Medicaid facilities or by Medicaid providers. To provide investigative support to the Attorney General's Office and to law enforcement agencies throughout the State.

Division Summary

The Criminal Division is divided into seven Sections: Drug & Racketeering Enforcement Section (DRG); Financial Remedies Section (FRS); Fraud & Special Prosecution's Section (FSP); Health Care Fraud & Abuse Section (HCF); Office of Victim Services (OVS); Southern Arizona White Collar Crime & Enterprise Section (SAWCCE)

CRIMINAL PROSECUTOR RECEIVES APAAC'S LIFETIME ACHIEVEMENT AWARD

Assistant Attorney General, Elizabeth "Liz" Barrick, is an exceptional prosecutor who never forgets that with the power to prosecute comes the duty to administer justice. The majority of her career has been dedicated to drug prosecutions. Her enthusiasm for drug prosecutions and wiretaps has inspired many young prosecutors to see the importance to the community of large scale drug investigations and prosecutions. Her cases have resulted in the seizure of thousands of pounds of methamphetamine, heroin and cocaine which would have been distributed throughout our community and country. Her impact on drug investigations and prosecutions during the last 18 years cannot be overstated. Liz supervised and prosecuted over 40 separate wiretap investigations resulting in the Indictment of over 1,300 defendants. Many of her investigations involved Mexico-based drug trafficking cartels importing thousands of pounds of methamphetamine and other illegal drugs.

Throughout her career, Liz has been acknowledged for her hard work and commitment. She is the recipient of several awards including: Arizona Attorney General's Office Criminal Division Attorney of the Year in 2005 and 2012; Maricopa County Attorney's Office Drug Prosecutor of the Year in 2009; Arizona Narcotics



Pictured: APAAC Director Elizabeth Ortiz, Division Chief Paul Ahler, Liz Barrick and Chief Deputy Mike Bailey

Officers' Association Prosecutor of the Year in 2009, Nominee for APAAC Felony Prosecutor of the Year Award Large Jurisdiction in 2005, 2012 and 2015. She is well-known for her ability to work closely with law enforcement agencies to ensure that every investigation is complete and legally sufficient. Liz is a recognized leader in staying abreast of ever-changing wiretap and Fourth Amendment case law, drug trafficking trends and advancements in technology. Liz's track record is exemplary. Facing numerous defense motions to suppress evidence throughout her career, no court has ever granted a motion to suppress evidence in any of Liz's cases.

Liz accepted a position with a non-profit law enforcement anti-money laundering organization, where she remains committed to serving our community and assisting law enforcement. We thank Liz for her commitment to the Attorney General's Office, Criminal Division.

CRIMINAL PROSECUTOR RECEIVES THE STATE BAR'S MICHAEL C. CUDAHY AWARD FOR LEADERSHIP AND MENTORING

In 2006, the State Bar established the Michael C. Cudahy Criminal Justice Award which recognizes a criminal law prosecutor who has worked tirelessly to advance the principles of criminal justice by representing the public's interest with integrity, fairness, tenacity, creativity, brilliance and, above all, professionalism. Section Chief Kimberly Ortiz is a dedicated prosecutor who has devoted her 25-year career working to improve Arizona's criminal justice system. A career prosecutor, Kim has an undeniable passion for her profession. That passion



is best demonstrated by the countless hours Kim has spent pursuing justice for victims while ensuring that defendants' rights are honored. And Kim has passed that enthusiasm along to the many law students and young attorneys she has mentored and who now work as prosecutors across Arizona. Kim's tireless commitment to justice has made her a pillar of the Southern Arizona criminal justice system.

Kim joined the Santa Cruz County Attorney's Office following her graduation from law school. Kim then joined the Attorney General's Office where she worked as an Assistant Attorney General prosecuting some of Southern Arizona's most complex cases. Kim has proven herself a talented and creative prosecutor in handling an array of difficult cases ranging from large-scale wire conspiracies involving drug trafficking organizations, securities fraud, public corruption and conflict cases from local county attorneys. Kim has worked tirelessly in the pursuit of justice on behalf of Arizona victims, and she has twice won the Attorney General's victim advocate award.

In 2011, Kim was promoted to the Section Chief for the Southern Arizona White Collar & Criminal Enterprise Section (SAWCCE). She supervises eight attorneys who prosecute the many large scale complex cases. While maintaining her own caseload, Kim is a tireless advocate for her attorneys, guiding them through all stages of their cases. Kim is equally an advocate for the entire Southern Arizona law enforcement community. Kim is active with both Southern Arizona's High Intensity Drug Trafficking Area (HIDTA) task force and Southern Arizona Border Law Enforcement (SABLE), where she trains and advises law enforcement officers. Kim also helps federal and state officers and county attorneys. Whether it is teaching attorneys the best practices for money laundering prosecutions, instructing Department of Public Safety Officers or helping local county attorneys with a difficult issue of law, Kim is sought out for her expertise and skill.

Since 2011, Kim has been involved with a criminal prosecution clinic at the University of Arizona law school. The clinic is a year-round program for four to six law students. Kim takes a keen interest in each of the students, meeting with them regularly; reviewing best practices in a weekly class, and helping them find employment as prosecutors in Arizona. This is no small feat given Kim's other job responsibilities. The entire criminal justice system benefits from Kim's devotion to the next generation of prosecutors. Kim's prior students span county attorneys' offices throughout the State, and even outside Arizona.

Kim is a respected member of Arizona's criminal justice system. She is aware of the powers that prosecutors wield, and to that end, she equally protects the rights of crime victims and defendants. Kim is an elected member of the State Bar's executive committee on criminal justice. Kim had the privilege to work with Mike for many years, so this nomination is especially rewarding for her. Kim exemplifies all of the characteristics that the Cudahy award recognizes.

Drug & Racketeering Enforcement Section

The Drug & Racketeering Enforcement Section (DRG) combats drug trafficking and money laundering organizations operating within Arizona. Attorneys in this Section also provide legal advice and training statewide on issues involving search and seizure, Arizona's drug laws, legal and procedural requirements of electronic interception and courtroom testimony.

Overview of Accomplishments

In FY18, DRG had 669 open cases and resolved 312 of them. DRG cumulatively charged 518 defendants with felony offenses. Total drug seizures in cases for FY18 are well in excess of 1,229.61 lbs. of Methamphetamine with an approximate wholesale value of \$3,873,271, 114.61 lbs. of Heroin with an approximate wholesale value of \$1,490,550, 214.62 lbs. of Cocaine with an approximate wholesale value of \$2,828,950, 1,554.73 lbs. of Marijuana with an approximate wholesale value of \$2,021,149 and 66,677 pills and 2.946 lbs. of Fentanyl with an approximate wholesale value of \$1,392,460 in addition to cash seizures totaling \$2,654,204. Courts ordered defendants to pay \$1,434,942 in drug fines as a result of DRG prosecutions.

Major Cases

State v. King's Up In Smoke Beer Cave d/b/a Garden of Eden: During an investigation conducted by the Mesa Police Department, detectives learned that an illegal marijuana delivery service was being operated out of a liquor store in East Mesa. Undercover operations were initiated and the detectives learned that in addition to marijuana and cannabis, the store was selling synthetic marijuana or "spice." The principle operator of the business was Nadir Ishak. Ishak relied upon family members and their friends to sell marijuana, cannabis and spice. After 14 undercover buys were conducted, the officers executed a search warrant at King's and recovered \$90,000 in cash, 20 pounds of high-grade marijuana, more than \$1,000 worth of cannabis, a handgun and labels for the Spice that said "DEA Approved." Both King's, Ishak and eight co-defendants entered into plea agreements. King's paid a fine of \$18,300 and agreed to the revocation and forfeiture of the articles of organization. Ishak pled guilty to Conspiracy, Illegally Conducting an Enterprise and Misconduct Involving Weapons. He was sentenced to six years in prison.

State v. Jose Barrera-Contreras et.al.: In August 2017, Chandler Police Department detectives initiated an investigation into individuals selling methamphetamine. Detectives utilized a confidential and reliable informant to arrange a purchase of approximately 17 pounds of methamphetamine from an individual later identified as Barrera-Contreras. Defendant Gastelum-Sarabia was acting as security over the transaction while Defendants Mauricio Mares-Gamez and Jose Barrera-Contreras were in the process of selling the methamphetamine to the informant, when all three defendants were arrested. Each defendant pled guilty to Conspiracy to Transport for Sale Dangerous Drugs, Methamphetamine and each received four years in prison.



Investigation CWT-495: The Drug Enforcement Agency (DEA), Mesa Police Department and Salt River Police Department conducted an investigation into a large Mexico-based DTO. The investigation involved a court-authorized wiretap which resulted in the seizure of approximately 199 pounds of methamphetamine, one pound of heroin and \$44,556 in cash. Additionally, 14 defendants were indicted as part of that investigation including the principle wire target, Angelica Rojas-Medrano. The majority of the defendants received prison sentences. Rojas-Medrano who pled guilty to Conspiracy to Transport a Dangerous Drug for Sale absconded prior to sentencing and warrant has been issued for her arrest.

State v. Lauri Ann Vanlitsenborgh: In April 2015, police executed a search warrant at Lauri Ann Vanlitsenborgh's home in Phoenix. Police had identified Vanlitsenborgh during a long-term investigation into street-level methamphetamine dealers in several Phoenix neighborhoods. When police searched the her home, they found over a quarter pound of methamphetamine and a methamphetamine "wash lab" in the kitchen. In March 2018,



Vanlitsenborgh was found guilty of all charges during a week-long trial. Vanlitsenborgh absconded during trial and there is currently a warrant out for her arrest. Based on prior meth sale convictions, Vanlitsenborgh will be sentenced to 10-20 calendar years when she is arrested.



Investigation CWT-505: The DEA and Salt River Police Department conducted an investigation into a Mexico-based DTO. The investigation involved a court-authorized wiretap which resulted in the seizure of approximately 205 pounds of methamphetamine, twelve pounds of heroin, relatively small amounts of cocaine and marijuana and \$274,130 in cash. Additionally, 11 defendants were indicted for their roles in the investigation including Javier Valadez-Cardenas who pled guilty to Illegal Control of Enterprise and was sentenced to 3.5 years in prison for his role in receiving a pound of methamphetamine and a half pound of heroin. In addition, Susan Hernandez pled guilty to Attempt to Commit Illegal Control of Enterprise and received 2.5 years in prison for her role as a methamphetamine courier.

State v. Juan Acosta-Tirado et. al: The FBI's Violent Street Gang Task Force coordinated an undercover operation which identified suspects who were offering to sell 15 pounds of methamphetamine. The undercover buy was set up and five individuals were arrested at the transaction while in possession of 18 pounds of methamphetamine and two handguns. The agents obtained and served a search warrant at the suspected stash house. During the course of executing the search warrant, the agents contacted an individual who later became a cooperating witness. The witness informed the investigators that many of the individuals arrested earlier were trading ammunition for methamphetamine. These statements were corroborated by the search of the home where the agents

found 11,000 rounds of 7.62mm ammunition and 4,000 rounds of 9mm ammunition. All five defendants entered into plea agreements and received sentences ranging from three to 4.5 years.

State v. Shane Raffaele: In August 2013, Shane Raffaele was stopped by a Department of Public Safety (DPS) trooper for a traffic violation. The trooper developed probable cause and in a subsequent search of the trunk, he located approximately 10 pounds of marijuana. After Raffaele was charged, he appeared for several hearings, but ultimately bench warranted on August 12, 2014. He was picked up on that warrant in April 2017, but again was released after posting bond. He again attended several hearings, but ultimately bench warranted before his trial. In October 2017, the State proceeded with the trial in absentia and Raffaele was convicted of Transportation of Marijuana for Sale. He is currently on absconder status. Based on his significant prior felony criminal history, he faces a prison sentence of 10.5 to 35 years in prison when he is apprehended.

Investigation CWT-504: Agents from the DEA and Scottsdale Police Department conducted an investigation targeting a DTO operating from Mexico with a distribution base in Phoenix. The initial target of the investigation was referred to as Punketa. She was ultimately identified as Yanet Valenzuela. This wiretap was short lived—only six days. Shortly after initiating interception of Valenzuela’s telephone, she was arrested coincidentally by the Gilbert Police Department in a buy-bust operation. She transported approximately 10 pounds of methamphetamine to sell to an informant who was working with Gilbert PD. Valenzuela, as well as her mother and sister were ultimately indicted for this incident. Valenzuela pled guilty to Conspiracy to Possess Dangerous Drugs for Sale and was sentenced to six years in prison.

State v. Juan Panuco Herrera: In September 2017, a Tempe Police Department undercover narcotics detective received information about a heroin supplier operating in Phoenix. Twice in September 2017, an undercover detective contacted Juan Panuco Herrera and purchased a small quantity of heroin from him. During the course of their investigation, detectives identified the apartment where Herrera lived. Detectives obtained a search warrant for the apartment and the two vehicles Herrera had driven to the undercover deals. One of the vehicles was searched and inside police found 38 balloon wrapped packages. The balloons contained heroin and cocaine. When police served the search warrant at Herrera’s apartment, they located approximately 12 pounds of cocaine,



one pound of heroin, several guns and paraphernalia consistent with packaging for sale, including balloons and weighing scales. Herrera pled guilty to Sale of a Narcotic Drug and Misconduct Involving Weapons and was sentenced to 3.5 years in prison followed by three years of supervised probation.

Financial Remedies Section

The Financial Remedies Section (FRS) disrupts and dismantles criminal organizations by investigating racketeering crimes and prosecuting civil lawsuits against people and property engaged in racketeering felonies.

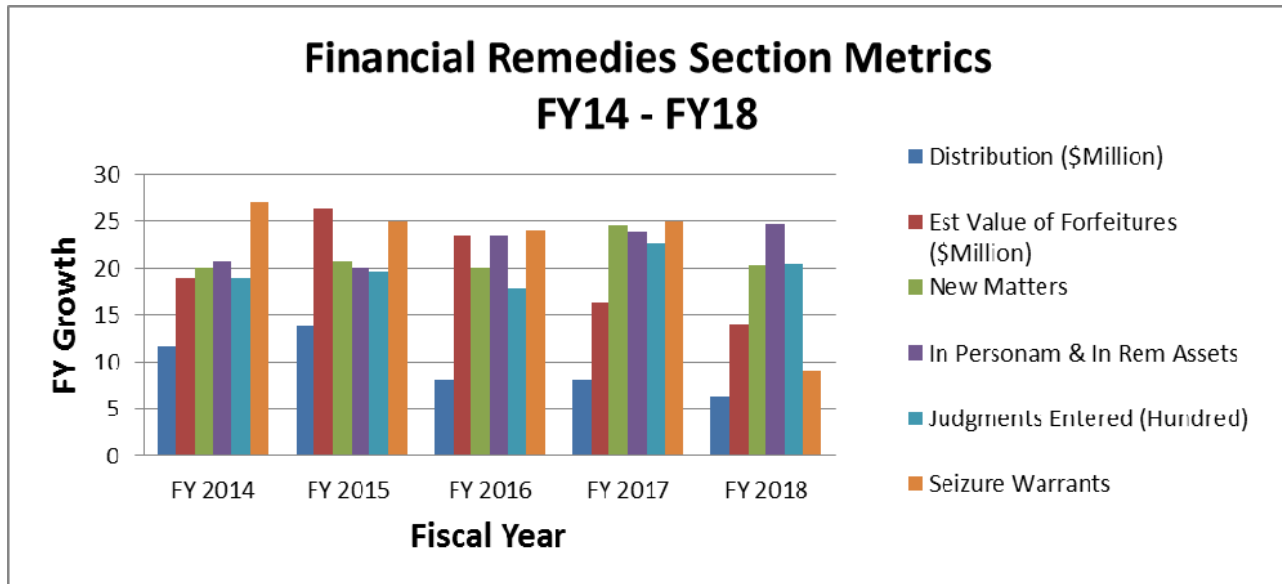
FRS seeks money judgments and remedial and protective orders against individuals and corporate offenders and judgments forfeiting proceeds and property derived from and dedicated to racketeering activity. The purpose of these civil lawsuits is to remediate the economic injury caused by individuals and criminal enterprises who engage in profit-motivated felonies, compensate victims for their economic loss, remove the proceeds and property gained and used in the illegal activity and re-purpose those assets to law enforcement for additional training, investigations, prosecutions, operations and programs that protect the public. FRS cases apply to a wide range of crimes, including drug trafficking, money laundering, theft, fraud schemes, counterfeit merchandise, securities fraud, illegal gambling, prescription drug “pill-mill” enterprises and SNAP, AHCCCS and other public benefits fraud. FRS works with many federal, state and local law enforcement partners, seizes bulk cash and financial accounts and a wide-range of real and personal property, manages all the seized property, and distributes the proceeds of forfeited property to victims, state agencies and investigating law enforcement agencies. FRS also works with other sections of the Criminal Division to help secure and recover restitution for citizens, businesses and state agencies that have been victimized by racketeering crimes.

Through the use of Arizona’s racketeering and forfeiture laws, FRS’ civil law enforcement cases deprive profit-driven offenders and criminal enterprises of the property and profits that keep them in business, deter others from committing such crimes and alleviate and remedy the negative economic impact that racketeering has on Arizona’s citizens and legitimate commerce.

Overview of Accomplishments

During FY18, FRS disrupted 100 criminal enterprises and filed 203 forfeiture actions against 2,472 in personam defendants and in rem assets. FRS obtained nine seizure warrants authorizing the seizure of assets worth \$23 million dollars. FRS successfully concluded 205 cases, obtained final judgments that forfeited assets worth more than \$12.5 million dollars and distributed over \$6 million dollars to crime victims, state agencies and its law enforcement partners. FRS attorneys conducted nine forfeiture trainings attended by 242 law enforcement agents from across the state.

Metric	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Distribution (\$Million)	\$11.68	\$13.80	\$8.00	\$8.00	\$6.25
Est Value of Forfeitures (\$Million)	\$18.85	\$26.30	\$23.40	\$16.30	\$13.90
New Matters	200	207	200	246	203
<i>In Personam & In Rem Assets</i>	2074	2000	2344	2395	2472
Judgments Entered (Hundred)	190	196	177	226	205
Seizure Warrants	27	25	24	25	9



FRS continues to protect the integrity and effectiveness of forfeiture practices in Arizona by educating practitioners about this public safety and compensatory resource and providing good stewardship over the application of Arizona’s racketeering and forfeiture statutes. FRS continues to train and work closely with law enforcement and regulatory agencies across Arizona in identifying and addressing emerging crime trends. FRS follows the numerous due process safeguards built into the statutes that insure the rights of property owners to enter and contest cases and that protect legitimate private and commercial property interests that are exempt from forfeiture.

In the last year FRS, working with attorneys from the Civil Litigation Division, obtained dismissals of two ongoing lawsuits brought in federal court in 2015 and 2016 challenging the constitutionality of Arizona’s forfeiture statutes and seeking damages and declaratory and injunctive orders. The cases arose out of forfeiture actions brought against Pinal County and Navajo County authorities. The relief sought by the plaintiffs and the special interest groups suing on their behalf would have been binding on all Arizona forfeiture cases and would have significantly restricted, if not eliminated, the application of Arizona’s forfeiture statutes.

In its appellate work, FRS obtained an important published Opinion of first impression recognizing the distinctions in the nature, purpose and governing statutes between search warrants and civil seizure warrants, primarily with respect to the times in which the different warrants must be executed and returned. FRS also obtained the dismissal of an appeal of a trial court ruling preserving a forfeiture judgment, the denial of a subsequent petition for review to the Arizona Supreme Court and finally, working with the SGO, the denial of a petition for certiorari review to the U.S. Supreme Court.

FRS was also actively involved in the planning and process by which all police and prosecutor agencies comply with the extensive quarterly reporting requirements for all forfeiture cases and expenditures of funds derived from forfeiture cases as mandated by the 2017 legislation that made significant changes to Arizona’s forfeiture statutes.

FRS chairs the statewide Arizona Forfeiture Association consisting of police and prosecutors who conduct forfeitures, with the purpose of promoting the informed, consistent, professional and ethical practice of forfeiture cases across Arizona through education and discussion on case law decisions, legislative measures, investigative resources, strategies and procedures and on the best practices in conducting forfeiture investigations and prosecutions.

Carrying out the Purpose of Financial Remedies

Arizona's Courts have recognized that the purpose of our racketeering statutes is "removing the economic incentive to engage in racketeering, reducing the financial ability of racketeers to continue to engage in crime, preventing unfair business competition by persons with access to crime proceeds, compensating victims of racketeering and reimbursing the State for the costs of prosecution." The following are cases FRS conducted over the last year in carrying out this purpose.

Major Cases

Drug-related cases continue to form the majority of the cases brought by FRS. However, FRS continues to conduct its civil law enforcement prosecutions against a wide range of for-profit racketeering crimes that continue to victimize the citizens of Arizona.

Mexican Drug Trafficking Organization Profits - In the Matter of Tempe Police Department Wiretap: This investigation identified a member of a DTO who was responsible for receiving, storing and distributing DTO proceeds. Intercepted communications revealed that the member was storing a large amount of proceeds in the Phoenix metro area and was receiving directions for distribution of the proceeds. Tempe Police Department executed a search warrant at the storage location. Agents discovered \$1,035,000 in bulk cash inside the location when a certified drug-detecting dog alerted on the cash. Agents also found a 9 mm handgun and a drug ledger. The member was indicted for money laundering. FRS filed a civil forfeiture action and obtained a judgment forfeiting the bulk cash and handgun. This investigation was related to an earlier Tempe Police Department seizure of approximately \$277,000 in bulk cash from the same DTO member several weeks earlier. FRS also obtained a forfeiture judgment against those drug proceeds. These two cases made a significant impact against the financial resources of the DTO.

International MDMA-Ecstasy Manufacturing and Distribution - State v. Daniel Kim et al.: In July 2017, DEA began an investigation of Kim, a Phoenix-based manufacturer of MDMA distributing the drug in Arizona and multiple other states. In February 2018 agents from DEA, Pinal County Sheriff's Office, Mesa Police Department and Maricopa County Sheriff's Office (MCSO) executed search warrants at six residences used by the Kim organization. Agents seized 130 pounds of MDMA precursor chemicals, including MDP2P labeled with Chinese characters, Isopropyl Alcohol, Dimethylformamide and Benzoquinone. Agents seized \$425,000 in bulk cash, .5 pounds of Ketamine, 1.5 kilos of MDMA powder, numerous Ecstasy pills, two pill press machines, five firearms and five vehicles. Agents also interdicted an airline employee facilitating the organization and seized \$7,600 in bulk cash, a vehicle, four firearms and 300 grams of powder MDMA precursor chemicals. One suspect identified Kim's operating structure, including the use of a front business, multiple bank accounts and a money remitter service (VENMO) to launder proceeds; professional accounting and travel services; residences as drug labs; multiple drug salesmen; couriers and vehicles to transport drugs and proceeds in Arizona; and couriers to transport drugs and proceeds via air travel to and from multiple states. Over the next few months the investigation identified the accounts used

by Kim. FRS assisted in the acquisition of a seizure warrant for the accounts. \$50,000 was seized from them. The investigation resulted in the seizure of MDMA, Ketamine, Ecstasy pills and precursor chemicals valued at \$7.2 million; three bank accounts and bulk cash with a value of \$475,000; six vehicles; nine firearms and equipment used for manufacturing and distributing the drugs. FRS brought a forfeiture action against these assets and by July 2018 had obtained judgments against nearly all the property.

Continuing Enforcement of Arizona's Medical Marijuana Act - State v. Kyle Ivan Berndt-Shibla: In April 2017, DPS detectives received a tip from the Phoenix Police Department about an indoor marijuana grow and BHO/cannabis extraction lab located in Prescott Valley involving Berndt-Shibla. Officers determined that Berndt-Shibla had been issued a medical marijuana patient card, but without caregiver or cultivator privileges. Utility records revealed electrical power consumption at the property six times more than the neighborhood average. Officers executed search warrants and discovered 141 marijuana plants weighing approximately 54.5 pounds, 6,700 grams of BHO with a street value of approximately \$339,000, guns, large amounts of cash and drug manufacturing equipment. The evidence revealed that Berndt-Shibla sold high-grade marijuana and cannabis laced food products to persons in Arizona and other states, in part using social media. FRS initiated a forfeiture action against the seized \$18,956 in bulk cash, grow-equipment, electronics, a Chevy pick-up truck used by Berndt-Shibla to monitor and support his drug business and weapons and ammunition used to protect the drug operation. The State obtained a judgment forfeiting the property. Berndt-Shibla was prosecuted in Yavapai County and pled guilty to Illegally Conducting an Enterprise and Misconduct involving Weapons and was sentenced to six months in jail followed by five years of probation.



Recovery for Citizen and State Agency Victims

State v. Les Mersky/Bank Card Empire: FRS continues to pursue compensation for victims of racketeering crimes. In this previously-reported case, a joint investigation and criminal and civil prosecution between the U.S. Postal Inspector and FSP and FRS Sections, netted significant convictions and forfeiture judgments against the perpetrators of a complex telemarketing fraud scheme. Various business entities and individuals, led by Mersky family members, victimized hundreds of people by selling investments in a sham business opportunity involving merchant credit card processing machines and services and up-sell advertising packages for such services. In total, the State seized about 618 assets with an approximate value of \$3.5 million, subject to encumbrances. During the 2017-2018 year, the FRS Property Management team conducted and completed liquidation of the forfeited properties, resulting in a pool of approximately \$1.2 million that will now be distributed to the victims through a victim compensation plan.

Damming Warrant Against International Fraud Scams: The Financial Crimes Task Force and the Transaction Records Analysis Center (TRAC), working with DRG, FSP and FRS, identified a group of Arizona residents being victimized by a "Romance Scam" in which fraudsters preyed on lonely, primarily senior citizens looking for companionship. Posing as similarly lonely people and manipulating victims through ongoing phone, internet and social media communications, the fraudsters' goal was to entice payment from the victims through money transmitter businesses in order to help with medical or living expenses or travel funds so they could finally meet the victims. In fact, the funds were transmitted to the countries where the fraudsters lived, such as Nigeria and Ghana. The identified victims sent thousands of dollars to the fraudsters. A "damming seizure warrant" for a twenty-day period was obtained and served on one of the money transmitter businesses in order to intercept all transactions involving known victims, fraudsters and transactions meeting the pattern of such scam payments.

The warrant netted thousands of additional dollars still being sent. The funds were returned to the victims, with the hope that they and other people will no longer fall victim to these scams and money transmitters will block such transactions.

Continuing Development of Law Enforcement Partnerships

Arizona Department of Transportation: FRS responded to the Arizona Department of Transportation's (ADOT) request for assistance in initiating and supporting its efforts to reduce drug smuggling through the State's ports of entry. FRS helped revitalize ADOT's asset forfeiture program by providing training to 18 ADOT officers on Arizona's civil asset forfeiture laws and best practices. As part of a pilot program, ADOT obtained, trained and deployed K-9 units for the first time, based out of the Interstate 10 Ehrenberg Port of Entry and the Interstate 40 Sanders Port of Entry. ADOT seized and FRS forfeited over \$197,360 of drug proceeds and a vehicle containing 80 pounds of marijuana.

Phoenix Police Department Airport Squad - In the Matter of \$27,000 U.S. Currency: FRS was approached by the Phoenix Police Department Airport Squad to take on an increased number of their forfeiture enforcement actions. The Phoenix Police Department Airport Squad developed a tip that led to the consensual contact and interview of an airline passenger and the discovery of \$27,000 of suspected drug proceeds being couriered via the airways. The investigation revealed that the courier had been involved in several illicit drug incidents, including a mail parcel containing \$21,400 related to marijuana distribution and a traffic stop in which the courier was found in possession of marijuana. The courier had no records to support her claim that the bulk cash was her income as an adult entertainer and she signed a Disclaimer form as to the bulk cash. FRS' renewed relationship with this squad resulted in forfeiture cases against approximately \$353,000 in suspected racketeering money.

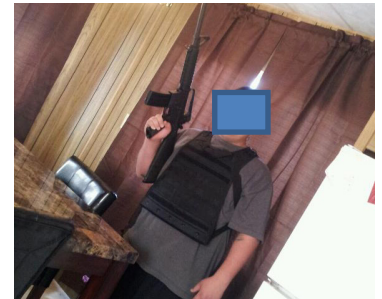
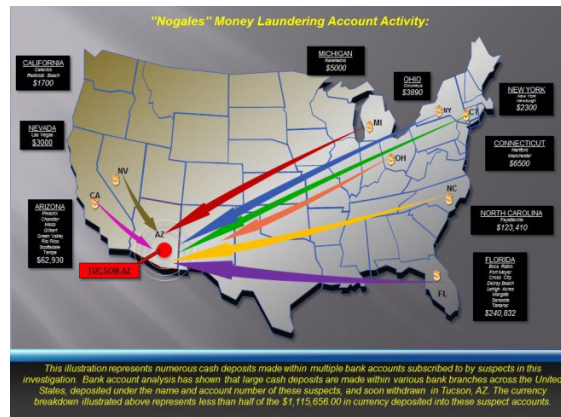
Sex-Trafficking: State v. Chan, Song, and Amazing Spa: FRS and FSP charged and litigated parallel prosecutions - one civil, one criminal - against a prostitution criminal enterprise operating four "massage" parlors in Tempe. The prostitution sites were plaguing the community of Tempe and victimizing the Asian women forced to work there. The criminal enterprise conducted an estimated \$1.7 million in prostitution activity. Working with the Tempe Police Department and DPS, Phoenix Police Department and SIS' Financial Crimes Task Force, the case illustrated the AGO's traditional efforts to prosecute deserving offenders, recover the costs of investigation and prosecution and provide for future investigations, while also demonstrating the AGO's specific efforts to combat sex trafficking and protect the victims of that criminal industry. FSP prosecuted multiple defendants running and managing the criminal enterprise, while the employees forced into prostitution work were treated as non-chargeable victims. FRS obtained civil judgments totaling approximately \$400,000 against nine named defendants and 145 assets comprised of cash, accounts, vehicles, real properties and various weapons, electronics, jewelry and designer items. FRS and FSP worked closely with all stakeholders and victims to achieve a comprehensive result that convicted the perpetrators, dismantled the enterprise and yielded a significant impact against this profit-motivated industry.



State v. Carlos Nogales, et al: FRS completed this forfeiture case against 18 named defendants, 27 bank accounts, cash, 16 vehicles, 2 real properties and 100 other communication, electronic, firearm and ammunition items. From 2009 through 2015, this criminal enterprise moved \$2.85 million in racketeering proceeds from other States to

Criminal Division

the intended recipients of the proceeds through funnel accounts opened primarily by Nogales family members. The investigation interdicted multiple packages of marijuana from vehicles and from public and private postal services. The members of the enterprise made numerous border crossings to and from Mexico. Additionally, they applied for and received approximately \$230,000 in benefits for themselves and family members from AHCCCS, SNAP and DES which they were ineligible to receive. FRS obtained a forfeiture judgment against nearly all of the property seized through a seizure warrant. The resulting funds will be used first to reimburse the victim public benefits agencies.



Contraband Vehicles: *In re Black*

In this contraband vehicle case, the “owner” attempted to register a Porsche 911 at the Motor Vehicle Division (MVD) office in Scottsdale. Scottsdale plays host in January to several auctions selling high-end collectible cars. The vehicle had a vehicle identification number (VIN) plate, but it was not a factory plate. Further investigation revealed that the VIN had been ground off the transmission and the VIN on the motor was not associated with a Porsche 911. The “owner” presenting the car for registration claimed to have owned the vehicle since 2001, but that was not confirmed. FRS brought this action to have the car declared contraband in order to (1) frustrate the legitimization of this illegal vehicle through the registration process, (2) eliminate further profiting from the sale of the car and (3) prevent, deter and discourage the auto theft and chop shop criminal industry in Phoenix.

Porsche 911: In this contraband

Fraud & Special Prosecutions Section

The Fraud & Special Prosecutions Section (FSP) prosecutes white collar crime and fraud by individuals and organized criminal groups and organizations. FSP typically prosecutes criminal fraud in areas such as securities, insurance, real estate, mortgage, banking, taxes, government, telemarketing, computers, welfare and other areas of financial activity. FSP also focuses on gang related crimes, human and sex trafficking and handles conflict matters from other counties.

Overview of Accomplishments

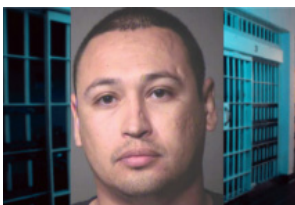
In FY18, FSP had 1,258 open cases and resolved 449 of them. FSP cumulatively charged 558 defendants with felony offenses, including Fraudulent Schemes and Artifices, Illegal Enterprise, Participating in Criminal Syndicates, Money Laundering and numerous violent crimes. In the courtroom, FSP prosecutors excelled with a 100% trial conviction rate in its two jury trials in FY2018, with guilty verdicts on six counts after 14 days invested in trial. The cases of Fraudulent Schemes involved losses to victims in the millions of dollars. FSP assisted approximately 2,392 victims and obtained restitution in excess of \$9 million dollars and \$217,878 in court ordered fines. In addition, 28 defendants were prosecuted for violation of their terms of probation.

Major Cases

State v. Daylon Pierce: In January 2017, after a complex investigation by the Federal Bureau of Investigations (FBI), Pierce was indicted on various counts of Fraudulent Schemes and Artifices, Illegal Control of an Enterprise, Theft and Transactions by Unregistered Dealer or Salesperson. Pierce created profiles on several online dating websites targeting vulnerable women. Pierce became romantically involved with women that he met through the dating websites and falsely told them that he was a successful stockbroker. He told the women that he owned an investment firm, Credit Investment Group LLC and convinced them to invest in a pharmaceutical company that was new to the stock market. In reality, Pierce is a convicted felon who is not licensed to sell securities. He persuaded one victim to invest \$240,000 from the proceeds that she received from a divorce settlement. With the victims who did not have funds readily available to invest, he encouraged them to take out loans and invest the money with him. In total, Pierce scammed the victims out of over \$1.8 million dollars. None of the money was invested and Pierce spent the majority of the money at casinos, restaurants and strip clubs. In June 2017, Pierce pled guilty to Fraudulent Schemes and Artifices and was sentenced to 15.75 years in prison. Recently, CNBC's American Greed aired an episode regarding this case.



State v. Ricardo Andres Talamante: During an undercover investigation conducted by MCSO, detectives found child pornography on a laptop belonging to Talamante. In November 2016, Talamante was indicted on ten counts of Sexual Exploitation of a Minor. The videos had children ranging in age from three to 12 years old being sexually abused by adults. Talamante is a former U.S. military reserve sergeant and former security officer at the Palo Verde Nuclear Generating Station. In February 2018, he pled guilty to Sexual Exploitation of a Minor and was sentenced to 12 years in prison. Talamante is required to register as a sex offender and is on lifetime probation.



State v. Sarah Diaz: Between December 2008 and July 2013 Diaz, the daughter of the former Topock Elementary School District's business manager, Kimberly Konnerth (now

deceased) misused school funds. Diaz used district credit cards to make personal purchases at various retailers and pay her personal bills. Her scheme was uncovered when a bank teller who knew Diaz saw her cashing district checks at a local bank branch and was aware that Diaz was not a district employee. The investigation was conducted by the Auditor General's Office, Special Investigative Unit. In August 2017, Diaz was indicted on various counts including Fraudulent Schemes and Artifices, Theft, Theft of a Credit Card and Forgery. In December 2017, Diaz pled guilty to Fraudulent Schemes and Artifices and Theft and was sentenced to one year in jail followed by five years of supervised probation. She was also ordered to pay \$75,455 in restitution to the school.

State v. James Servellon: Between April 2009 and July 2015, Servellon entered into agreements with victims to provide residential remodeling services, and after accepting payment, he did not complete the work and abandoned the jobs. Servellon had previously been convicted of felony charges stemming from a similar unlicensed contracting scheme, but failed to disclose those convictions to any of the victims. In addition to the remodeling jobs, Servellon solicited a \$4,500 business investment from an elderly woman who had also contracted with him for home remodeling. The Arizona Registrar of Contractor's (ROC) investigation revealed Servellon received \$21,750 from his misrepresentations. In December 2015, Servellon was indicted on Fraudulent Schemes and Artifices and Theft and a warrant was issued for his arrest. Servellon was placed on the Arizona ROC's "Most Wanted" Unlicensed Individuals. Servellon was arrested in Los Angeles, California and extradited back to Arizona. In November 2017, Servellon pled guilty to Fraudulent Schemes and Artifices and Theft and was sentenced to 3.75 years in prison followed by four years of probation and he was order to pay over \$23,000 in restitution to the victims and extradition costs.

State v. Jason Rogers: Before joining the Army, Rogers lived in Chandler and Florence/Casa Grande, where he met two boys under the age of 15 years old. An investigation conducted by the Pinal County Sheriff's Office revealed that Rogers molested and engaged in sexual conduct with these boys beginning in 2003, when they were merely five and nine years old. The victims disclosed the abuse to their mothers after one of them turned 18 years old. Rogers joined the Army and was serving in Germany when the investigation took place and was arrested. Rogers confessed to the continuous abuse of both boys and named specific incidents. In December 2015, Rogers was indicted on various charges including Molestation of a Child, Continuous Sexual Abuse and Sexual Conduct with a Minor. In June 2017, he pled guilty to three dangerous crimes against children charges and was sentenced to 20 calendar years in prison followed by lifetime sex offender probation. He was also dishonorably discharged from the Army.

State v. Floyd Eugene Warter and Jessica Mertens: Warter rented a condominium in Mesa and for a fee, allowed Mertens to use the condominium to advertise and engage in prostitution activity, as well as to recruit numerous other prostitutes to use the condominium. Warter put ads online in the classified services and then placed prostitutes in the condominium. Most of the women involved were recruited by Mertens, who was working as a prostitute



at the time. Mesa Police Department initiated an undercover prostitution operation using the online ads and the condominium. The undercover officer noted that the condominium was sparsely furnished and only had massage tables in the bedrooms. In pre-deal conversation with the prostitute, the undercover officer learned that the young women worked for "Gene" and that they were to put all or a portion of the proceeds of their sex-for-money activities into a lock box and that "Gene" retrieved the money on a regular basis. The officer also learned that Gene used the car service Uber to transport both the sex buyers and

prostitutes to and from the condominium. Although the females involved were not sex trafficked, the case is a good example of the kinds of racketeering operations that exist using prostitution as a moneymaking scheme. In April 2017, Warter and Martens were indicted on various counts of Conspiracy, Illegally Conducting an Enterprise, Operating and/or Maintaining a House of Prostitution or Enterprise, Money Laundering, Receiving Earnings of Prostitute, Pandering, Transportation for the Purpose of Prostitution, Possession of Marijuana for Sale and Possession of Drug Paraphernalia. In August 2017, Warter pled guilty to Illegally Conducting an Enterprise and Attempted Possession of Marijuana for Sale and was sentenced to 60 days in jail followed by 18 months of supervised probation. Mertens also pled guilty to Illegally Conducting an Enterprise and Pandering and was sentenced to three years' probation.

State v. Bagdad Hillside, LLC: Between 2014 and 2015, Bagdad Hillside, LLC signed three Compliance by Consent Orders with the Arizona Department of Environmental Quality (AZDEQ) where the company agreed to come up with a plan to stop the discharge of arsenic contamination and to apply for the appropriate environmental permits. However, a plan was not submitted, proper permits were not issued, and the mine continued to discharge into Boulder Creek at a rate of five gallons per minute or about 2.6 million gallons per year. In July 2017, Bagdad Hillside, LLC was indicted on Discharge Elimination System Violations – Compliance Violations and Unlawful Discharge. In April 2018, following a bench trial, Bagdad Hillside, LLC was found guilty of the three felony violations. In May 2018, the company was sentenced to pay fines and surcharges totaling \$2,745,000.



State v. Craig Scherf: Between January 2015 and January 2017, Scherf lied to his victims by telling them that he was a doctor licensed to perform cosmetic injections and laser treatments out of a clinic in Tempe. Scherf injected his victims with the drugs Juvederm and Botox which he bought from the manufacturer by illegally using the identity of an authorized, licensed physician. More than 30 victims were treated by Scherf during this time period. In February 2017, SIS Special Agents searched Scherf's clinic and found forged diplomas and certifications prominently displayed on the walls which misrepresented Scherf's accreditations. In March 2017, Scherf was indicted on Unlawful Practice of Medicine, Fraudulent Schemes and Artifices, Theft, Illegally Conducting an Enterprise and Taking the Identity of Another Person or Entity. In August 2017, Scherf pled guilty to Fraudulent Schemes and Artifices and Illegally Conducting an Enterprise and was sentenced to eight years prison followed by five years of probation.



Healthcare Fraud & Abuse Section

The Healthcare Fraud & Abuse Section (HCFA) also known as the Arizona Medicaid Fraud Control Unit investigates and prosecutes health care fraud crimes that impact the State's Medicaid program known as AHCCCS. HCFA is also responsible for investigating allegations of patient abuse and neglect that take place within health care settings that receive AHCCCS funding. The type of criminal activity that the HCFA staff typically investigates and prosecutes are cases that involve the falsification of medical records; the filing of false or inflated Medicaid billing claims; thefts and embezzlements from AHCCCS clients and health care institutions; the illegal diversion of prescription drugs by health care providers; and the physical, sexual and emotional abuse of residents being cared for in AHCCCS-funded facilities.

Overview of Accomplishments

In September 2017, the Attorney General's Office (AGO) received formal notification from the United States Department of Health and Human Services (HHS) that the HCFA continued to meet the federal requirements for operation of a State Medicaid Fraud Control Unit. The recertification process enabled HCFA to receive \$3.7 million dollars in federal funding for Federal Fiscal Year (FFY2018) continued operations.

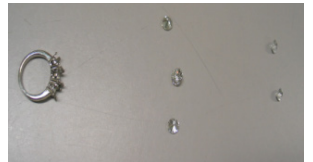
In early 2018, HHS published their MFCU statistical summary for FFY2017, which listed the number of indictments obtained by each of the nation's 50 MFCUs. Adjusting for differences in staff size, Arizona was the third most productive of the 50 MFCU's in bringing criminal indictments. HCFA continues to work collaboratively with federal law enforcement partners including HHS-Office of Inspector General (OIG), DEA and the FBI. These collaborative efforts have been essential in combating the enormous problem of health care fraud related to prescription drug crimes. HCFA personnel regularly attend meetings of the AGO Taskforce Against Senior Abuse (TASA), the Maricopa Elder Abuse Prevention Alliance (MEAPA), the Fiduciary Abuse Specialist Team (FAST), the Arizona Financial Exploitation Committee, the International Association of Financial Crimes Investigators, the Arizona State Elder Abuse Prevention Coalition, the U.S. Attorney's Health Care Fraud Task Force, the Mohave Area General Narcotics Enforcement Team (MAGNET), the Yavapai County Partners Against Narcotic Trafficking (PANT), the Yavapai County Elder Abuse Coalition and Adult Protective Services/Area Agency on Aging Response Team meetings.

During FY18, HCFA received 111 allegations/complaints regarding fraud, patient abuse, and the financial exploitation of vulnerable adults. Accordingly, 98 new cases were opened for full investigation which included 84 fraud cases and 13 patient abuse/financial exploitation cases. HCFA charged a total of 99 defendants and sentenced 56 defendants.

In addition, HCFA participated jointly with other states' Medicaid Fraud Control Units and the United States Department of Justice in over 30 civil cases that targeted national health care and pharmaceutical companies that were alleged to have engaged in improper trade practices. In FY18, six cases reached settlements and as a result of HCFA's participation, \$10,732,931 was recovered from these companies and returned to the government with \$3,418,263 provided directly to the Arizona AHCCCS program and \$7,314,667 submitted to the federal government.

Major Cases

State v. Arthur Michael Sesate: Sesate was employed as a maintenance worker at a residential care facility for the elderly in Mesa. The joint investigation involving SIS/HCFA Special Agents and Mesa Police Department detectives revealed that Sesate unlawfully and entered the apartments of senior citizen residents when they were not home. Sesate stole wedding rings, necklaces, earrings and other mementos from at least eight victims. Sesate sold the stolen jewelry to pawn shops where he received more than \$5,000 for these transactions. During the investigation, it was discovered that Sesate used the money to buy opioids on the street. In July 2017, Sesate was indicted and charged with 19 offenses related to Burglary, Theft and Trafficking in Stolen Property. In December 2017, he pled guilty to Trafficking in Stolen Property and Theft and was sentenced to 2.5 years in prison followed by seven years' of supervised probation and ordered to pay \$11,449 in restitution.



State v. David Salgado: This case involved a Phoenix Police Department investigation of extensive drug diversion activity that was alleged to be orchestrated by Medical Assistant Salgado who was working for a doctor's office in Phoenix. During the investigation, Salgado was interviewed and he admitted to law enforcement that he had filled fraudulent prescriptions under his own name as well as other names. In October 2017, Salgado was indicted and charged with 41 criminal offenses related to drug diversion. In February 2018, he pled guilty to Attempt to Commit Fraudulent Schemes and Artifices, Obtaining Narcotic Drugs by Fraud and Attempt to Acquire Dangerous Drugs by Fraud and was sentenced to two years in prison followed by four years supervised probation and ordered to pay \$1,668 in restitution and \$3,660 in fines.

State v. Brownec Jacinta Jordan: Jordan was employed as an Administrative Assistant for Mercy Care Member Service. Her duties included ordering and distributing bus passes to AHCCCS clients who needed them for transportation to health care appointments. In August 2016, an officer from the Phoenix Police Department observed numerous photographs of bus passes for sale on an online website. The passes were listed for \$25.00 although the serial numbers on the bus passes revealed they were worth \$64.00 each and owned by Mercy Care Plan, an AHCCCS health care plan. The officer contacted the seller through the website and made arrangements to purchase 30 passes for \$600. When the undercover officer met with the seller, she stated that she did not have the passes with her. Subsequently, a traffic stop of the seller's vehicle was initiated where it was discovered that she had 54 bus passes in her vehicle. Jordan admitted to stealing the passes from her employer and she was attempting to sell them over the internet. In August 2017, Jordan was indicted and charged with Attempted Trafficking in Stolen Property, Theft and Unlawful Possession of an Access Device. In April 2018, she pled guilty to Theft and was sentenced to six months in jail followed by five years' probation and ordered to pay \$4,031 in victim restitution.

State v. Anaresia Richard, et al: The AHCCCS OIG had initially uncovered information indicating that the health care billing claims from Lifespan Health Care, a Fort Mohave clinic, had shown a significant increase in the number of "high level" billing codes being claimed for services allegedly provided to their AHCCCS patients. As the AHCCCS OIG inquiry evolved, additional concerns of the accuracy of Lifespan's billing claims were identified, which started the joint investigation between AHCCCS OIG and the Special Agents in the Prescott Office. The investigation uncovered evidence that Richard had been falsely increasing the number of occasions that her patients had visited her office. Those fraudulent office visits would then generate insurance claims that resulted in Richard being paid for providing office visits that never occurred. In addition, it was learned that Richard

had instructed her medical assistant, to bill the AHCCCS program for patients that had been assigned to her, but had never even been to her office. The investigation also uncovered evidence that Richard's spouse, Michael Richard, had assisted in the creation of fraudulent patient records that were used to make it appear as if services had been provided to patients when no such services were provided. In September 2016, Anaresia and Michael were indicted. Anaresia was charged with 49 criminal offenses related to health care fraud and Michael was charged with 42 criminal offenses related to health care fraud. In July 2017, Anaresia pled guilty to Fraudulent Schemes and Artifices and was sentenced to 250 days in jail followed by seven years of supervised probation and ordered to pay \$38,563 in restitution to AHCCCS and \$5,000 in investigative costs. In November 2017, Michael pled guilty to Forgery and was sentenced to 90 days of jail followed by four years of supervised probation and also ordered to pay victim restitution as noted above.

State v. Sukanlaya Hughes: The Arizona State Board of Nursing contacted HCFA to report that an Arizona nurse practitioner with a revoked license had legally changed her name and was trying to get a new nursing license using her new name. She submitted inaccurate information on her new nursing license application. In August 2016, the Board received an application from "Laura Lynn Smith." When the fingerprint card was processed, the fingerprints associated with the Smith application matched the fingerprints associated with "Sukanlaya Hughes" who had been under investigation by the Board since 2013. In fact, Hughes had her license revoked on October 6, 2016 for unprofessional conduct. The application that Smith submitted in August 2016 contained inaccurate information. An SIS Special Agent met with Hughes who admitted that she had lied when she indicated on her application that she was not under an investigation. In July 2017, Hughes (aka Smith) was indicted and charged with criminal offenses related to Fraud and Perjury. In November 2017, she pled guilty to Attempt to Commit Fraudulent Schemes and Practices along with Criminal Possession of a Forgery Device. In December 2017, Hughes (aka Smith) was sentenced to three years of supervised probation.

State v. Richard Settles: Dr. Settles, a Scottsdale Doctor of Osteopathy, was the subject of an investigation lead by SIS/HCFA Special Agents after it was alleged that he engaged in improperly prescribing controlled substances. A report was obtained from the State Pharmacy Board Prescription Monitoring Program which listed the controlled substance prescriptions that were attributed to Dr. Settles. After a thorough review of the list and the actual prescription documentation, it was determined that a number of those prescriptions were written by Dr. Settles. DPS conducted a document examination and it was the criminalist's opinion that Dr. Settles had signed several of the prescriptions after his license was suspended. In February 2017, Dr. Settles was indicted on numerous felony counts related to drug diversion. In August 2017, Dr. Settles pled guilty to administering to Another a Narcotic Drug and Taking the Identity of Another Person and was sentenced to 18 months of supervised probation.

State v. Cassandra Desiree Jackson: This case began when the sister of a patient became suspicious that her brother's in-home caregiver was stealing his medication. The patient's sister set up surveillance cameras which exposed the caregiver who was stealing the patient's medication. SIS/HCFA Special Agents from the Prescott office investigated this matter and also determined that Jackson was also billing the AHCCCS program for hours that she was not present in the home. In September 2016, Jackson was indicted and charged with numerous criminal offenses related to Fraud, Theft and Drug Diversion. In January 2018, she pled guilty to Attempted Burglary and Possession of Narcotic Drugs and was sentenced to 108 days in jail with credit for her time served, four years' supervised probation and fined \$1,000.



State v. Julie Anne Orta: In October 2017, a Tucson retail pharmacy filed a police report detailing the passing of forged prescriptions for prescription pain pills. The case was investigated by the Tucson Police Department and SIS/HCEFA Special Agents who later identified Orta as being involved in a scheme to pass forged prescriptions and to pay for the fraudulent prescriptions using her government-funded health insurance program. In January 2018, Orta was charged with eight drug-related criminal offenses. In April 2018, she pled guilty to the Acquisition of a Narcotic Drug by Fraud and sentenced to two years in prison and ordered to pay \$633 in restitution to the AHCCCS program.

Office Of Victim Services

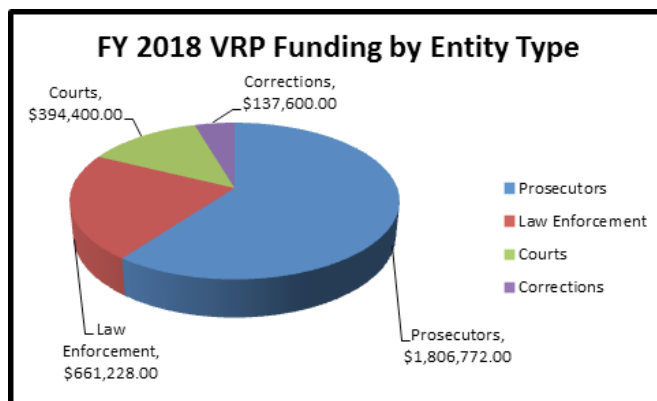
The mission of the Office of Victim Services (OVS) is to promote and facilitate justice and healing for people affected by crime in Arizona. OVS provides a variety of services to victims in cases in which the State is represented by the AGO. In addition, OVS provides financial and technical support to state, county and municipal law enforcement, custodial, prosecutorial and correctional agencies and courts, both adult and juvenile, who have duties and responsibilities established by Arizona's victims' rights laws.

Overview of Accomplishments

OVS continues to provide services to victims of various crimes in cases investigated and prosecuted by the AGO as well as to victims in those cases on direct review or under capital appeal. In FY18, investigation advocates provided over 8,700 services to more than 500 victims and prosecution/appellate advocates provided over 33,000 mandated and nearly 75,000 non-mandated services to more than 8,700 victims.

The newly-formed Investigations-based Victim Assistance Project (IVAP) was funded by a federal grant in FFY2017. In its second year, the IVAP advocates act as a liaison between the victim and the Special Investigations Section. They provide a multitude of statutorily mandated and non-mandated services to include updates on the case investigation, empathetic listening and crisis intervention, and referrals and assistance to meet the needs of the victim. These services assist crime victims to stabilize their lives after victimization and to understand and participate in the criminal justice system at the investigation stage. Two advocates in Phoenix and one in Tucson work with the SIS Special Agents and have increased their skills and knowledge working alongside law enforcement and with specialized victim populations like sex trafficking. FY2018 was the program's first full year in operation. The number of services provided greatly surpassed the first-year goals of the IVAP program and OVS expects continued growth as SIS increases its work investigating victim offense related cases.

Nationally recognized for its innovative and effective work, the Agency Support Team (AST) continued to lead statewide efforts to promote uniformity and efficiency with victims' rights compliance through its various support programs to criminal justice agencies. In FY18, the AST lead and participated in task forces, committees and commissions, conducted eight audits, provided over 1,880 technical assistance services, conducted 81 victims' rights presentations to over 1,800 participants, reviewed 37 allegations of victims' rights violations and distributed over \$3 million to 56 criminal justice agencies to support their mandated victims' rights services. As a result of this vital work, positive changes were made around the state in regards to policy development and individualized training to help ensure rights are more consistently provided.



In October 2017, OVS staff members responded to a request for crisis response assistance from the Nevada AGO following the Route 91 Harvest Festival shooting in Las Vegas. As part of a joint response effort with the Pima County Attorney’s Office and with barely a day’s notice, staff traveled to Las Vegas to provide assistance as needed. Crisis responders spent hours triaging and assisting victims and their families coming in off the street suffering from confusion, fear and trauma. It was not uncommon for Nevada officials to find Arizona volunteers working with victims long after others left for the day. Spanish-speaking staff was at a premium and stayed additional days to assist those who struggled to find services. Following the shooting, OVS considered how the AGO would function in a mass casualty event occurred locally.

As a statewide agency assisting crime victims, the AGO should be able to assist and provide direct crisis services to victims. As such, knowledge of, and training in, crisis response has been added to the advocates’ job duties. OVS is working to have all staff members prepared and qualified to assist in crisis situations by an accredited program to assist victims in an informed, trained and victim-centered manner consistent with best practices in the field. OVS has initiated discussions at a state level to include crisis victim services in the state emergency response plans. In the event Arizona experiences a mass casualty incident, the AGO and OVS will be prepared to assist the citizens of Arizona.



Major Cases

State v. Danny Lee Wallace: Wallace, posing as an adult female, initiated contact with a 15 year old girl interested in forming a relationship with the victim. Wallace actively groomed the victim, sending and requesting sexually explicit pictures and messages. As a result of a “breakup” following the victim’s mother’s learning of the contact, Wallace, as his female persona, began threatening suicide and told the victim to bring the police so they could kill “her.” He also manipulated the victim into “cutting,” and keeping the ongoing details of their relationship from her family. Wallace’s actions caused the minor victim significant emotional and physical distress, resulting in hospitalizations and long-term care. Ultimately he was sentenced to seven years in prison for Commercial Sexual Exploitation of a Minor and Sexual Exploitation of a Minor. During the investigation, the victim was ordered to surrender her phone to police officers from Phoenix Police Department, which was held in evidence from the initial investigation through the prosecution. The advocate assisted her mother in retrieving the phone so that

they could trade it in for a new one. The advocate worked with detectives from Phoenix Police Department to facilitate this process and, after wiping the phone of contraband, the phone was sent back to the victim. The advocate also assisted during post-conviction with the Maricopa County Victim Compensation Program to verify the dates that the family flew to Phoenix to attend and be heard at Wallace's sentencing. Since the original sentencing hearing was continued to allow for a mitigation hearing, and the victim's parents flew in from California for both hearings, the program reimbursed the family for the two roundtrip flights so the family did not bear the additional financial burden as a result of the defendant's actions.

State v. Francisco Aguirre, et al.: Aguirre was one of three individuals charged in a complex mortgage fraud case with more than 80 victims. Aguirre, who is not a licensed realtor, defrauded non-English speaking victims. More than a third of the victims in the case required contact in Spanish language only. Aguirre's Settlement Conference was problematic to several victims. These victims were concerned about personal information that might be disclosed at trial. Tensions were high during plea negotiations. The concerned victims were satisfied that the terms of the finalized plea were accepted by the defendant and a trial was avoided.

National Crime Victims' Rights Week

FY18's National Crime Victims' Rights Week was showcased by a statewide event held in April 2018. This event recognized individuals and/or groups in Arizona who have made substantial contributions to victims' rights. This event was planned and present by a collaboration of six agencies: the AGO, Arizona Governor's Office, Maricopa County Attorney's Office, Department of Corrections, Department of Juvenile Corrections and DPS. Attorney General Mark Brnovich personally recognized five outstanding individuals and groups in front of approximately 345 attendees.





*AG Brnovich and OVS Staff 2018 Victims' Rights Week Recognition Event
April 9, 2018 El Zaribah Shrine Auditorium, Phoenix, AZ.*

*AG Brnovich with OVS Staff (Left) and the Pima County Attorney's Office (Right)
2018 Distinguished Service Award- Advocacy/Direct Services*



*Jessica Nicely, Founder/CEO of Winged Hope AZ.
2018 Distinguished Service Award- Service Coordination*



*N. Oni Boston, Doris Anthony, and Chris Kelly 2018 Distinguished Service
2018 Distinguished Service Award- Innovative Practices*

**Not Pictured by Request- Det. Michael Russo
2018 Distinguished Service Award- Leadership*

Southern Arizona White Collar & Criminal Enterprise Section (SAWCCE)

SAWCCE (formerly known as the Border Crimes Enforcement Section, prosecutes all criminal cases under the Attorney General's statutory jurisdiction. SAWCCE specializes in white collar fraud investigations and prosecutions including securities and investment fraud, business embezzlement, AHCCCS and Department of Economic Security (DES) public benefits fraud, identity theft, money laundering, and other economic-based crimes. SAWCCE also concentrates on anti-Cartel prosecutions of criminal enterprises comprised of international, interstate and Arizona-based drug traffickers responsible for smuggling heroin, Fentanyl, cocaine, methamphetamine, marijuana and other illegal drugs, weapons, and U.S. currency across Arizona's southern border and targeted street gang related prosecutions. Additionally, SAWCCE investigates and prosecutes public corruption cases involving misuse of public funds, conflict of interest, obstruction of justice, and bribery. SAWCCE also prosecutes crimes involving Internet-related sexual exploitation of children and associated abuse charges, and dedicates an attorney to specialized elder and vulnerable adult financial exploitation and abuse cases. SAWCCE further assists local county attorney offices by prosecuting conflict cases pursuant to Arizona law.

SAWCCE attorneys work proactively with AGO Special Investigators, local police agencies, and state and federal law enforcement from investigation through conviction. This approach, known as vertical prosecution, relies on specialized prosecutors who become experts in particular areas of law. Law enforcement from federal, state, and local agencies choose to bring cases to SAWCCE attorneys for this prosecution skill. Given their expertise, SAWCCE attorneys are regularly tasked with assisting both law enforcement and county attorney offices on complex legal issues. As a result, SAWCCE is a significant component of southern Arizona law enforcement.

Additionally, in partnership with the University of Arizona James E. Rogers College of Law, the SAWCCE manages a six credit, year-long 38(d) clinical extern program for select second and third year law students who want to pursue prosecution careers after graduation. Students in the intensive program complete 300 hours in the office and in court under close supervision of SAWCCE's experienced criminal prosecutors.

Overview of Accomplishments

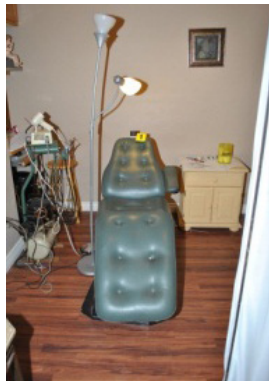
SAWCCE filed new cases on 243 defendants in FY18, while managing 649 total defendants in active litigation. In the courtroom, SAWCCE prosecutors excelled with a 100% trial conviction rate in its 10 jury trials in FY2018, with guilty verdicts on 91 counts after 53 days invested in trial. For criminal enterprise drug interdiction, total seizures with approximate wholesale values included: Methamphetamine – 143.88 pounds valued at \$460,416; Heroin – 56.82 pounds and 459 pills valued at \$650,750; Cocaine – 51.56 pounds valued at \$608,140; Marijuana – 515.15 pounds with a value of \$195,757; and Fentanyl – 494 pills valued at \$9,880. SAWCCE also assisted 509 economic crime victims with court-ordered restitution of approximately \$1,370,720 and obtained approximately \$237,040 in court-ordered fines to be paid by defendants.

Major Cases

State v. Mary McNabb: The Arizona Conference of Police and Sheriffs (AZCOPS) contacted the Tucson Police Department after discovering suspicious bookkeeping payments. Detectives launched an investigation,

discovering McNabb issued more than \$195,000 in false payments to herself during her two years working as a bookkeeper for AZCOPS. Credit card statements indicated McNabb used the money to pay for personal expenses such as dinner and shopping. In September 2017, she pled guilty to Theft and Fraudulent Schemes and Artifices and was sentenced to three years in prison followed by seven years' probation and ordered to pay \$227,749 in restitution to AZCOPS.

State v. Jesus Bernal, et al: This case was part of an unlicensed dentist sweep by the FBI Tucson Office under the direction of SAWCCE prosecutors. Tucson chiropractor Bernal was charged with knowingly allowing an



unlicensed dentist to practice out of his chiropractic clinic, with criminal liability arising entirely from accomplice liability. Fugitive co-defendant Maria Hernandez, an unlicensed dentist, would travel from Mexico to Tucson to provide unlicensed dental treatments to Tucson residents in a makeshift dental office in the Bernal Chiropractic Clinic. During the two-week trial, jurors heard from Bernal's former employees who testified Bernal monitored when Hernandez came to the office to see patients to ensure that he got paid. Jurors also heard evidence that when the FBI executed a search warrant at the clinic, agents found unsanitary conditions and no means of sterilization.



The case required high prosecution skill to prove accomplice liability from pretrial litigation through jury instructions. In January 2018, Bernal was convicted of Fraudulent Schemes and Artifices, Money Laundering, Practicing Dentistry without a License, Conspiracy and Illegal Control of an Enterprise and was sentenced to three years in prison.

State v. Esteban Avalos: The Tucson Police Department began investigating Avalos for sharing child pornography over Google+. Detectives seized his cellphone pursuant to a search warrant and found hundreds of images of child pornography. Avalos confessed to downloading the child pornography and storing them. During the investigation, further analysis of the cellphone located an online chat between Avalos and another man where Avalos described in graphic detail molesting a child victim. Back in 2014, the daughter of Avalos's ex-girlfriend told police Avalos had molested her when she was eight years old, but the case was declined for prosecution by another agency and Avalos was not charged. With the new phone evidence, Avalos was additionally charged with Child Molestation for the 2014 conduct along with ten counts of Sexual Exploitation of a Minor. For nearly two years, Avalos filed numerous motions, all of which failed in court, before he finally entered guilty pleas to Sexual Exploitation of a Minor and Attempted Molestation of a Child, sparing the minor victim from having to testify. In May 2018, he was sentenced to 25 years in prison followed by lifetime probation.

State v. Edgar Allen Fristoe: The Tucson Police Department received a tip from the National Center for Missing and Exploited Children (NCMEC) that child pornography had been uploaded to a Google photos account. Tucson Police Department investigated the account and learned the email address belonged to Fristoe, a registered sex offender who had prior felony convictions from Prescott in 1981 for attempted sexual conduct with a minor and Oklahoma in 2001 for indecent exposure. After the execution of a search warrant, detectives found numerous pictures and videos of child pornography on Fristoe's phone. Post-arrest forensic analysis of Fristoe's phone revealed he had transmitted the child pornography to other people using a chat messaging service. All of the victims in the pictures and videos were under 15 years old. In December 2016, Fristoe was indicted and charged with 14 counts of Sexual Exploitation of a Minor, Attempted Luring a Minor for Sexual Exploitation and Failure

to Register as a Sex Offender. After a bench trial in February 2018, Fristoe was convicted of 10 counts of Sexual Exploitation of a Minor and sentenced to 170 years in prison for possessing and transferring pictures and videos of child pornography on his cell phone.

State v. Sergio Ramon Chavez: In April 2018, a Pima County jury convicted cartel heroin courier Chavez for transporting 5,368 heroin pills across southern Arizona, finding him guilty of Transportation of Heroin for Sale, Illegally Conducting an Enterprise and Conspiracy to Transport Heroin for Sale. Chavez had prior convictions for Aggravated Assault in 2000 and Child Abuse in 2011. He was sentenced to 14 years in prison.



State v. Santos Jesus Rodriguez et al.: The Tucson Police Department Counter Narcotics Alliance (CAN) used an undercover sting to dismantle a dangerous Tucson home invasion “rip” crew committing home invasions to steal drugs from rival drug traffickers. During the sting operation, the five rip crew members were recorded in a pre-wired hotel room admitting to being in a home invasion crew and negotiating with undercover officers to commit a home invasion in exchange for two kilograms of cocaine and \$45,000. All five defendants pled guilty to various charges including Attempted Sale of Narcotic Drugs, Armed Robbery, Weapons Misconduct, Money Laundering, Conspiracy and Illegally Conducting an Enterprise. The ringleader, Rodriguez, was sentenced to 12 years in prison followed by five years’ probation. James Joe Johnson was sentenced to 11 years in prison followed by five years’ probation. Gabriel Abran Lopez was sentenced to 10.5 years in prison followed by five years’ probation. Luis Angel Coronado was sentenced to 6.5 years in prison followed by five years’ probation. Lonnie J. Rodriguez, was sentenced to 40 days in jail followed by two years’ probation.

State v. Mario Dorame: After a traffic stop, a Dodge Ram registered owner and driver Dorame granted DPS consent to search his truck. The Trooper smelled fresh Bondo in the truck, saw loose screws in the back panel, and eventually



discovered more than 71 pounds of cocaine in a hidden compartment behind the driver’s seat. After Dorame lost multiple suppression motions, the case went to trial. Because Dorame had denied knowledge of the cocaine, all 71 pounds of cocaine with a wholesale value between \$500,000 and \$1,000,000 was brought into the courtroom for jury inspection and four armed guards had to be present at all times. In September 2017, the jury convicted Dorame of Transportation of a Narcotic Drug for Sale, Illegally Conducting an Enterprise, and Conspiracy. Dorame currently is a fugitive and has a warrant for his arrest.

State v. Azucena Flores Serna: In March 2018, a Santa Cruz County jury convicted Flores Serna of Conspiracy, Money Laundering and Transportation of a Narcotic Drug for Sale for smuggling 343 heroin pills through the DeConcini Port of Entry to the Arizona Mills Mall in Phoenix. After she sold the pills to an undercover officer for \$5,000, HIS investigators followed Serna through the mall as she spent about \$700 of the drug proceeds before she went back to Nogales. At the Port of Entry, Serna initially denied having any money, but later admitted she had cash strapped to her body. Agents found \$4,300 she was body-carrying concealed under her dress, along with an opened condom. Serna, who worked as a police officer in Nogales, Mexico, is currently a fugitive with an active bench warrant for her arrest.



State v. Raisa Escarcega: In September 2017, during a shoplifting investigation, the Tucson Police Department discovered that Escarcega had another woman's identification, checkbook and debit card in her purse. Police soon learned that Escarcega had used the woman identity and forged a cashier's check for \$63,392 to purchase a brand new Land Rover two days earlier. Escarcega had registered the car in the victim's name and had been driving it for two days when police made contact with her. Escarcega also had used the ID and checks to rent an apartment where she stayed for several weeks. In July 2017, Escarcega pled guilty to Identity Theft and Theft of Means of Transportation, and although she had no prior convictions, the court sentenced her to 1.5 years in prison followed by three years' supervised probation.

State v. Hugo Dario Martinez and Yolanda Evelia Garcia-Grijalva: After an FBI investigation confirmed defendants were practicing unlicensed dentistry out of their Tucson trailer home, they were arrested. The pair had a makeshift dental office in the trailer, including a leather recliner which they used as a dental chair and an office light doubling as a dental light. Evidence included recorded telephone conversations with ruse patients, video recordings of in-person appointments with ruse patients and confirmation through the Arizona Board of Dental Examiners that neither was licensed to practice dentistry in Arizona. In November 2017, both defendants pled guilty to Money Laundering and Practicing without a License. Martinez was sentenced to one year of probation while Garcia-Grijalva was sentenced to four years' probation and since she was not a U.S. citizen, she was deported to Mexico.

Special Investigations Section

The Special Investigations Section (SIS) provides investigative support to law enforcement and consumer protection services of the AGO, as well as to law enforcement agencies across the State of Arizona. SIS provides expertise in specialized areas of law covered under the Attorney General's statutory criminal jurisdiction, which is not usually available at other law enforcement agencies, including vulnerable adult abuse, consumer fraud, drug trafficking, human smuggling, environmental crimes, medical fraud, money laundering, white collar crimes, political corruption, youth tobacco enforcement, antitrust, high technology crimes and foreign prosecution of defendants who have fled to Mexico. The Special Investigations Section works closely with our federal partners, to include having special agents assigned to federal taskforces, combating racketeering offenses at the state and federal level.

Overview of Accomplishments

In FY18, SIS opened 209 cases. SIS Major Fraud units devoted resources to advance public corruption cases this year. Special Agents supporting the Fraud and Special Prosecutions Section, Financial Remedies Section, Health Care Fraud and Abuse Section, Consumer Fraud Section and Southern Arizona White Collar Crime & Enforcement Section were successful in meeting unprecedented investigative demands.

AGO initiatives continue to target the dismantling of the financial structures of drug trafficking organizations and continue to result in record-setting increases in asset forfeitures. Statistics also indicate calls for assistance from the public and other law enforcement agencies remain at high levels.

- Law Enforcement Assists 54
- TRAC – Financial Inquires 320
- Duty Agent Contacts 4,130

Major Cases

Many of the successfully prosecuted cases outlined previously by other Sections in this report were investigated by Special Agents assigned to SIS.

Arizona Financial Crimes Task Force (AFCTF)

TRAC and Operation Angelus Custos: In August 2017, SIS Special Agents and the TRAC developed technology and workflow typologies to quickly and efficiently identify high priority Human Sex Trafficking targets. In so doing, they are working with other non-profits and technology companies to integrate their databases and access to human sex trafficking intelligence that identify social media, adult ad websites, money laundering trends and other information into TRAC. TRAC then analyzes this information in conjunction with a traditional and non-traditional financial analysis to put a complete profile together of these high priority human sex trafficking targets. This investigative technology allows for real-time interdiction of sex trafficking suspects and immediate rescue of victims across the U.S. This information has assisted the AFCTF agents in conducting necessary search warrants, subpoenas and other investigative tools to complete a successful criminal prosecution as well as dismantling these human sex trafficking organizations.

333-pound Heroin Seizure and Money Laundering: During a wiretap investigation that concluded in August 2017, AFCTF agents learned that Angelica Enriquez-Diaz was delivering quantities of heroin and methamphetamine to resellers in the greater Phoenix area. In February 2018, agents contacted Enriquez-Diaz at her residence relative to obtaining consent to search the residence for illegal drugs. As investigators were talking to Enriquez-Diaz, two Hispanic males jumped the backyard fence and left approximately 1/3 lb. of heroin behind that was found and impounded as evidence. A search warrant was authorized and an additional three pounds of heroin and \$9,634 in cash were located. Three suspects were taken into custody, to include the 15-year-old juvenile who was suspected of throwing the heroin over the fence. Child Protective Services was contacted about the juvenile and authorized the release to a family member. Enriquez-Diaz was not charged.



Consumer Fraud Unit (CPA)

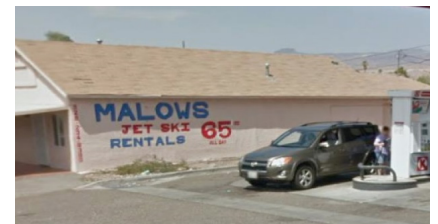
Saban Rent-A-Car, LLC dba Phoenix Car Rental: The AGO obtained a trial verdict against Saban Rent-A-Car. An undercover investigation by SIS/CPA Special Agents found that consumers were improperly charged fees by Phoenix Car Rental and Saban's Rent-a-Car. After a 5-week trial, a judge ordered owner Dennis N. Saban and his companies to pay \$1,850,000 for violating the Arizona Consumer Fraud Act. Of that amount, nearly \$1,000,000 will go to consumers who were charged unlawful fees during car rental transactions from 2009 to 2016. After attorney fees and costs, the total amount awarded was \$2,280,000.



ABC Nissan: SIS/CPA Special Agents assisted with obtaining a consent judgment against ABC Nissan for \$175,000 in restitution, penalties and fees. The State's complaint alleged ABC Nissan previously engaged in false advertising practices, including internet advertising that listed vehicles at prices that included all possible rebates and excluded mandatory dealer "add-ons" that had already been applied to the vehicles. The State also alleged that ABC Nissan previously misrepresented consumers' financial information on loan applications in order to obtain financing for vehicle purchases. The judgment orders nearly \$130,000 to be paid in restitution to affected Arizona consumers.



Malows Jet Ski Rentals: SIS/CPA Investigators obtained a \$160,000 consent judgment against Mahriar Akbari and his jet ski rental company operating in Bullhead City to settle misleading and false advertising claims. Malows advertised jet ski rentals for "\$65 ALL DAY," when they really charged consumers up to \$299 for jet ski rentals on Fridays, weekends and holidays. The State also alleged in its consumer fraud lawsuit that the defendants overcharged consumers for gasoline, improperly retained consumer's refundable deposits and charged consumers for damage which the consumers did not cause. The settlement requires Malows Jet Ski Rentals to pay \$100,000 in restitution for consumers who rented a watercraft from them.



Youth Tobacco Compliance Program

In FY2018, the Youth Tobacco Complaint Program performed 1,576 undercover inspections of tobacco retailers overall, resulting in 447 citations issued to clerks and businesses who sold tobacco products to underage youth volunteers. The inspection failure rate for AGO-only inspections improved from 11.6% in FY2017 to 9.8% in FY2018.

Financial Remedies Unit

Special Agents assigned to the Financial remedies Unit (FRU) completed over 982 follow-up assignments at the request of attorneys to support civil forfeiture cases in litigation.

During FY18, SIS acquired an improved Property & Evidence Facility. Special Agents and Property & Evidence Custodians worked tirelessly to move into the new location.



Healthcare Fraud & Abuse Unit

State v. Victoria R. Damian, et al: Damian was the owner of Golden Memories Assisted Living in Phoenix where her daughter Rebecca Marie Damian worked as a caregiver. The case had been referred to the AGO by the victim/patient's investment advisor who was concerned about the financial irregularities in his client's financial accounts. The investigation revealed that Victoria and Rebecca took control of the patient's finances and spent thousands of dollars for their own personal benefit. Information was developed indicating that after the defendants became involved in the patient's personal finances, his credit score dropped 300 points due to late fees and penalties assessed against his accounts. The investigation uncovered numerous instances where the defendants used the patient's resources to pay for their personal items, including purchases at women's clothing stores. In June 2017, Victoria and Rebecca Damian was indicted and charged with numerous Theft and Financial Exploitation of Vulnerable Adult Crimes. In January 2018, Victoria pled guilty to Theft of a Vulnerable Adult and Fraudulent Use of a Credit Card and was sentenced to 60 days in jail followed by three years of supervised probation and ordered to pay \$45,525 in restitution to the victim and \$110,000 to others businesses. In January 2018, Rebecca pled guilty to Theft and Fraudulent Use of a Credit Card and was sentenced to 60 days in jail followed by three years of supervised probation. She was also ordered to pay victim's restitution as noted above.

State v. Terry Robert Wade, Jr., et al: SIS/HCFA Special Agents began an investigation of seven members of a Mesa-based drug diversion ring. The two leaders of the ring were siblings Tammy Renee Wade and Terry Robert Wade, Jr. For over 15 years, Tammy worked as a Medical Assistant for an East Valley physician. The investigation revealed that Tammy was writing unauthorized prescriptions for pain medication, mixing fraudulent prescriptions with legitimate ones that were submitted to the doctor for signature. The fraudulent prescriptions were then either filled by Tammy or others. The Wades were indicted in July 2017 and charged with numerous drug diversion-related offenses. In October 2017, Tammy pled guilty to three counts of drug diversion related offenses and sentenced to three years of supervised probation and community service. In May 2018, Terry pled guilty to Attempted Fraudulent Schemes and Artifices and Money Laundering for his role in the drug ring and for passing fraudulent prescriptions. He and was sentenced to two years in prison followed by five years' supervised probation. The other five members of the ring have also pled guilty and have been sentenced.

State v. Harinder Takyar: In August 2014, Special Agents from SIS/HCFA, DEA, U.S. HHS OIG and a Pinal County Sheriff's Office Task Force began an investigation into the distribution of controlled substances by Harinder Kumar Takyar, MD. Dr. Takyar specialized in internal medicine with offices in Mesa, Coolidge and Florence. The investigators discovered that Dr. Takyar was prescribing oxycodone, hydrocodone, alprazolam and carisoprodol to individuals without completing a medical examination. It was also discovered that Dr. Takyar was paying "referral fees" to two local care facility operators. In July 2016, Dr. Takyar was indicted and charged with numerous forgery offenses, including Fraudulent Schemes and Artifices, Administration of a Narcotic Drug, Administration of a Dangerous Drug and Consideration for Referral of Patient. In December 2017, Dr. Takyar pled guilty to Attempt to Commit Narcotic Drug-Obtain Illegally and Patient/Client Referral Fraud. He was sentenced to 18 months' supervised probation, ordered to surrender his medical license for a period of five years and ordered to pay \$15,000 in investigative costs.

State v. Kristy Brooke Fant: SIS/HCFA Special Agents from the Prescott office was contacted by the Prescott Area Narcotics Task Force after they had learned that a Camp Verde dental office clerical employee was suspected of creating and passing fraudulent prescriptions for hydrocodone. SIS Special Agents discovered evidence that Fant

had generated fraudulent prescriptions while being employed at two different dental practices. In June 2017, Fant was indicted and charged with several felony counts related to drug diversion crimes. In April 2018, she pled guilty to Attempted Forgery and Attempted Possession of a Narcotic Drug and was sentenced to 120 days of jail followed by three years of supervised probation.

Major Fraud 1 & 2 (MFUI & MFU2)

State v. Leah Chavez: Chavez was the town clerk for City of Pinetop-Lakeside. She was indicted and charged with ten counts involving Theft, Misuse of Public Monies and Forgery in July 2017. Chavez used more than \$32,000 of the town's funds for personal use. SIS/MFI Special Agents executed a search warrant at and recovered computers and phones used by Chavez. Through forensic analysis, the digital evidence revealed purchases that Chavez made in Maricopa County on the Town's credit card. The financial analysis of the Town's bank statements led to additional evidence of her fraudulent spending habits. In July 2018, Chavez pled guilty to Theft and Misuse of Public Monies and was sentenced to one year in prison followed by four years' probation and ordered to pay \$32,334 in restitution.

State v. Beth Briggs: In March 2018, Briggs, a legal assistant with the law firm Burch & Cracchilo, was indicted and charged with numerous counts including Perjury, Fraud Schemes and Artifices and Filing a False Document. SIS/MFI Special Agents discovered that Briggs had filed falsified documents to make it appear as though the firm was complying with the city ordinance regarding lobbyist documents. Briggs forged signatures and backdated documents to make it appear that she filed the correct documents and was in compliance. In April 2018, she pled guilty to False Instrument/Filing and was sentenced to two years' probation, ordered to pay a fine and complete 200 hours of community service. In addition, her appointment as a notary was also revoked.

State v. Christy Conley: Between November 2015 and December 2017, Conley was employed as the Evidence Technician for the Quartzsite Police Department. Conley was responsible for the Evidence Room and had primary access to the safe shortly after she was hired. On December 19, 2017, a suspicious fire occurred in the Evidence Room. Conley stated that she dropped a pair of pliers, causing a spark which ignited a box located within the safe. Conley was placed on administrative leave while police personnel investigated this matter. The investigation revealed several currency envelopes contained inside the safe labeled as evidence had been tampered with and were missing money. In January 2018, the AGO was asked assist in investigating this matter. SIS/MFI Special Agents along with FSP prosecutors quickly began a full scope investigation. After reviewing several hours of surveillance video of the evidence room, it was discovered that Conley actually set fire to the contents of the evidence safe. Additionally, it was discovered that Conley's motive for setting the fire was because she had been stealing money from the evidence safe. In total, Conley stole approximately \$20,500. During the course of the investigation, Conley relocated to Wisconsin. In April 2016, Conley was indicted and charged with Theft, Fraudulent Schemes and Artifices, Tampering with Evidence



and Reckless Burning and a warrant was issued for her arrest. Special Agents traveled to Wisconsin and arrested Conley and she was extradited back to Arizona to face charges. In June 2018, Conley pled guilty to Theft and Tampering with Evidence and was sentenced to 90 days in jail followed by five years' supervised probation and ordered to pay \$23,908 restitution.

State v John C. Astori: SIS Special Agents initiated an investigation which revealed Astori had defrauded three elderly victims. He met the victims through in-person cold calls made while employed by Banker's Life Insurance Company. Once in their homes, Astori befriended the victims. When Astori learned that he was going to be fired from Banker's Life Insurance, he convinced the victims to switch their investments from Banker's Life to his company, Americas Most Valued Advisors [AMVA]. Astori promised the victims interest payments and high returns. He provided the victims with false AMVA documents to cover the lack of interest payments. Astori took approximately \$85,000 from the victims and used the money for his personal living expenses. While on release for these crimes, Astori continued to act as an investment adviser and an additional case was discovered where the victim "invested" \$50,000 with Astori. As in the previous fraud schemes, those funds were also used for Astori's personal living expenses. In May 2017 Astori was indicted on Sale of Unregistered Securities, Transactions by Unregistered Salesmen, Securities Fraud, Fraudulent Schemes and Artifices, Illegally Conducting an Enterprise, Theft, Money Laundering and Investment Advisory Services Fraud. In July 2017, Astori pled guilty to Money Laundering and was sentenced to seven years in prison followed by three years' probation with white collar terms and ordered to pay \$85,764 in restitution to the victims.

State v. Sally Xiao Le: As part of an ongoing investigation into vulnerable adult financial exploitation, Le, a local business owner, was found to have grossly under reported her assets while applying for State benefits, obtaining over \$29,000 in DES benefits for herself and her family. The joint investigation with SIS/TUC Special Agents and DES investigators determined Le and her husband owned five real properties, was associated with thirteen businesses and had access to 54 bank accounts as a signatory on the account. While claiming to have only \$2,000 per month in family income, Le had over \$1.6 million in deposits in just five of the audited bank accounts between 2009 and 2012. In September 2016, Le was charged with Fraudulent Schemes and Artifices and numerous counts of Forgery for each of the false applications that she filed. In April 2018, Le pled guilty to Forgery and was sentenced to nine months of jail followed by two years of probation and ordered to pay full restitution to DES.

State v. Reynard Gordon and Teresa Titus: The Adult Protective Service in Sierra Vista referred this investigation to the AGO. Gordon obtained a Power of Attorney from the victim and began living on the property. The elderly victim who suffered from a cognitive impairment had deposited a \$120,000 inheritance into her credit union account. Credit Union employees contacted authorities after Gordon and Titus, representing themselves as custodians over the victim's health and life decisions, removed over \$25,000 of her money within days of the deposit. SIS/TUC Special Agents obtained a search warrant and recovered the victim's property from Gordon and assisted in having a public fiduciary appointed to protect the victim. Not only was it discovered that the suspects were making personal purchases, the victim was living in her home which had no running water or cooling in over a hundred degree heat. The victim also had no medical care for many years and the suspects canceled her Medicare Insurance. At trial, Gordon identified himself as a sovereign constitutionalist and represented himself, testifying on his own behalf in a question and answer format from the witness stand. After a seven day trial, the jurors briefly deliberated before finding both defendants guilty on all counts. The court imposed a five year prison sentence for Gordon and sentenced Titus to seven years' probation. Both were ordered to pay \$25,080 in restitution to the victim.

State v. Frederick Scott Whitacker: This matter was brought by the Tucson Police Department involving an elder abuse victim that Whitacker was financially exploiting by using an unlicensed contractor to commit fraud. SIS/TUC Special Agents and SAWCCE prosecutors also discovered an unrelated insurance fraud reported by Farmers Insurance related to the car burglary of his mother's vehicle and subsequent use of her credit cards found in the vehicle. Whitacker had filed fraudulent insurance claim(s) with Farmers Insurance and credit card issuers claiming his identity had been stolen. His mother lied to the insurance investigators stating her son was deployed in the military, when in fact he was in prison at the time of the theft. During the background investigation of suspect Whitacker, agents found an uncharged Pima County Sheriff's Office investigation where Whitacker was posing as a golf caddy at local Tucson resort and stealing golf clubs and selling them at Play-it-Again Sports. SIS/TUC partnered with the Tucson Police Department and Pima County Sheriff's Office to complete the investigations. In July 2017, Whitacker pled guilty to Fraudulent Schemes and Artifices and sentenced to 9.25 years in prison and ordered to pay \$8,336 in restitution.

State v. Supranom "Addie" Klos: JP Morgan Chase Bank Fraud Security Investigations contacted the Tucson FBI, reporting the financial exploitation of a vulnerable 96 year old woman living in Tucson. The FBI referred the criminal investigation to SIS/TUC Special Agents. The investigation revealed that Klos was a local hair dresser of Thai decent and had been the victim's Power of Attorney since her husband's death. During the time Klos was the victim's Power of Attorney; she received \$50,000 in dental implants, purchased a new 2014 Toyota Avalon and stole \$311,833 in cash which was later gambled in local casinos. In August 2015, Klos was indicted and charged with Fraud Schemes and Artifices, Theft from a Vulnerable Adult and Fraudulent Use of a Credit Card. A trial was held where she was found guilty of those charges and sentenced to six years in prison followed by five years' probation and ordered to pay \$311,833 in restitution. Klos' Toyota Avalon was seized as partial restitution.

State v. Eva Martinez: In January 2017, SIS/TUC Special Agents assisted DEA with a potential fraud and forgery investigation. DEA learned that Martinez, along with her mother and sister were involved in drug trafficking and had prior drug arrests. Agents assisted DEA in proving that Martinez's involvement within the DTO was in facilitating the use of personal bank accounts utilized to receive cash proceeds from the sale of narcotics. In December 2017, as a result of the financial investigation, Martinez was indicted on thirteen counts of Fraud and Forgery against the State of Arizona. In January 2018, Martinez pled guilty to all counts and was sentenced to four years' probation. Prior to the sentencing in this matter, Martinez was apprehended at her residence in Tucson on a federal arrest warrant for her participation in the importation and distribution of narcotics through the Nogales Ports of Entry, followed by the delivery of these drugs to Tucson and Phoenix. In July 2018, the US Attorney's Office obtained a federal superseding indictment for twelve counts of dangerous drug charges. Martinez accepted an additional plea and sentenced to nine years in federal prison.



Division Chief Dawn Northup

MISSION:

A dynamic legal team representing many state agencies, boards, commissions and the courts with integrity, dedication and innovation.

Division Summary

The State Government Division consists of ten Sections: Agency Counsel; Environmental Enforcement; Education and Health; Employment Law; Liability Management; Licensing and Enforcement; Natural Resources; Public Law; Tax; and Transportation. The Division's sections handle a wide variety of legal matters and provide client advice, legal representation and litigate in administrative, civil and appellate proceedings.

Agency Counsel Section

The Agency Counsel Section (ACS) is responsible for providing legal advice and litigation support to approximately 90 state agencies, boards, and commissions, including the courts. ACS clients range from the Department of Administration, the Department of Corrections, the Department of Agriculture, and the State Court system, to the State Board of Equalization, the Board of Executive Clemency, the Department of Housing and the State Retirement System.

Overview of Accomplishments

Election Matters

Democratic National Committee, et. al v. Reagan, et. al. – In 2016, the Democratic National Committee and other plaintiffs challenged the recently-enacted H.B. 2023, which banned ballot collection, as well as Arizona's law requiring voters to cast their ballots in the proper precinct in order to have them counted. The Plaintiffs filed their lawsuit against the secretary of state and attorney general, asserting that these laws violated the Voting Rights Act as well as the First and Fourteenth Amendments. ACS attorneys defended Arizona law, and after significant motion practice and numerous appeals of preliminary injunction decisions, the Federal District Court held a ten-day trial in October, 2017. The Court issued its ruling in May, 2018 in which the State defendants prevailed on all counts.

Madonna v. Arizona – In 2017, a group of plaintiffs challenged the recently-enacted A.R.S. §19-102.01, which required “strict compliance review” for initiative petitions, and also required that those using the initiative process must “strictly comply” with the constitutional and statutory requirements related to initiatives. ACS defended the state law, and after a two day trial in Maricopa County Superior Court, the court rejected Plaintiffs’ challenge. The Arizona Court of Appeals affirmed the trial court’s ruling.

Candidate Nomination Petition and Ballot Measure Qualification Challenges – ACS represented the Secretary of State in over 30 candidate nomination petition challenges and numerous ballot measure qualification challenges, many resulting in appeals. All of these challenges require judicial determinations on an expedited basis.

Department of Administration (ADOA)

Enos v. State of Arizona, et al. – In 2016, several hearing impaired individuals and the National Association for the Deaf sued the State and several local governmental entities claiming the defendants failed to provide text-to-9-1-1 services in violation of the Americans with Disabilities Act and the Rehabilitation Act. The Plaintiffs argued that the lack of text-to-9-1-1 services denied deaf and hard of hearing individuals effective access to 9-1-1 services. ACS assisted ADOA with settling the claims, with the State making more than \$1.3 million available to multiple public 9-1-1 service providers to provide text-to-9-1-1 services for Arizonans.

Procurement Protests – ACS worked with the State Procurement Office to settle several claims on behalf of state agencies. Through our work with the State Procurement Office, we assisted ADOA in securing a \$360,000 refund from a major software vendor and assisted the Department of Education in recovering \$100,000 that had been overbilled through a vendor. We also worked with a number of other state agencies, from smaller boards and commissions to the Department of Corrections, to help them resolve issues with vendors on state contracts in advance of the formal claims process.

ACS attorneys also provided training to state procurement professionals, including the basics of responding to protests and procurement ethics.

Significant Responsibilities

Bonds and Leases – ACS attorneys reviewed 43 projects for Industrial Development Bonds funding, totaling over \$1,655,000,000.00. The review is for the purpose of determining whether each project meets the statutory requirements and the statutory definition of a “project.”

ACS attorneys reviewed and approved, as to authority and form, personal property leases with an aggregate value of more than \$13,042,963.00.

State Retirement System

Retirement Cases – ACS successfully defended the Arizona State Retirement System in the court of appeals in *Griffin Foundation v. ASRS*. Griffin Foundation charter school claimed that its workers were not ASRS-eligible members because they were “leased” through third-party companies and therefore it did not owe any past-due

contributions to ASRS. A “leased employee” is an individual that is not an employee of an ASRS employer, but performs services under the employer’s primary direction or control and performs those services under a leasing agreement between the employer and another person on a substantially full-time basis for at least one year. A.R.S. § 38-711(23)(f). The Court held that when a business enters into an agreement to serve as a “coemployer” of those working under its direction or control, those persons who are employees of an ASRS employer cannot be considered “leased employees” within the language of A.R.S. § 38-711(23)(f). Additionally, In 2018, ACS continued to represent the State of Arizona in litigation challenging the constitutionality of the Legislature’s efforts to make the Elected Officials Retirement Plan and the Public Safety Personnel retirement Plan actuarially sound.

Game and Fish

ACS attorneys assisted Arizona Game & Fish Department in obtaining \$650,000 from the 2012 Morenci Mine joint federal-State natural resources damages settlement for the construction of the Adobe Wildlife Center. The Center treats injured and orphaned wildlife and houses non-releasable native wildlife for Department-sponsored educational displays and lectures at schools, fairs, and other public events.

In late 2017, the Arizona Game & Fish Commission voted to transfer 60 elk to West Virginia to reestablish the first elk population in West Virginia in 150 years. ACS attorneys assisted the Arizona Game & Fish Department in drafting and entering into an agreement with the Department and the West Virginia Division of Natural Resources to effectuate the transfer. Under the agreement, the Department would capture 60 elk near the Raymond Wildlife Center, which is just east of Flagstaff and hold the elk in quarantine for 30 days prior to transferring the animals via livestock trailers to West Virginia.

Environmental Enforcement Section

The Environmental Enforcement Section (EES) represents the State in civil enforcement actions for violations of Arizona’s environmental laws. EES represents, advises, and defends the Arizona Department of Environmental Quality (ADEQ) in its administration of the State’s environmental laws and delegated federal environmental programs including Arizona’s Aquifer Protection Permitting Program, Clean Water Act, Safe Drinking Water Act, Resource Conservation and Recovery Act, Solid Waste Management Program, Underground Storage Tanks Program, Water Quality Assurance Fund (WQARF), and Comprehensive Environmental Response, Compensation, and Liability Act (Superfund Program). EES also advises and represents the Oil and Gas Conservation Commission (OGCC) in its administration of the State’s oil and gas production program and the Arizona Emergency Response Commission (AZSERC) in the administration of the Emergency Planning and Community Right to Know Act and related programs for emergency notifications of chemical releases.

Health Unit Major Case Highlights

State of Arizona v. Tarr, Inc. – EES assisted ADEQ in negotiating and obtaining a settlement with Tarr, Inc. and Tarr Acquisitions, LLC to resolve their liability under the WQARF and CERCLA Programs for the release of hazardous substances. The agreement alleged that Tarr released hazardous substances from a facility in the West Central Phoenix WQARF site. Under the settlement, Tarr paid the State \$334,190 to resolve its liability and agreed to cooperate with ADEQ in the additional investigation of releases of hazardous substances contributing to contamination at the site.

Osborne Products, Inc. v. Arizona Department of Environmental Quality – EES successfully defended ADEQ’s interpretation of the qualified business settlement statute, A.R.S. § 49-292.01, which authorizes a reduced settlement amount for a qualifying person regardless of his share of liability. The appellant claimed that ADEQ erred when it denied Osborne’s application. Under a plain reading of the law, qualification for the reduced settlement is determined by gross income, as defined by section 61 of the internal revenue service code. Osborne unsuccessfully argued that ADEQ failed to consider provisions federal tax regulations that are not referenced and incorporated into the state law.

State v. Sedona Grand View LLC – EES obtained court approval of a settlement with Sedona Grand View, LLC for violations of Arizona’s air quality rules for controlling the removal of asbestos-containing materials during building renovations. The complaint alleged that Sedona Grand View violated the asbestos removal restrictions during renovations of the Royal Crest Apartments in Sedona, Arizona. Under the judgment, Sedona Grand View paid a \$17,500 penalty and agreed to reimburse any uninsured costs for asbestos-related medical exams for the construction workers, tenants, and guests who were present at the apartment building during the asbestos removal.

Pima County and Pima County Regional Flood Control District v. Arizona Department of Environmental Quality – In an administrative appeal at the Office of Administrative Hearings and a subsequent judicial review action in Maricopa County Superior Court, EES successfully defended ADEQ’s determination that Pima County lacked standing to challenge ADEQ’s state water quality certification for the Rosemont Copper Mine Project. ADEQ determined that the proposed mine would comply with applicable Arizona surface water quality standards. Both the administrative law judge and the court found that Pima County did not fall within the class of persons identified by A.R.S. § 49-202(H) as having standing to challenge a certification issued to Rosemont.

State v. Arizona Polymer Flooring, Inc. – EES obtained court approval of a settlement agreement with Arizona Polymer Flooring, Inc. (APF) for violations of Arizona’s hazardous waste management laws. The complaint alleged that APF improperly stored and disposed of hazardous waste, including solvents and other chemicals, at its facility in Maricopa County. During settlement discussions, APF brought its facility into compliance with the applicable hazardous waste program requirements. Under the judgment, APF is required to pay a \$71,500 civil penalty.

State v. VMC Enterprises, Inc. – EES obtained court approval of the final settlement agreement with the owners and operators of the VMC Enterprises, Inc. facility in Buckeye, Arizona, after EES filing a complaint alleging violations of Arizona’s solid waste, used oil, and waste tire programs. During the litigation, the defendants worked with the state to bring the facility into compliance. After achieving compliance, each of the defendants entered into a settlement agreement to pay a \$5,000 civil penalty to resolve liability.

State v. Pinto Valley Mining Corp. – EES obtained court approval of a settlement agreement with Pinto Valley Mining Corporation for violations of the State’s air quality permitting program. The complaint alleged that Pinto Valley failed to comply with its air quality permit at the Pinto Valley Mine in Gila County because it failed to control particulate emissions for more than 200 days during the operation of its ore conveying and stacking emissions sources. Under the judgment, Pinto Valley agreed to construct additional controls to prevent future violations and paid a \$12,500 civil penalty.

Water Quality Assurance Revolving Fund (WQARF) Program – EES represents ADEQ in its continuing administration and enforcement of the Water Quality Assurance Revolving Fund (Arizona’s Superfund Program), which registers sites with contamination from hazardous substances, investigates the liability of potentially responsible parties, and undertakes remediation of soil and groundwater contamination. EES assists ADEQ with obtaining access agreements to conduct remedial work; negotiating settlements and prospective purchaser agreements; recovering remediation costs; and developing effective programs for administration and enforcement.

Education and Health Section

The Education & Health Section (EHS) is comprised of a Health Unit and an Education Unit. The Health Unit represents the Arizona Department of Health Services (ADHS), including the Divisions of Operations, the Public Health Divisions of Licensing, Prevention, and Preparedness, and the Arizona State Hospital. The Health Unit also represents the Arizona Commission for the Deaf and Hard of Hearing. The Education Unit represents the Arizona Department of Education, the Superintendent of Public Instruction, the Arizona State Board of Education, the Arizona Schools for the Deaf and the Blind, the Commission for Postsecondary Education, the Arizona State Board for Charter Schools, the School Facilities Board, and the Professional Practices Advisory Committee.

Health Unit

Sexually Violent Person (SVP) Cases

ADHS is responsible for the care and treatment of sexually violent persons (SVP) who are committed to a licensed facility under the supervision of the superintendent of the Arizona State Hospital. SVPs are housed and treated at the Arizona Community Protection and Treatment Center (ACPTC) on the grounds of the Arizona State Hospital. Health Unit attorneys provide the legal advice to this program and handle all related Superior Court and Appellate litigation.

In re Randy L., 1 CA-MH 16-0005 SP – Mr. Layton is an SVP who petitioned the State for an annual hearing in Mohave County pursuant to the Sexually Violent Persons Act (SVPA), seeking absolute discharge from the ADHS facility. After the evidentiary hearing, the Superior Court ruled that Mr. Layton should be discharged. Health Unit attorneys and the Mohave County Attorney’s Office filed a joint appeal to the Arizona Court of Appeals, Div. 1. In a short memorandum decision, the Court of Appeals vacated the Superior Court’s decision to discharge Randy L. from the ACPTC, agreeing with the State’s argument that the Superior Court did not apply the appropriate legal standard for discharging a sexually violent person.

In re Wilfredo J., 2 CA-HC 2017-0001 – Appellant is an SVP who filed a petition for habeas corpus in the Superior Court asking for his release from treatment and custody at the ACPTC, a treatment facility operated by the Arizona Department of Health Services for sexually violent persons. Health Unit attorneys moved to dismiss the complaint, arguing that the petition for habeas relief was improper and should be denied. The Superior Court agreed with the State and dismissed Appellant’s habeas petition, noting that Appellant was, in fact, refusing treatment and had not pursued a proper action to challenge his treatment. Appellant appealed. In a memorandum opinion, Division Two of the Arizona Court of Appeals affirmed the Superior Court’s dismissal of the petition. Appellant has filed a petition for review with the Arizona Supreme Court.

Medical Marijuana Cases

ADHS is responsible for the administration and supervision of the Arizona Medical Marijuana Act (AMMA). Health Unit attorneys provide legal advice to this program and handle related Superior Court and Appellate litigation for ADHS.

Yolanda D., et al. v. Arizona Department of Health Services, et al., 1 CA-CV 17-0466 – This case was brought in the Superior Court as a class action and sought mandamus and declaratory judgment relief. Plaintiffs represented a class of medical marijuana qualifying patients and designated caregivers who asserted that (1) ADHS exceeded its statutory authority when it set the registration fees for qualifying patients at \$150 or \$75 for SNAP participants and \$200 for designated caregivers; and (2) that these registration fees are unconstitutionally excessive because the Medical Marijuana Fund has a surplus. Health Unit attorneys moved to dismiss the case; the Superior Court dismissed this case for lack of subject matter jurisdiction and a failure to state a claim. Plaintiffs have appealed. All briefing at the Court of Appeals has been completed.

Mental Health Cases

ADHS operates the Arizona State Hospital (ASH), which is responsible for the care and treatment of the most seriously mentally ill patients in the State and the care and treatment of forensic patients who have committed crimes but have been judged to be either guilty except insane or not guilty by reason of insanity. Health Unit attorneys provide legal advice to ASH and handle all related Superior Court and Appellate litigation.

In Re MH2015-002490, MH2015-004896, 1 CA-MH 15-0107, 1 CA-MH 16-0021 (Consolidated) – In two separate criminal cases, the Maricopa County Superior Court found that each of the indicted individuals, both of whom are illegal aliens, were incompetent to stand trial and there was no substantial probability that they would regain competency within twenty-one months. As a result, pursuant to A.R.S. § 13-4517, they each underwent civil commitment proceedings pursuant to A.R.S. title 36, chapter 5 and were ordered into treatment at ASH. ASH moved to intervene and for reconsideration in each case on the basis that treatment at ASH pursuant to an order of civil commitment, as opposed to a criminal conviction or for the purposes of restoration, is a public benefit under state and federal law and therefore it could not legally treat illegal aliens. The superior court granted the motions to intervene, but denied the motions for reconsideration. ASH appealed each of the cases and the appeals were then consolidated. On appeal, the Court of Appeals held that court-ordered mental health treatment is not a “state or local benefit” pursuant to 8 U.S.C. § 1621(c) and A.R.S. § 1-502(I) and affirmed the Superior Court’s order committing the individuals to ASH for mental health treatment and services.

Significant Matters

Emergency Medical Services and Trauma Systems Program

Any person or entity that wants to operate an ambulance service must be granted a Certificate of Necessity (CON). The Health Unit represented ADHS with respect to numerous Ambulance CON applications during FY18; several resulted in administrative hearings, including one that resulted in 26 hearing days spread out over multiple weeks and months. The Health Unit also provided advice, drafted, and/or reviewed over 30 consent/

settlement agreements involving administrative enforcement actions taken against the license of an Emergency Medical Technician whose actions were determined to be a threat to the health and safety of Arizona residents. The Health Unit attorneys also provide general legal advice on a weekly basis to this program.

Women, Infants, and Children Program

The Health Unit represented the Women, Infants, and Children (WIC) Program in various matters. During this fiscal year, eight matters were set for hearing. The majority of cases settled through informal settlement conferences. Three matters continued to hearing. In one case, ADHS investigators determined that an authorized WIC store (vendor) committed over 1000 incidents of Program violations and fraudulently received over \$54,000 of WIC monies. The case is currently on judicial review in Superior Court; however, due to the overwhelming evidence in this matter, ADHS expects the court to affirm their decision to terminate and disqualify the vendor from the Program. If successful, ADHS will seek reimbursement from the vendor for the fraudulently received funds.

The Health Unit also provided legal advice during the WIC Program's successful implementation of the eWIC system which replaces the paper food benefit checks. WIC participants may now access their food benefits on a type of credit card that store vendors run through their registers. The new system will provide instantaneous data of food benefit redemptions at over 700 approved stores throughout the state and will assist the WIC Program in monitoring vendors and participants for abuse of food benefits.

Health Care Institutions Licensing

In addition to providing general legal advice, the Health Unit attorneys represented ADHS in nineteen health care licensing administrative matters regarding assisted living facilities that were posing a risk to the health and safety of their residents. This included obtaining an injunction against an unlicensed living facility. In addition, Health attorneys met with ADHS, AGO criminal division, and the City of Surprise Police Department to address concerns of possible criminal activity taking place at the Surprise Assisted Living Facility. After multiple inspections by ADHS representatives, the facility voluntarily surrendered its license in June, 2018. Health attorneys also represented ADHS in multiple enforcement meetings, informal settlement conferences, and provided weekly advice in matters involving hospitals, long term care facilities, outpatient treatment centers, urgent care facilities, and behavioral health facilities. In addition, Health attorneys represented ADHS employees during fact witness depositions and court appearances.

Midwives Licensing

In addition to providing general legal advice, the Health Unit has been actively representing ADHS in five separate enforcement actions against licensed midwives. In all of these cases, ADHS successfully upheld its enforcement actions in the Superior Court, and four are pending or have been concluded on appeal.

Child Care Licensing

Attorneys represented the Bureau of Child Care Licensing in five matters set for hearing. All five licensees requested informal settlement conferences. All cases resolved to the Bureau's satisfaction prior to hearing.

Office of Vital Records

In addition to providing legal advice to the Office on a weekly basis, the Health Unit represented the Office in 14 separate administrative matters and represented ADHS in nine Superior Court matters involving delayed birth hearings and gender-based or same-sex issues.

Public Health Emergency Preparedness--(Opioid Crisis)

Health Unit attorneys reviewed ADHS's Emergency Rules and reviewed ADHS's regular rulemaking package related to public health reporting and treatment of individuals related to the Opioid crisis. In addition, a Health Unit Attorney serves on the Arizona Drug Overdose Fatality Review Team.

Arizona State Hospital (ASH)

Health Unit attorneys provide daily advice to ASH for both civil and forensic patients who have been committed to ASH. Health Unit attorneys and staff prepare numerous weekly filings with the Superior Court related to committed persons at the State Hospital. To that end, Health Unit attorneys attended 156 mental health-related hearings before the Superior Court regarding civil mental health commitments, guardianships, and competency hearings and 107 hearings before the Psychiatric Security Review Board regarding forensic patients.

Arizona Radiation Regulatory Commission (ARRA)

ARRA transitioned from an independent public body to ADHS this fiscal year and became the Bureau of Radiation Control. The Bureau of Radiation Control handles inspection and licensing of radioactive materials, registration and inspection of x-ray machines, assessing risk of environmental exposure to radiation, and surveillance of radiation levels at Palo Verde. The licensing of radiology technicians was transferred internally to the Bureau of Special Licensing. Health Unit Attorneys assisted ADHS with this transition of both functions to ADHS and represent both programs at ADHS.

Education Unit

Arizona v. Maricopa County Community College District (In-state tuition for DACA recipients) – In 2013, Arizona, through the Attorney General, filed a complaint against the Maricopa County Community College District (MCCCD), seeking declaratory and injunctive relief related to MCCCD's decision to allow students who are eligible for the federal Deferred Action against Childhood Arrivals (DACA) program, to pay in-state tuition (if they meet Arizona's residency requirements). The State alleged that MCCCD violated state law (A.R.S. §§ 15-1803 and 1825), which prohibits community colleges from giving in-state tuition to illegal aliens, and federal law (42 U.S.C. § 1621), which prohibits states from granting most state and local public benefits, including in-state tuition, to most illegal aliens (unless a state passes a law affirmatively granting a right to such benefits after August 22, 1996). The Superior Court allowed three DACA-eligible students who attend MCCCD to intervene.

In May of 2015, the Superior Court ruled on dispositive motions filed by all parties, concluding that DACA recipients could be eligible for in-state tuition. Arizona appealed that decision. On June 20, 2017, the Court of

Appeals reversed and remanded the Superior Court decision, agreeing with the State that DACA students are not eligible for in-state tuition. MCCCCD and the Student-Intervenors filed a Petition for Review with the Arizona Supreme Court. On May 1, 2018, the Arizona Supreme Court issued an opinion in which it concluded that DACA recipients are not eligible for in-state tuition.

Glendale Elementary School District v. State of Arizona (School Financing) – On May 2, 2017, four public school districts, one taxpayer, and three education-related professional associations, represented by the Arizona Center for Law in the Public Interest, filed a complaint against the State, the School Facilities Board (SFB), and its members alleging that the State has violated the Arizona Constitution by (a) failing to provide capital funding necessary to ensure that all school districts can comply with the State’s minimum adequacy standards for school buildings, facilities, and equipment, and (b) maintaining outdated and inadequate minimum school facility adequacy guidelines for buildings, facilities, and equipment. Plaintiffs further contend that the alleged deficiencies in the capital funding “system” have allegedly shifted the State’s responsibility for funding public schools to school districts and their taxpayers. The Speaker of the Arizona House of Representatives and President of the Arizona Senate have specially intervened in the matter. Outside counsel have been retained to handle this matter, but Education Unit attorneys are assisting in the matter, in particular with discovery from SFB and ADE regarding the State’s funding of public schools.

Legacy Education Group vs. Arizona State Board for Charter Schools – Two Arizona charter schools filed a complaint against the Arizona State Board for Charter Schools, seeking declaratory and injunctive relief relating to the Board’s use of its academic performance and financial performance frameworks (“frameworks”) in its consideration of renewal, revocation, amendment and other decisions pertaining to the charter contracts of its sponsored schools. The charter schools seek a determination that the frameworks are rules under the APA, that the Charter Board’s failure to adopt them under the APA renders the frameworks “void and unenforceable, that any and all past or future actions taken by the Board in reliance on the frameworks are also void and without any legal effect or consequence, and a permanent injunction prohibiting the Board’s use of its frameworks.” Following the filing of dispositive motions, the Superior Court granted the Board’s Motion to Dismiss on the basis of the Court’s finding that the APA did not apply to the frameworks. The schools appealed.

Following the filing of the appeal, the Board adopted rules regarding the frameworks under the APA. Additionally, the 2018 Legislature amended A.R.S. § 41-1005, thereby exempting the Board from several provisions of the APA. The Court of Appeals determined that until the 2018 legislation exempting the Board takes effect, the Board is (and has been) subject to the APA’s rulemaking requirements, and, in general, at least some of the frameworks qualify as rules subject to rulemaking under the APA. The Superior Court’s judgment was vacated and the matter remanded. The parties are currently attempting to work toward settlement.

John Doe v. Heritage Academy, Inc., Arizona State Board for Charter Schools – Americans United for the Separation of Church and State, representing two plaintiffs, brought a 42 U.S.C. § 1983 action against the Superintendent of Public Instruction and the Executive Director and individual members of the Arizona State Board for Charter Schools (“Charter Board”), as well as three Arizona charter schools sponsored by the Charter Board, in Federal District Court. The action alleged that the curriculum at the charter schools included religious instruction violating the Establishment Clause of the First Amendment of the U.S. Constitution and articles of the Arizona Constitution. The action alleged that the Superintendent and the Executive Director and members of the Charter Board failed to exercise their oversight authority to ensure that the three Arizona charter schools complied

with the constitutional requirement that public education be nonreligious. The action further alleged that the Superintendent of Public Instruction disbursed or caused to be disbursed public funds to the charter schools, with the result that public tax dollars were directly funding religious instruction and the purchase of religious instructional materials. The District Court ruled that plaintiffs lacked taxpayer standing because the allegations failed to show that plaintiffs have or will suffer a direct taxpayer injury, or that the case falls within the narrow exception provided by *Flast v. Cohen*, 392 U.S. 83 (1968). The District Court also directed plaintiffs to amend the complaint to comply with the Court's findings and to add the true first and last initials in place of the pseudonym John Doe. Plaintiff Doe filed an Interlocutory Appeal to the 9th Circuit of the Court's denial of his Motion to Proceed Using Pseudonym. Following the filing of the opening brief, Plaintiff Doe withdrew his appeal and the complaint was dismissed.

Arizona Department of Education (ADE)

Education Unit attorneys provided day-to-day client advice on special education, school improvement, school finance, federal grant programs, health and nutrition programs, academic standards, student assessment, data and student privacy, public records, and procurement matters. Education attorneys also continue to advise ADE in implementing a Resolution Agreement between the United States Department of Justice and the United States Department of Education Office of Civil Rights related to ADE's development and administration of its assessment (test) for English Language Learners (ELL). On August 15, 2017, USDOE closed its complaint regarding the Kindergarten Placement Test (KRT), and ADE has submitted the final data necessary for USDOE to determine its compliance with the Resolution Agreement regarding ELL students in grades 3-12.

Additionally, Education Unit attorneys assisted ADE in addressing public records requests including issues related to FERPA and other confidential teacher and student records. We also provide assistance with enforcement actions against those who make improper use of Empowerment Scholarship funds. We also provided assistance to the Empowerment Scholarship Account Program in managing collections and criminal referrals to the Attorney General's Office as well as the transition from internal appeal hearings regarding Empowerment Scholarship Account terminations to hearings conducted by the Office of Administrative Hearings.

Arizona Department of Education Audits

In addition to representing ADE's audit unit generally in connection with audits against the districts and charter schools, the Education Unit attorneys assisted ADE in reaching settlement agreements in three contested audits, which resulted in ADE collecting \$764,522.23.

Arizona State Board of Education (Board)

In addition to providing day-to-day legal advice to Board staff, Education attorneys reviewed and revised Board meeting agendas for compliance with the Open Meeting Law and attended all Board meetings to advise the Board.

Professional Practices Advisory Committee (PPAC)

Education Unit attorneys represented the State in connection with 137 disciplinary matters, alleging teachers

or administrators engaged in professional misconduct. Education Unit attorneys conducted 37 administrative hearings before the PPAC, drafted 39 settlement agreements, and obtained surrenders of eight educator certificates. This represented a 68% increase in PPAC hearings and a 70% increase in settlement agreements over Fiscal Year 2017. Education Unit attorneys also provide regular legal advice to State Board Staff and the ADE Investigative Unit staff and regularly attend State Board of Education meetings regarding discipline matters for certificate holders.

Murphy Elementary School District No. 21

Education Unit attorneys advised the State Board of Education and the Department of Education on the school district's failure to take appropriate action to avoid or resolve the over expenditure of its budget. The State Board appointed a receiver to take over the management and operation of the school district.

Arizona State Schools for the Deaf and Blind (ASDB)

Education Unit attorneys provided day-to-day advice to ASDB staff on various subjects, including contracts, responses to subpoenas and public records requests, and employment matters. Education Unit attorneys also advised ASDB in connection with innovative service delivery models, such as Quad City Partnership, and in connection with federally-funded programs including Head Start.

Arizona State Board for Charter Schools (Charter Board)

In addition to providing day-to-day legal advice to Board staff, Education attorneys reviewed and revised Board meeting agendas for compliance with the Open Meeting Law and attended all Board meetings to advise the Board. The Education Unit attorneys also advised the Charter Board in its revisions to its Complaint review process, and also advised the Board in Executive Session regarding the Legacy and Heritage lawsuits referenced above.

Education Unit attorneys also assisted both the Charter Board and ADE regarding issues that arose when the Bradley Academy of Excellence dba Discovery Creemos Academy charter school ceased operations in the middle of the school year. Those issues included the revocation of the school's charter, the enrollment of its former students in new schools, and responding to records requests from interested parties.

Arizona Commission for Postsecondary Education (ACPE)

Education Unit attorneys review Board meeting agendas and provide advice to the ACPE for compliance with open meeting law issues and the public records law. Education Unit attorneys reviewed and provided advice on the Fact Kits required by the 529 Savings Plans for Fidelity Funds and Waddell & Reed for compliance with Federal and State requirements. In addition, Education Unit attorneys responded to the request from Price Waterhouse Cooper, LLC for the annual audit of the Fidelity's Annual College Savings Plan. Education Unit attorneys assisted ACPE in providing advice and/or drafting agreements to further ACPE's objectives in publishing policy reports, increasing FAFSA completions rates and teacher loan forgiveness programs.

Dollars Generated or Saved

Education Unit attorneys assisted the ADE Audit Unit in identifying and recovering overpaid State funding from public schools in the amount of \$764,522.23.

Miscellaneous

Education unit attorneys serve on the Office's School Fraud Task Force, the Procurement/Contract Committee, and provide assistance on Open Meeting Law enforcement matters as requested.

Employment Law Section

The Employment Law Section (ELS) supports the effective management of Arizona Government's most important resource - its employees. ELS provides advice and counsel to more than one hundred state agencies, boards, commissions, and courts on a wide variety of employment issues, at every stage of the employment relationship. ELS also provides proactive training for supervisors across state government in order to promote sound management practices and positive employee relations, thereby minimizing liability to the State. ELS also counsels and defends client agencies when necessary against claims of sexual and other forms of harassment, disability, gender, age, race, national origin and religious discrimination, wrongful discharge and various employment-related torts. ELS attorneys regularly represent state agencies in state and federal courts and before administrative agencies such as the U.S. Equal Employment Opportunity Commission (EEOC), the State Personnel Board, and the Law Enforcement Merit System Council. ELS also represents the State in workers compensation matters.

Significant Responsibilities

ELS Advice and Hearing Practice

ELS provided more than 2,525 hours of legal advice to State human resources professionals and agency management on a wide range of day-to-day employment issues such as employee performance, employee discipline, wage and hour issues under the Fair Labor Standards Act, accommodating individuals with disabilities, and leave issues under the Family and Medical Leave Act.

Extensive Training for Supervisors and Agencies Across Arizona

Another key component to preventing EEOC charges and employment litigation against the State of Arizona is training state employees, particularly supervisors, on state and federal employment laws including anti-discrimination statutes, wage and hour laws, and medical leave and disability laws. On at least a quarterly basis, ELS attorneys provide four-hour, in-person training sessions in partnership with the Arizona Department of Administration to ensure that every new supervisory employee in the State Personnel System receives employment law compliance training. ELS also provides training sessions to specific state agencies upon request, on topics ranging from ADA and FMLA compliance, to keeping the workplace free of discrimination and harassment,

and the wage and hour requirements of the Fair Labor Standards Act. During the most recent fiscal year, ELS attorneys provided sixteen such presentations across the State.

Employment Litigation Practice

ELS attorneys provide legal advice to assist State agencies in avoiding liability by attempting to resolve problems early, creatively, and without the need for litigation. When the need for litigation does arise, ELS attorneys provide subject matter expertise in all stages of litigation.

ELS represents the State in employment lawsuits covered by the State's self-insurance program, as well as in non-risk management cases. In FY17-18, ELS opened files for twenty new Risk Management lawsuits. ELS also monitored and assisted agencies in responding to 48 charges of discrimination filed with the federal Equal Employment Opportunity Commission (EEOC). ELS closed 29 EEOC charges. ELS attorneys and legal assistants billed more than 12,000 hours on Risk Management litigation matters (lawsuits, claims and EEOC charges).

Major Case Highlights

Loncar v. Ducey, et al - In a unanimous, published decision issued on May 28, 2018, the Arizona Court of Appeals affirmed dismissal of a State employee's lawsuit against the Governor, the ADOA Director, and the State of Arizona. Plaintiff alleged that the State discriminated against her based on her sex by offering state employee benefits, including life-insurance benefits, to unmarried same-sex couples but denying those benefits to unmarried heterosexual couples at a time when same-sex marriage was illegal in Arizona. Plaintiff alleged claims under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and the Privileges & Immunities and Preferential Treatment of Employees Clauses of the Arizona Constitution. The Court of Appeals held that the State did not violate Plaintiff's state or federal constitutional rights because she and her male domestic partner were not similarly situated with same-sex couples who were legally prohibited from marrying at the time. The Court further held that the State's action was based on marriage eligibility, not gender, and rationally related to a legitimate government purpose, which was to comply with a federal court order in which the federal court enjoined the state from applying a statute limiting employee benefits to the spouses of state employees to same-sex couples (an injunction that was dissolved after same-sex marriage became legal in Arizona in 2014).

Cogan v. Maricopa County Superior Court Juvenile Probation Department - Plaintiff, a juvenile probation officer, took leave under the FMLA for a serious health condition. While he was on leave, his caseload was assigned to another officer. Upon his return, he was assigned a new caseload of probationers drawn from a different geographical area of the county. Plaintiff promptly resigned, complaining that the new caseload would require too much travel, even though he was designated as a "virtual probation officer" who, with the aid of modern technology, worked primarily from his home. He filed suit in U.S. District Court against the Juvenile Probation Department and two probation officials alleging that they (1) interfered with his FMLA rights by failing to restore him to the same or equivalent position upon his return from protected leave, and (2) constructively discharging him.

The District Court determined that the Juvenile Probation Department was immune from suit on the FMLA claim under the Eleventh Amendment because it is an arm of the State, but the Court allowed the case to proceed

to the extent Plaintiff asserted any claim for relief not barred by the Eleventh Amendment. The Court granted summary judgment on the constructive discharge claim and therefore determined that the Plaintiff had no claim for reinstatement.

Bradley v. State of Arizona - This litigation arose out of a temporary work assignment under the Statewide Temporary Staffing Services contract. In 2015, Plaintiff had a temporary work assignment at the Arizona Department of Economic Security (“ADES”) pursuant to the State’s Temporary Staffing Services Contract with Kelly Services, Inc. ADES ended Plaintiff’s assignment after management determined that it would be more cost-effective to have regular, full-time ADES employees perform the work. ADES directed Plaintiff’s work assignment and it paid Kelly Services the contracted hourly rate for the work Plaintiff performed. Kelly Services was responsible for all other aspects of Plaintiff’s employment, including setting and paying her wages.

Plaintiff filed suit against ADES in federal court alleging unlawful discrimination and retaliation in violation of Title VII of the Civil Rights Act of 1964 and the Equal Pay Act (“EPA”). Both ADES and Kelly Services filed motions for summary judgment on Plaintiff’s claims. The district court granted summary judgment to ADES and Kelly Services.

DeSoto v. McKay - The Ninth Circuit affirmed the District Court’s dismissal of a 42 U.S.C. § 1983 retaliation claim against the Director of the Arizona Department of Child Safety (“DCS”). The lawsuit was brought by a licensed psychologist who had provided DCS with psychological consultation and evaluation services through a contract between DCS and her company. She claimed her constitutionally protected First Amendment right of intimate association, and Fourteenth Amendment rights to marry and of privacy, were violated when DCS terminated her company’s contract following reports that she was married to a convicted child murderer she had met while providing psychological services. The District Court dismissed the case based upon qualified immunity on the grounds that Plaintiff’s asserted constitutional rights were not clearly established in the specific context of her situation at the time of Defendant’s alleged retaliation.

ELS Workers Compensation Practice

The ELS workers compensation group opened 69 new matters and closed 45 matters. ELS attorneys and legal assistants billed more than 3,550 hours to workers compensation matters. These matters require statewide administrative litigation, and the group also handles its own appeals to the Arizona Court of Appeals. Additionally, ELS workers compensation attorneys provide significant legal advice to adjuster clients and to State agency personnel when they approach ELS with workers compensation issues.

Liability Management Section

The Liability Management Section (“LMS”) defends the State of Arizona and its employees in cases in which money damages are requested in tort and civil rights cases. LMS also provides advice to the Risk Management Section of ADOA on matters related to liability claims. In FY 2018 170 Notice of Claims and 246 Complaints and 60 appeals were handled by LMS.

Case Highlights

Wrong Way Drivers

The State successfully defended three wrong way driver cases. Summary judgment was granted in all cases and in two cases the court additionally determined plaintiffs’ expert witnesses were not qualified to opine on the applicable standard of care.

Trials

Black v. ABOR - Plaintiff sued the Arizona Board of Regents (“ABOR”) when he was injured while attempting to lift a fragment of a meteorite and its tripod display off the floor. Plaintiff alleged University of Arizona employees negligently designed the tripod stand. The jury returned a unanimous verdict in ABOR’s favor.

Lewis v. State - The case arose out of a tram accident at Kartchner Caverns that resulted in multiple injuries and four lawsuits. The State admitted liability and settled three of the four lawsuits. The Lewis case was tried. The State made an offer of judgment of \$100,000. A jury returned a verdict of \$70,000 so the State beat its offer of judgment and received the prescribed benefits under the rule.

Toliver v. De La Fuente - Plaintiff sued four correctional officers claiming that they subjected him to excessive force and failed to protect him from other officers who also used excessive force on him. Plaintiff had just assaulted another correctional officer and the defendants were assigned to remove him from his prison unit before the situation escalated. As they were exiting the unit, plaintiff made a sudden move and the defendants took him down to the ground in order to regain control of him. He alleged that they also punched and choked him after he had been taken down. After a four-day trial, the jury returned a unanimous verdict in favor of the four correctional officers, concluding that the defendant’s use of force was justified and that they had not used excessive force against the plaintiff.

Deluca v. Ryan - A disabled Plaintiff claimed he was placed in non-ADA housing, resulting in several falls in the shower and serious injuries. The defendant correction officers argued the placement in non-ADA housing was not intentional, and that the shower injuries were fabricated. The jury agreed, awarding a defense verdict in favor of the individual prison officials.

Jaramillo v. State - A State owned snowplow hit plaintiff’s vehicle. Plaintiff alleged the impact caused permanent nerve damage, exacerbated pre-existing injuries and a wage loss. The State admitted liability and tried the case on damages. Plaintiffs asked the jury to award \$500,000.00. A jury returned a verdict of \$48,000.

Appeals

Kisela v. Hughes - Overruling the 9th Circuit's opinion, the US Supreme Court summarily held that a University of Arizona police officer was entitled to qualified immunity when he shot, but did not kill, a woman who was wielding a knife in close proximity to her roommate.

Soto v. Ryan - The 9th Circuit affirmed summary judgment based on statute of limitations in inmates' suit alleging assault by corrections officers, holding that inmate was ineligible for equitable tolling.

Bernabe v. Langford - Plaintiff's husband owned a business that the Arizona Attorney General's Office ("AGO") had accused of consumer fraud, naming plaintiff as an additional defendant. She later sued the State and an assistant attorney general alleging the fraud claims were defamatory. Court of appeals ruled her claims were untimely.

Hollowell v Department of Child Safety - Mother alleged federal constitutional claims, alleging improper handling of child-custody proceedings in state court. The 9th Circuit affirmed dismissal based on jurisdictional and timeliness grounds.

Maloney v Ryan - Inmate raised several claims of interference with his religious practice. The 9th Circuit affirmed summary judgment because inmate failed to show the Arizona Department of Corrections' (ADC) book policy placed a substantial burden on his religious practice, and because defendants had qualified immunity against claim alleging denial of pre-dawn meal during Ramadan.

Jones v. Schroeder - Inmate alleged that prison employees denied legal mail, interfering with his court access. The 9th Circuit affirmed summary judgment for defendants, because inmate failed to show interference with a qualifying legal claim.

Motions for Summary Judgment - Qualified Immunity

Gilliland v. Lill - Plaintiff became estranged from her daughter, who was placed in a foster home. The Department of Child Safety ("DCS") case worker unsuccessfully tried to unify them. Plaintiff sued the case worker alleging interference with the parent-child relationship. The superior court granted the motion for summary judgment based on qualified immunity and the court of appeals affirmed.

Harding v. Board of Dental Examiners - Plaintiff sued the State and the Board of Dental Examiners alleging numerous torts including abuse of process and defamation arising out of the Board's investigation of a complaint that had been filed against the plaintiff. Summary judgment was granted for the State based on qualified immunity.

Miller v. Ortiz - Plaintiff was riding a motorcycle while intoxicated at speeds over 100 mph. DPS Trooper Ortiz was performing a traffic break to slow traffic, including plaintiff, so plaintiff could be pulled over. Plaintiff attempted to pass the traffic break and in the process collided with Ortiz's patrol vehicle. Plaintiff sued Ortiz and the State for excessive force and battery. The district court granted defendants' motion for summary judgment based on qualified immunity.

Preliminary Injunction

Pellerin v. State - The State defeated plaintiffs' motion seeking an order requiring the State to promulgate DCS policies regarding child removal from parental custody. A.R.S. 8-821 has now been enacted allowing a case worker to obtain a court order to remove a child from parental custody and does not require AGO involvement.

Statute of Limitations

Fressadi v. Blakely - The plaintiff sued multiple defendants, including superior court judges involved in prior suits he had lost. The district court dismissed the federal claims based on statute of limitations grounds and the 9th Circuit affirmed.

Bell v. DPS - The plaintiff sued the State, DPS and a DPS officer alleging the officer took a blood sample at the hospital without his consent and without a warrant. The superior court granted a motion to dismiss because of an untimely notice of claim.

Licensing Enforcement Section

The Licensing and Enforcement Section (LES) represents over forty state agencies, boards and commissions. Its attorneys act as "general counsel" for these entities, and also provide representation in administrative hearings before the boards, the Office of Administrative Hearings, in the Superior Court in connection with judicial review actions, special actions and subpoena enforcement actions, as well as in the Court of Appeals. LES also assists in the rule making process, monitors and provides input on legislation, and ensures compliance with open meeting laws, public records requests, and statutory changes.

In the past fiscal year, LES opened 983 case files, and closed 790. In addition, it is responsible for providing independent legal advice, both procedural and substantive, to its client agencies in connection with prosecutions and adversary proceedings.

Appellate Highlights

Celaya v. AZ POST, 1 CA CV 17-0290 (Ct. App. 2018) – involved a claim by a former Goodyear police lieutenant that her certification as a peace officer was improperly revoked by AZ POST. The Court of Appeals held that there was substantial evidence in the record that Celaya had assaulted her former boyfriend and lied about her conduct in internal affairs interviews. As a result, the court found AZ POST did not abuse its discretion in revoking the officer's certification.

Ryer v. Arizona State Board of Nursing, 1 CA-CV 17-0105 (Ct. App 2018) – involved a challenge to the Board's decision to revoke Ryer's advanced practice certificate and nursing license. Ryer challenged the Board's authority to investigate in the absence of a valid third-party complaint. The Board had received a patient complaint which it eventually ruled to be without merit. In the course of investigating that complaint, however, the Board uncovered separate incidents of unprofessional conduct. The Court upheld the authority of the Board to proceed on its own based on the information it discovered.

Minch v. Arizona State Board of Nursing, 1 CA-CV 170447 (Ct. App. 2018) – also involved on appeal from the Board’s order revoking a nursing license. The Board had previously placed Minch on probation, ordered her to receive counseling, and imposed other conditions on her. When failed to comply with those terms, the Board revoked her license. Minch argued that the Board lacked jurisdiction to do so because the conduct was “occurring outside the purview of nursing.” The court held that the failure to comply with the prior order provided the Board with jurisdiction to revoke her license.

<i>Civil Assessments and Penalties</i>	
<i>(in dollars)</i>	
Acupuncture Board	\$ 200.00
Arizona Medical Board	\$ 10,500.00
Athletic Trainers	\$ 1,500.00
Barber Board	\$ 775.00
Board of Cosmetology	\$ 177, 000.00
Chiropractic Board	\$ 500.00
Board of Technical Registration	\$ 109,393.50
Liquor Board	\$ 298,050.00
Nursing Board	\$ 2,350.00
Dispensing Opticians	\$ 730.00
Funeral Board	\$ 3,000.00
Nursing Care Administrators	\$ 16,679.00
Pharmacy Board	\$ 180,500.00
Physical Therapy Board	\$ 6,300.00
Podiatry Board	\$ 2,600.00
Private Postsecondary Education	\$ 4,000.00
Registrar of Contractors	\$ 367,726.69
Respiratory Care Examiners	\$ 10,554.00
Veterinary Board	\$ 8,700.00
TOTAL	\$ 1,201,058.19

1. This figure does not include a \$1,277,500.00 civil penalty which is now the subject of an action in the Court of Appeals. It also does not include in excess of \$100,000 in Recovery Fund Claims successfully defended.

Natural Resources Section

The Natural Resources Section (NRS) represents the Arizona State Land Department (ASLD), the State Parks Board, the Department of Forestry and Fire Management, the State Mine Inspector, the Board of Geographic and Historic Names, and the Prescott Historical Society. Representation generally involves litigation and advice relating to agency authority, compliance with state and federal law, property rights, land use, and contractual issues. For instance, ASLD manages over nine million acres of state trust land, so NRS provides services relating to sales and leasing of land for commercial, residential, mining, grazing, agricultural, utility, and transportation uses. Further, NRS represents the State where its agencies claim water rights in the state water rights adjudications, with water rights claims on state trust lands comprising the majority of those claims. NRS also provides advice and representation to the Arizona State Land Commissioner in her role as public trust advocate relating to sovereign lands and in proceedings before the Arizona Navigable Stream Adjudication Commission (“ANSAC”).

Significant Responsibilities

NRS Attorneys assisted ASLD in successful auctions that will add hundreds of millions of dollars to the state land trust for the benefit of public schools and universities and other public beneficiaries. Assistance included resolution of issues involving compliance with Clean Water Act section 404 permitting and provision of significant drainage and other infrastructure to increase the value of the parcels brought to auction.

NRS Attorneys helped obtain the successful settlement of several actions challenging ASLD decisions concerning issuance or renewal of agricultural and grazing leases, and facilitated solutions to deal with the long-term conversion of state trust lands from agricultural and grazing uses to commercial and residential uses. NRS attorneys also obtained judgments against and/or assisted to secure the removal of several persistent trespassers from State Trust land.

NRS attorneys regularly attend meetings and provide representation on the Arizona Open Meeting Law for the State Parks Board, including Advisory Committees, and the State Board on Geographic and Historic Names, including assistance in addressing the application for recognition of the “Jefferson Davis Highway.” NRS attorneys also helped finalize the *State Mine Inspector Aggregate Mined Land Rules* for submission to the Arizona Secretary of State to complete the rulemaking process.

In re Hopi Reservation HSR – NRS Attorneys have completed discovery for the first trial in Arizona history to determine the federal reserved water rights for an Indian tribe, in other words the quantity of water necessary to fulfill the purpose of Congress in creating the reservation. Trial in the first part of this bifurcated case, to address past and present uses, is set to commence on September 11 and is slated to go to December 28.

Major Case Highlights

In re Subflow Technical Report, San Pedro River Watershed – In Spring 2018, NRS Attorneys participated in a six-day trial on the issue of whether the cone of depression methodology proposed by the Arizona Department of Water Resources (“ADWR”) should be adopted for purposes of defining the Court’s jurisdiction over wells in the San Pedro watershed which are located outside the lateral boundaries of the subflow zone. The cone of depression test methodology is a two-step process to (1) establish an appropriate jurisdictional test to determine which

wells will be subject to the Court's jurisdiction and (2) develop a test to address the amount of subflow pumped by virtue of their cones of depression, known as the depletion test. The Special Master issued a draft report supporting the position advanced by the State and other parties in favor of the MODFLOW numerical model. *In re Redfield Canyon Wilderness Area* - The NRS represents the State in the *Redfield Canyon* contested case in the Gila. This contested case involves the quantification of the federal reserved right to water for a wilderness area. The NRS argued for and the court determined that the federal government was required to establish a numerical amount of water necessary for the reservation. The State successfully moved to exclude late-submitted evidence on that issue, resulting in a shortened trial schedule.

Public Law Section

The Public Law Section (PLS) serves the State of Arizona and the Attorney General's Office through its two distinct Units: the Public Law Unit (PLU) and the Tobacco Enforcement Unit (TEU). The PLU provides legal advice and representation to a variety of state agencies, including the Department of Financial Institutions, Department of Veterans' Services, and the Arizona Exposition and State Fair Board. The TEU is responsible for enforcing the Tobacco Master Settlement Agreement, which brings to Arizona approximately \$100 million each year. In partnership with the Arizona Department of Health Services, TEU also runs a robust Youth Tobacco Counter Strike Program. Highlights from fiscal year 2018 include the following:

Major Case Highlights

In the Matter of the Consumer Lender License of CashCall, Inc. and John Paul Eddam, President – In December 2015, the Arizona Department of Financial Institutions ("DFI") conducted an examination of CashCall, Inc. ("CashCall"), a licensed consumer lender. The examination revealed that from May 2011 through September 2013, previous to being licensed by the Department, CashCall purchased five hundred twenty-one (521) loans from an entity not licensed by the DFI. The interest rates charged on these loans were between 89% and 169% per annum, well in excess of the financial charges allowed under Arizona law. Based on the examination, DFI issued a Cease and Desist Order. PLS attorneys represented DFI throughout the proceedings. In September 2017, CashCall agreed to enter into a Consent Order, pay a civil money penalty of \$250,000, and to cease and desist from committing violations of Arizona law.

SDB, Inc. v. ADVS, OAH No. 16F-006-ADM – This contract dispute arose in connection with an approximately \$7 million project to build a cemetery in Marana for Arizona veterans. The contractor, SDB, Inc., asserted 19 separate claims alleging they were owed an additional \$250,000 from the Arizona Department of Veterans Services. After six full days of hearings involving thousands of pages of exhibits and over a dozen witnesses, the administrative law judge issued a 17 page decision recommending that the Arizona Department of Administration Director deny all 19 of the construction company's claims. In August 2018, the Director issued an order adopting the administrative judge's recommended decision.

In the matter of the Real Estate Broker's license of Rosita Lopez - In December 2016, PLS attorneys represented the Department of Real Estate in an administrative hearing involving real estate broker Rosita Lopez, the real estate company she worked for, Golden Globe, and two other licensees, Colleen and Jess Gunderson. The Department alleged that several hundred thousand dollars were missing from the brokerage's trust account and that Lopez, as designated broker, had mismanaged the brokerage. In January 2017, the administrative law judge found that

all four licensees had violated real estate statutes and regulations, and recommended that the Department revoke all licenses. The Commissioner followed the recommendation. Lopez then requested and received a stay of the order while she appealed to Maricopa County Superior Court. PLS attorneys prevailed again at the superior court level and the matter ultimately concluded in April 2018. As a result, the Department's orders revoking the licenses stands.

In the matter of fiduciary Kay Kozak, FID NFC 14-0011 – PLS obtained a 43-page recommendation from the judge to the Fiduciary Board that Ms. Kozak's fiduciary license be revoked. According to the judge's findings, Ms. Kozak and her company improperly obtained funds from a 97 year old "extraordinarily vulnerable" woman. In May 2018, the Fiduciary Board adopted the judge's recommendation in full and revoked Ms. Kozak's license.

Tobacco Enforcement Unit

The Tobacco Enforcement Unit ("TEU") diligently enforces Arizona's tobacco laws to protect the State's payments due under the 1998 Tobacco Master Settlement Agreement ("MSA"). Since 1998, tobacco manufacturers have paid approximately \$2 billion to the State. Under state law, MSA funds are dedicated to the Arizona Health Care Cost Containment System for health care.

TEU employs a multi-prong approach to enforce tobacco laws and is engaged in a number of discrete activities in collaboration with other state and federal agencies. A few highlights of TEU's work in fiscal year 2018 include the following:

Youth Tobacco Program

TEU continued to successfully operate the Youth Tobacco Program in fiscal year 2018. With the assistance of youth volunteers, the Arizona Department of Health Services, and local law enforcement agencies, TEU systematically monitors retailer compliance with state laws prohibiting the sale of tobacco products – including electronic cigarettes – to minors. In fiscal year 2018, the program performed 1576 undercover inspections of tobacco retailers, resulting in 447 criminal citations issued to clerks and businesses who sold tobacco products to youth volunteers. If a retailer sells a tobacco product to an underage volunteer, the sales clerk may be cited for furnishing tobacco to a minor, a petty offense with a potential fine of \$300. The business may also be fined up to \$1000 per offense. Over 30,000 retail inspections have been performed since the program's inception in 2002. TEU works closely with County Attorney's Offices, Justice Courts, and health departments to implement and maintain the Arizona Retail Tobacco Training class and diversion program. Over the last four years, businesses and individual clerks have been increasingly utilizing the class to become more educated about tobacco laws. Court referrals to the class as a diversion option continued to increase.

In fiscal year 2018, the Program achieved its lowest fail rate ever – only 9.8% of businesses failed inspections, down from 11.6% in 2017, 13.3% in 2016 and 17.3% in previous years. This indicates that TEU and its partners have successfully increased compliance with Arizona laws banning sales of tobacco products to minors.

Enforcing Ban Against Online Tobacco Sales

Arizona law prohibits tobacco companies from selling cigarettes and roll-your-own tobacco products online, and in fiscal year 2018 TEU continued to pioneer innovating enforcement processes. By conducting undercover purchases online and determining whether those sales complied with federal interstate delivery reporting requirements, TEU identified numerous companies that were violating state and federal law. TEU then nominated those companies for inclusion on the “non-compliant list” maintained by the federal Bureau of Alcohol Tobacco Firearms and Explosives (“ATF”), which essentially bans the companies from selling tobacco anywhere in the country. TEU has nominated 113 websites that sold and shipped into Arizona to the ATF non-compliant list, more than any other state combined.

In addition, 104 websites have ceased offering to sell into Arizona as a result of actions taken by TEU. TEU provided notice to webhosting companies of violating websites, which resulted in a number of websites being taken offline. When webhosting companies were non-responsive, TEU filed complaints with the Internet Corporation for Assigned Names and Numbers (ICANN, the entity responsible for, among other things, coordinating domain name use), and ICANN’s involvement encouraged most webhosts to suspend or terminate the hosting of the websites. TEU also began working with DOR to target websites selling tobacco used for making cigarettes that claim to be exempt from state law. This has resulted in several websites beginning to refuse to sell into Arizona. TEU also worked closely with credit card companies, eBay, Paypal, MoneyGram, and others to identify and take appropriate action against merchants or individuals that sell tobacco products online in violation of Arizona law. As a result of these efforts, dozens of websites have stopped offering to sell cigarettes or roll-your-own tobacco to Arizona consumers.

Enforcing the Escrow and Directory Statutes

State law requires any tobacco product manufacturer selling cigarettes to Arizona consumers to either (1) join the MSA by becoming a “participating manufacturer” (“PM”); or (2) place certain sums of money into a qualified escrow fund for the benefit of Arizona based on the number of sales made in the state as a “non-participating manufacturer” (“NPM”).

TEU enforces laws that apply to both types of manufacturers. Among other things, TEU (i) determines the identity of the NPMs that sold cigarettes in Arizona during a given year; (ii) calculates the total volume of sales for each NPM; (iii) determines the escrow liability based on a set statutory rate; and (iv) demands the requisite funds be timely deposited into a “qualifying escrow fund.” TEU monitors the accounts to ensure the principal remains on deposit for the required 25 years. If an NPM refuses to comply with the Escrow Statute, TEU initiates litigation to obtain compliance. TEU also assists the Arizona Department of Revenue with tobacco tax enforcement issues that relate to and enhance the enforcement of the escrow statute. TEU has again worked diligently to receive total compliance with the Escrow Statute in fiscal year 2018.

TEU also enforces the Directory Statute, pursuant to which the Attorney General’s Office publishes on its website a list of the PMs and NPMs allowed to sell cigarettes in Arizona as well as the accompanying permitted brands. If a brand is not listed, it cannot be sold in Arizona. TEU reviews initial and annual certifications, bond forms, and other materials submitted by tobacco companies requesting to be listed in the Directory, and takes appropriate enforcement action against companies who fail to comply with the law.

Tax Section

The Tax Section represents the Arizona Department of Revenue (“ADOR”) in property tax, income tax, transaction privilege (sales) and use tax, and several other tax areas. It also represents the Arizona Department of Transportation (“ADOT”) in fuel tax and aircraft license matters. The Section represents both agencies in administrative hearings and in lawsuits, and advises both on tax matters independent of litigation.

Civil Assessments and Penalties - Totals

The section represented the State (i) in four motor carrier enforcement cases before ADOT’s Executive Hearing Office which resulted in civil penalties totaling \$20,000 and (ii) in 2 motor vehicle dealership cases before ADOT’s Executive Hearing Office which resulted in civil penalties totaling \$9,000.

Major Case Highlights

Saban v. ADOR, 1 CA-TX 16-0007; TX2010-001089 – Car rental companies in Maricopa County filed a class action challenging the constitutionality of a transaction privilege (sales) tax (“TPT”) on income earned by those companies from their rental of vehicles. The companies sued both ADOR and the Arizona State Tourism Authority (“AzSTA”), a municipal corporation created in part to fund the construction and operation of sports stadiums. The Tax Section and AzSTA defeated Plaintiffs’ claim before the trial court that the tax violated the Dormant Commerce Clause of the United States Constitution. ADOR and AzSTA lost on Plaintiffs’ claim that the tax violated a State constitutional provision that allegedly requires that TPT relating to vehicle rentals be used only for roadway purposes. The Tax Section won a subsequent ruling from the Tax Court that as between the State and AzSTA, AzSTA and not the State is ultimately liable for the payment of refunds, refunds that could exceed \$150 million.

All parties appealed the Tax Court’s ruling. On 3/13/18, the Court of Appeals affirmed the Tax Court’s ruling in favor of the Department that the tax does not violate the Dormant Commerce Clause. It then reversed the trial court’s ruling that the tax violated the Arizona Constitution, holding in favor of the Department that it does not. Taxpayers have filed a petition for review with the Supreme Court.

Wilbur-Ellis Company v. ADOR, 1 CA-TX 17-0003; TX2016-000078 – This case concerns a refund request for \$8,312,145 plus interest for transaction privilege tax paid on fertilizers and pesticides sold to commercial growers in Arizona over a four-year period. The taxpayer claimed these items were exempt under A.R.S. § 42-5061(A)(33) as “propagative materials,” and as “sales for resale,” arguing that the fertilizer is necessary for plant growth and that it becomes a part of the plant or plant product that is then resold.

On cross-motions for summary judgment, the Arizona Tax Court granted the Department’s Motion for Summary Judgment and denied the taxpayer’s. The taxpayer appealed, argument was held, and we are awaiting the Court of Appeals’ opinion.

SolarCity et al. v. ADOR, No. CV-17-0231-PR, TX2014-000129 – Beginning in tax year 2014, the DOR valued rooftop solar equipment owned by rooftop companies and leased to their electrical customers as business personal property. SolarCity sued the DOR, alleging that its equipment was not taxable under Arizona law, and that even if it were,

the DOR could not value it. The trial court ruled that the DOR could not value the equipment, but that the equipment was taxable and that it thus had to be valued by county assessors. On appeal, the Court of Appeals ruled entirely in favor of SolarCity, finding that the equipment was not taxable under Arizona law, and that its exemption did not violate the Exemptions Clause of the Arizona Constitution.

The Supreme Court affirmed the Court of Appeals' opinion that DOR could not value the equipment, but then vacated the remainder of the opinion and remanded the case back to the trial court for counties to be joined to litigate whether rooftop equipment is taxable under Arizona law. The main issues on remand will be whether the Legislature statutorily exempted the companies' rooftop equipment from taxation, and if so, whether that exemption violates the Uniformity Clause in the Arizona Constitution.

Transportation Section

The Transportation Section (TRN) provides legal services to the Arizona Department of Transportation (ADOT) on a wide variety of matters. These include litigation and advice related to acquisition of real property needed for highway construction purposes, as well as related construction contract matters. We represent the Motor Vehicle Division of ADOT in regard to motor vehicle registration, driver licensing and other issues. We provide legal advice to the Aeronautics Division of ADOT, which oversees the Grand Canyon Airport, and to Arizona Highways Magazine. Representation and advice are provided on procurement matters, IGA's, grant agreements, personnel matters, property management, public records, and open meetings. We also represent the Arizona Department of Public Safety (DPS) in regard to a host of licensing and certification issues, including concealed weapon permits, private investigators and security guards, criminal history record information, and a statewide sex offender registration database.

Representation is provided to a wide range of boards, commissions, and committees, including the Priority Planning Action Committee, the Law Enforcement Merit System Council, the Over-Dimensional Permit Council, the Arizona Council for D.U.I. Abatement, the Arizona Motorcycle Safety Advisory Committee, the Arizona Companion Animal Spay and Neuter Committee, ADOT's Homeland Security Committee, MVD's Medical Advisory Board, and the School Bus Advisory Council.

Attorneys representing MVD handle the appeals from administrative decisions suspending driving privileges. The attorneys in the MVD unit also provide advice on a wide range of topics including commercial driver license and motor carrier issues, over-dimensional permits, third party vendors and motor vehicle dealerships.

Attorneys representing DPS provide advice on a wide variety of issues including criminal history record information, commercial vehicle enforcement, impounds, the crime lab and fingerprint clearance cards. They also defend agency decisions related to suspension and denial of private investigator and security guard licenses, school bus driver certifications, concealed weapons permits and other matters regulated by DPS.

TRN also reviews or drafts Intergovernmental Agreements, Interagency Service Agreements, and general contracts. We are frequently involved in negotiation, review and revision before these agreements are finally approved.

Major Case Highlights

TRN attorneys assisted ADOT in *PARC v. FHWA/ADOT, 2:15-CV-00893-DJH* and *GRIC v. FHWA/ADOT, 2:15-CV-01219-BSB*. The lawsuits challenge the sufficiency of the Environmental Impact Statement prepared in regard to the L202 South Mountain Freeway project. Plaintiffs allege federal NEPA violations, including failure to adequately consider air toxics, traffic impacts, wildlife corridors and a host of others. Following briefing and oral argument, the Federal District Court entered judgment in favor of FHWA/ADOT. Both plaintiffs appealed to the 9th Circuit, which upheld the District Court ruling.

Attorneys in the Condemnation Unit continue to provide legal advice and representation related to the L202 South Mountain Freeway project. This public private partnership (P3) is ADOT's largest single construction project, with costs estimated at just under \$2 billion.

AAG's representing the Arizona Department of Public Safety reviewed over 200 out of state conviction records for possible inclusion on the internet sex offender website pursuant to ARS § 13-3827.

Our MVD attorneys successfully defended or obtained dismissals in 27 appeals related to agency administrative decisions.

Cost Savings to the State - Totals

Cost savings to the State resulting from work on eminent domain and construction contract matters by attorneys in the Condemnation Unit, measured by the amount of ultimate settlements or verdicts in comparison to the amounts demanded as just compensation or damages, was \$16,993,663.00.

