



ANNUAL REPORT

FOR THE
OFFICE OF THE ARIZONA

ATTORNEY GENERAL



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Attorney General Brnovich

The role of the Attorney General – and his or her team – is to protect the people and enforce the laws as written. This year, the COVID-19 crisis created unprecedented challenges for everyone, including us. The following are highlights of our accomplishments in FY2020 and details on how we overcame the obstacles of a pandemic to keep the wheels of justice turning.

Acting as both the state’s attorney and top law enforcement agency, our public servants remain steadfast in providing essential services. While COVID-19 revealed the best in Arizona’s first responders and frontline workers, it also provided new opportunities for the ethically-challenged to exploit the public’s widespread fear, uncertainty and anxiety. In FY2020, my administration continued its commitment to standing –up for Arizona consumers who did not get what they paid for and we surpassed a milestone of \$100 million in consumer restitution.

Our team’s commitment to upholding the rule of law for victims, their families, and communities was also unwavering. We successfully argued a death penalty case at the United States Supreme Court. Nearly three decades after being convicted of a vicious double-murder, the defendant was still attempting to challenge his sentence but the pathway has now been cleared for the state to move forward and achieve justice for the victims and their families.

Another priority for the year involved vigorously defending Arizona’s election laws that were ignored by individuals and interest groups that saw the pandemic as a reason to bypass our state’s common-sense safeguards. Our Election Integrity Unit (EIU) was involved in nearly a dozen cases in 2020, some setting far-reaching precedent for Arizona and the rest of the country.

Unfortunately, the social distancing requirements of COVID-19 kept us from many public appearances throughout the year. We were, however, able to disseminate information using Zoom meetings, providing free educational webinars to the community (on topics like: suicide prevention, bullying, and human trafficking), and conducting Facetime/phone interviews with the media. Although in person meetings are always preferred, technology was a valuable ally in reaching out to others while still remaining safe.

I hope you will find this report to be interesting and informative. FY2020 required many of us to work at a distance, cloaked in a mask, or from home, but we remained guided by a single directive: Let Justice Be Done.

Respectfully,



Mark Brnovich
Arizona Attorney General



Executive Office



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.

Joe Kanefield 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 Joe Kanefield

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
- Appeals & Constitutional Litigation Division
- Executive Office
- Operations Division
- Communications Division

Civil Litigation Division



Division Chief
Joseph Sciarrotta

MISSION:

Protect the public from consumer fraud and provide advocacy and public education regarding consumer protection issues. Ensure that tobacco manufacturers and distributors comply with state laws, combat youth smoking/vaping, and enforce the tobacco settlement that benefits state health programs. Protect competition and consumer welfare by enforcing Arizona's antitrust statutes. Promote and enforce Arizona's civil rights laws and mediate disputes when possible. Collect debts owed to the State of Arizona efficiently, expeditiously and fairly.

Division Summary

The Civil Litigation Division consists of the Consumer Protection and Advocacy 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 consumers through enforcement of state laws and provides advocacy and public education on consumer protection issues. CPA (i) brings actions on behalf of the state for violations of the Consumer Fraud Act and Data Breach Notification Law, (ii) ensures that tobacco manufacturers and distributors comply with state laws, (iii) protects competition and consumer welfare by enforcing Arizona's antitrust statutes and (iv) is responsible for administering the Arizona Fintech Sandbox. With an emphasis on recovering restitution for Arizonans impacted by consumer fraud, CPA has secured over \$100 million in restitution for Arizona consumers since Attorney General Mark Brnovich took office in 2015. The dedicated team of attorneys and support staff in CPA regularly handle hundreds of cases and processes more than 13,000 consumer complaints each year.

Overview of Accomplishments

- In July 2020, AG Brnovich announced that CPA had secured well over \$100 million in restitution for Arizona consumers since Attorney General Mark Brnovich took office in 2015. Significantly, this is more than the total restitution from 2001 to 2014.
- Obtained tens of millions of dollars of relief for consumers who had loans from Santander, one of the nation's largest subprime auto lenders. Santander had provided high-interest loans to consumers that Santander knew were likely to default.
- Sued JUUL Labs and EonSmoke, alleging that both companies engaged in deceptive and unfair practices in their sales and marketing of vaping products, particularly to youth. The AGO also obtained a permanent injunction banning EonSmoke from selling certain products in Arizona.
- Obtained an \$11 million settlement with CenturyLink regarding deceptive and unfair billing and marketing practices, under which CenturyLink paid nearly \$2 million in refunds to consumers and \$2 million toward

Civil Litigation Division

fiber-optic infrastructure in Arizona.

- Obtained a consent judgment against Equifax, resolving the multistate investigation into the company's massive 2017 data breach. The multistate settlement included a \$425 million restitution fund, a \$175 million payment to the states, and injunctive relief.
- Sued several former executives of the Chandler-based opioid manufacturer Insys Therapeutics, Inc., including the company's founder, John Kapoor, alleging that the company illegally paid doctors to prescribe its highly addictive opioid medication.
- Sued several members of the Sackler family, who were responsible for operating Purdue Pharma, which the State has alleged violated a consent judgment ordering Purdue not to engage in deceptive marketing of its opioids.
- Obtained over \$90,000 in restitution from Dependable Auto, a Tucson-based car dealership that allegedly engaged in a wide variety of unlawful practices.
- Sued Choice Home Warranty, alleging that the company raked in millions of dollars by deceiving and misleading Arizonans about what its home warranties would cover.
- Obtained over \$100,000 in restitution for consumers from a former owner of DIY Neurocare, which sold LED light pads as neuropathy treatments and failed to deliver on its money-back guarantee.
- Sued Valley Delivery, alleging that the company put up fake delivery slips in order to trick new homeowners into giving the company their phone numbers.
- Obtained \$600,000 in a settlement with a Sun City vacuum seller that repeatedly violated the Do Not Call list.
- The Division Chief, and members of CPA and the Consumer Information & Complaints Unit participated in a phone bank broadcast by ABC15.
- Secured an Amended Final Judgment with Live Nation after discovering that Live Nation violated terms of a 2010 Consent Judgment related to its merger with Ticketmaster by pulling or threatening to pull its shows from a venue if the venue chose not to use Ticketmaster for its ticketing services. The antitrust judgment contains injunctive terms and an additional five-year monitoring period to prevent Live Nation from engaging in future anti-retaliation and anti-conditioning activities and hold Live Nation accountable for any further violations.
- Filed an antitrust complaint against Taro Pharmaceuticals, Perrigo New York, Fougera Pharmaceuticals (now Sandoz), and 23 more of the nation's largest generic drug manufacturers, alleging a broad conspiracy to artificially inflate and manipulate prices and reduce competition for approximately 80 different generic dermatology drugs.

Civil Litigation Division

Consumer Litigation Unit

The Consumer Litigation Unit (“CLU”) protects the public from consumer fraud and provides consumer protection advocacy and public education. CLU investigates and brings actions on behalf of the state for violations of the Arizona Consumer Fraud Act and the Arizona Data Breach Notification law. The unit also is responsible for enforcement and regulatory matters regarding technology, innovation, and privacy in support of the Office’s consumer protection mission, including administering the Arizona Fintech Sandbox and enforcing Arizona’s Data Breach Notification Law.

- Telecom Providers

CenturyLink agrees to pay \$11 million to settle billing and marketing claims

Obtained an \$11 million settlement with CenturyLink over deceptive and unfair billing and marketing practices, including nearly \$2 million of direct restitution to consumers who were promised discounts in sales calls but never received the discounts. CenturyLink also agreed to pay the State \$7 million and invest \$2 million in fiber-optic infrastructure for areas determined by our office to be in need.

- Consumer Lending

Tens of millions obtained for consumers who had high-interest loans from Santander

Obtained a consent judgment against subprime auto lender Santander Consumer USA, resulting in consumer relief for Arizonans that will total between \$22 million and \$42 million. The settlement resolves a multistate investigation into Santander’s practices of giving high-interest loans to consumers that Santander knew were likely to default. The relief under the settlement includes consumer restitution and loan forgiveness for thousands of Arizonans.

- Vaping

AGO sues JUUL and EonSmoke

CPA filed lawsuits against JUUL Labs and EonSmoke, alleging that both companies engaged in deceptive and unfair practices in their sales of vaping products. The State alleged that both companies deliberately targeted Arizona youth, including through the sale of flavors like Kiwi Strawberry and Green Apple. In March, the AGO issued cease-and-desist notices to over 5,000 Arizona retailers regarding EonSmoke’s illegal products. The AGO obtained a permanent injunction against EonSmoke, in which the Court agreed to bar all sales of EonSmoke’s illegal vaping products.

- Healthcare

Former founder and executives added to Insys lawsuit

Filed a new lawsuit against three former executives of Insys Therapeutics Inc., including John Kapoor, the company’s founder and former President. The lawsuit is in addition to the State’s existing lawsuit against Insys and alleges that the three named defendants engaged in a fraudulent marketing scheme designed to increase the sales of Subsys, the company’s highly addictive fentanyl-based prescription drug.

Civil Litigation Division

Johnson & Johnson pays millions to settle pelvic mesh investigation

Reached a settlement as part of a multistate investigation into pelvic mesh products manufactured and marketed by Johnson & Johnson and Ethicon. The corresponding complaint alleged that the companies made misleading claims about the safety and efficacy of pelvic mesh, including a failure to disclose significant risks related to the product. Under the settlement, Johnson & Johnson shall pay Arizona \$2.8 million in penalties and the companies must refrain from making misleading claims about their products in the future.

Sackler family added to Purdue lawsuit

Filed an action in Pima County Superior Court seeking an order to show cause to add the Sacklers to the State's existing Pima County lawsuit against Purdue Pharma for violations of the State's 2007 consent judgment with Purdue.

Former owner of LED light pad company agrees to pay over \$100,000 in restitution

Settled with Lyle Keith Day, one of the former owners of DIY Neurocare, which sold LED light pads as neuropathy treatments for thousands of dollars apiece. DIY and Day used a money-back guarantee to incentivize consumers to pay for the LED light pads, but then failed to honor the guarantee. Under the settlement, Day will pay consumer victims over \$100,000 in restitution.

- Auto Sales

Tucson car dealership agrees to pay over \$90,000 in restitution

Settled with Dependable Auto, a Tucson-based car dealership that had engaged in a wide variety of unlawful practices, including charging consumers for service contracts that were never purchased, overcharging fees, and failing to honor the implied warranty of merchantability. Dependable Auto and its owners agreed to pay consumers over \$90,000 in restitution.

- Home Services

AGO sues Choice Home Warranty for deceptive practices

Filed a lawsuit against Choice Home Warranty, alleging that the company engaged in a variety of unfair and deceptive practices related to false advertising and failure to deliver on promises made to Arizonans. For example, Choice Home Warranty promised to protect consumers against the "high cost" of unexpected repairs for appliances like refrigerators and air conditioning units, but its contracts capped CHW's liability at \$1,500. The complaint also alleges that, despite CHW's promise of "swift and timely" service for air conditioners, some consumers had to wait four days or more in the summer heat for a technician to inspect their broken air conditioner.

AGO sues Valley Delivery for fake delivery slips

Filed a lawsuit against Valley Delivery and Metro Delivery, alleging that the companies deceived Arizonans through fake "delivery slips" that tricked consumers into calling the companies. When the consumers called,

Civil Litigation Division

the companies harvested the consumers' phone numbers and sold that valuable data to home service companies, making millions in the process. The companies also maintained misleading websites on which both purported to be package delivery services operating throughout the country, when in fact the companies are simply Phoenix-area lead generation companies.

- Data Breach

Judgment obtained in HIPAA data breach lawsuit

Filed a consent judgment resolving a lawsuit filed by Arizona and 15 other states against Medical Informatics Engineering Inc. and NoMoreClipboard, LLC relating to a 2015 data breach, which was the first such multistate lawsuit involving claims under HIPAA. Under the settlement, the companies agreed to pay \$900,000 to the states and implement significant data-security improvements. Arizona was a member of the multistate executive committee.

Settlement of data breach involving protected health information

Secured a consent judgment against Premera Blue Cross, resolving a 29-state multistate investigation relating to the company's 2014/15 data breach, which exposed the protected health information of more than 10.4 million consumers nationwide. The consent judgment required Premera to pay \$10 million to the states and implement significant data-security improvements.

Equifax pays hundreds of millions to resolve investigation into massive data breach

Obtained a consent judgment against Equifax, resolving the multistate investigation into the company's massive 2017 data breach. The settlement includes a Consumer Restitution Fund of up to \$425 million, a \$175 million payment to the states, and injunctive relief, which also includes a significant financial commitment. Arizona participated on the executive committee of the multistate.

- Robocalls

\$600,000 obtained from Sun City vacuum sales business with Do Not Call violations

Resolved a lawsuit in which the State alleged that Sun City vacuum sales business Island Don, Inc., DBA Bright & Shiny Kirby Company, Bright & Shiny Cleaning Services, or Sun West Kirby, and its owners repeatedly violated the Do Not Call Act, deceived consumers in order to obtain their phone numbers, and engaged in deceptive and unfair sales practices over the phone and during in-home sales pitches. Under the settlement, up to \$500,000 in restitution will go to consumers who purchased the vacuums, and the business and its owners will pay the State \$100,000 in civil penalties.

AGO helps draft and encourage adoption of anti-robocall principles

The AGO announced that 12 United States phone companies agreed to adopt the "Anti-Robocall Principles" advocated by a coalition of 51 attorneys general. The AGO is an executive committee member of the NAAG Robocalls Working Group, and in that capacity helped draft and promote the principles.

AGO sends letter urging federal government to combat Caller ID spoofing

The AGO joined with 41 other states to file a comment with the FCC urging it to adopt its proposed rules on enforcement against caller ID spoofing for calls to the United States originating from overseas, while also addressing spoofing in text messaging and alternative voice services.



Civil Litigation Division

- COVID-19

AGO warns gyms about restrictive cancellation policies

In April, the AGO sent letters to three gyms that were maintaining restrictive cancellation policies during the pandemic. All three gyms ultimately changed their policies.

AGO tells businesses using misleading ads related to COVID-19 to cease and desist

The AGO sent cease-and-desist letters to several local businesses engaging in alleged misleading COVID-19 advertising, including: (1) Preppers' Discount, which sold "immunity tablets" with filtration masks; (2) YiLo dispensary, which sold "Coronav Immunization Stabilizer Tincture"; (3) Dream City Church, which marketed its for-rent facilities as having air filters that kill the coronavirus; and (4) Clean Air EXP, which marketed its air filters as being able to kill the coronavirus. All of the companies quickly stopped the alleged misleading marketing.

AGO warns of COVID-19 scams

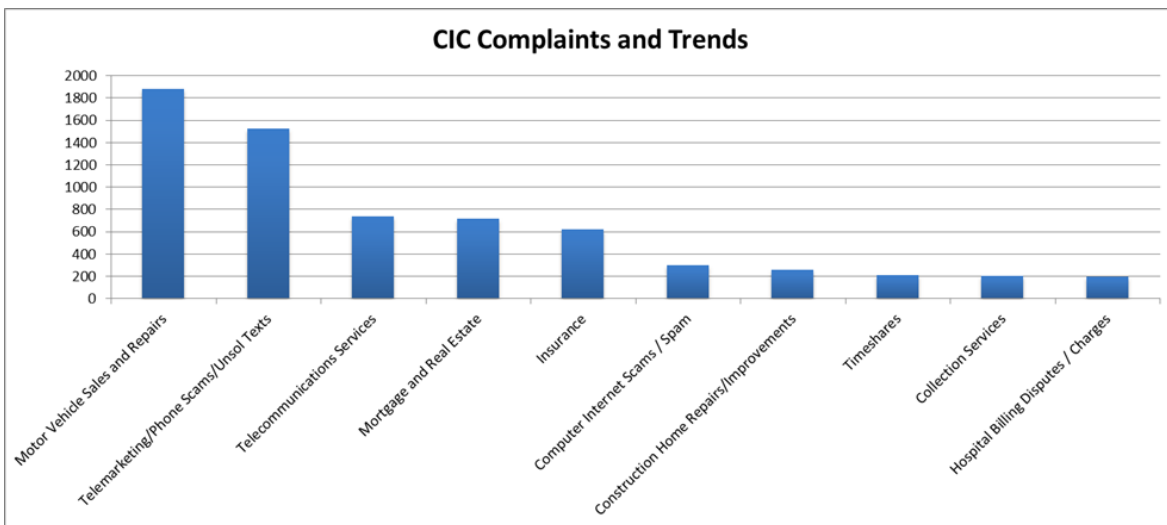
The AGO created one of the first COVID-19 websites (www.azag.gov/consumer/covid-19) and issued numerous consumer advisories relating to COVID-19-related scams and issues. The advisories included: (1) Economic Impact Payment scams; (2) "grandparent scams"; (3) work-from-home scams; (4) cyber security when teleworking or remote learning; (5) improper disclosure of COVID-19 surcharges; and (6) improper retention of Economic Impact Payments by nursing homes.

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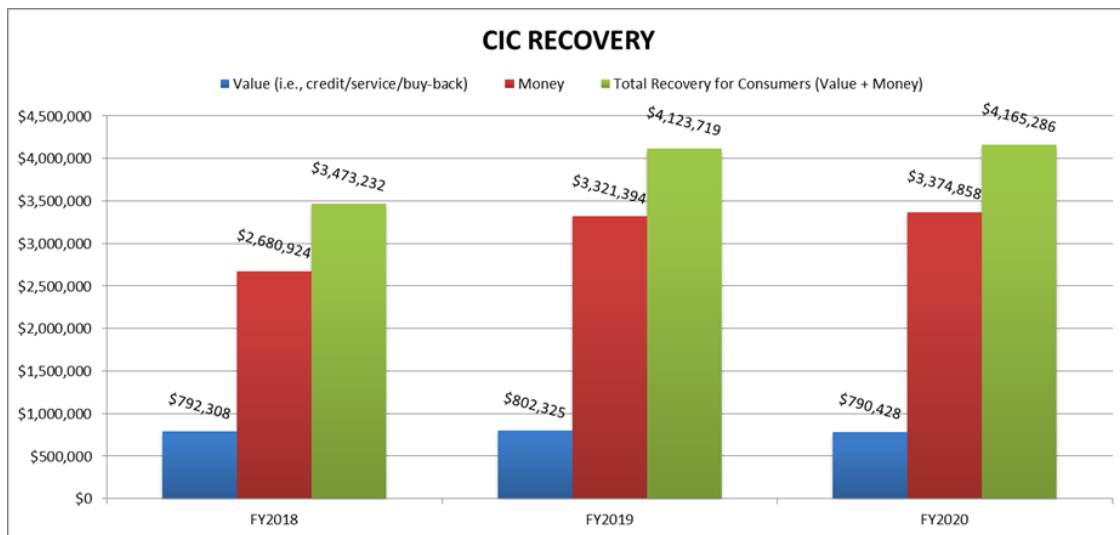
Consumer Information & Complaints Unit

The Consumer Information & Complaints Unit (“CIC”) conciliates consumer complaints and works to obtain recovery (i.e., pre-investigation recoveries) for consumers whenever possible. CIC received over 13,437 consumer complaints in fiscal year 2020. CIC staff, most of whom are bilingual in Spanish and English, answered more than 37,500 consumer phone calls throughout the year and responded to 19,289 consumer emails.

Common FY2020 consumer complaints:



In FY2020, CIC recovered over \$4.16 million for consumers throughout Arizona.



Consumers may file complaints online at www.azag.gov (go to “Complaints,” then “Consumer 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].

Civil Litigation Division

Antitrust Unit

The Antitrust Unit (“ATU”) investigates conspiracies, monopolies, and mergers that may result in an anticompetitive impact on consumers. ATU ensures the Arizona market remains competitive and protects consumers from those who attempt to use anticompetitive practices to manipulate the market, prices, and competition. ATU is committed to making sure consumers have a free and healthy competitive landscape in Arizona.

Amended Final Judgment with Live Nation

The AGO, along with several other states, negotiated an Amended Final Judgment with Live Nation after discovering that Live Nation violated terms of a 2010 Consent Judgment related to its merger with Ticketmaster by pulling or threatening to pull its shows from a venue if the venue chose not to use Ticketmaster for its ticketing services. This behavior violates the anti-retaliation and anti-conditioning provisions of the 2010 consent judgment. In addition to strong injunctive relief, the Amended Final Judgment provides for notification rights, enforcement authority, and the ability to monitor Live Nation for an extended five-year period. This will prevent Live Nation from engaging in future anti-retaliation and anti-conditioning activities and will hold Live Nation accountable for any further violations.

Lawsuit filed against generic drug manufacturers

The AGO filed an antitrust complaint in federal court, along with 50 other state attorneys general, against Taro Pharmaceuticals, Perrigo New York, Fougera Pharmaceuticals (now Sandoz), and 23 more of the nation’s largest generic drug manufacturers, alleging a broad conspiracy to artificially inflate and manipulate prices and reduce competition for approximately 80 different generic dermatology drugs. This is the third complaint filed by the AGO in conjunction with other state attorneys general regarding collusion among generic drug manufacturers and their executives.

Meat Packing investigation

The AGO sent a joint letter, along with ten other state attorneys general urging the Department of Justice (DOJ) to investigate the meat packing industry for a suspected national price fixing conspiracy.

Textbook publisher merger investigation

Textbook publishers McGraw-Hill Education Inc. (McGraw-Hill) and Cengage Learning Inc. (Cengage) called off their proposed merger, after an investigation by the AGO, the DOJ, and several other states. When McGraw-Hill and Cengage announced their agreement to abandon the merger, they cited inquiries made during the investigation and their inability to agree to necessary pro-consumer settlement terms.

\$68 million settlement with UBS

The AGO and 39 other states negotiated a \$68-million-dollar settlement with UBS, resolving allegations that UBS engaged in fraudulent and anticompetitive conduct involving the manipulation of the U.S. Dollar LIBOR (the “London Interbank Offered Rate”).

Civil Litigation Division

Tobacco Enforcement Unit

The Tobacco Enforcement Unit (“TEU”) diligently enforces Arizona’s tobacco laws to protect the State’s payments received under the 1998 Tobacco Master Settlement Agreement (“MSA”). In 2020, Arizona received approximately \$95 million in total MSA payments. Since 1998, tobacco manufacturers have paid Arizona approximately \$2.1 billion.

TEU employs a multi-prong approach to enforce tobacco laws and is engaged in a number of activities in collaboration with other state and federal agencies. A few highlights of TEU’s work in FY2020 include the following:

- Counter Strike (AGO’s Youth Tobacco Program)

TEU continued to successfully operate Counter Strike (AGO’s Youth Tobacco Program). 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 FY2020, the program performed 2,434 undercover inspections of tobacco retailers, resulting in 527 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, an offense with a potential fine of \$300. The business also may be fined up to \$1000 per offense. Over 35,000 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 five years, businesses and individual clerks have been increasingly utilizing the class to become more educated about tobacco laws.

After achieving record low fail rate 9.8% in FY2018, the fail rate for FY2019 increased to 13.3%. TEU attributes the increase in failed inspections primarily to the sale of e-cigarettes to minors. During routine youth tobacco inspections, TEU has found that retailers are more likely to violate the prohibition on sales of tobacco products to minors when the youth volunteer requests an e-cigarette as opposed to cigarettes or other conventional tobacco products.

- Enforcing Ban Against Online Tobacco Sales

Arizona law prohibits tobacco companies from selling cigarettes, roll-your-own, or whole leaf tobacco products online. In FY2020, TEU continued to pioneer a new enforcement process. 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. During FY2020, TEU nominated 31 websites and associated entities to the ATF non-compliant list, more than any other state combined. TEU provided information for an additional 62 websites that ATF subsequently sent notices of potential placement on the non-compliant list. TEU worked closely with eBay to remove over 140 cigarette sale offers available to Arizona consumers, adding to the over 2,0000 cigarette sale offers removed in FY2019. eBay confirmed that it improved its filters based on the information TEU provided about cigarette sellers and offers. As a result, the number of cigarette sale offers appearing on eBay during FY2020 remained minimal. TEU also

Civil Litigation Division

worked closely with credit card companies to identify and take appropriate action against merchants 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, roll-your-own, or whole leaf tobacco to Arizona consumers.

- Data Clearinghouse Proceeding

Pursuant to the terms of the Non-Participating Manufacturers (“NPM”) Adjustment settlement, the Settling States and the Participating Manufacturers (PMs) must participate in an annual Data Clearinghouse (“DCH”) Proceeding where a national economics firm must review state-specific data supplied by the Settling States and PMs to determine if the state in question received Escrow Statute (A.R.S. 44-7101) compliance on all NPM cigarettes on which state excise tax (SET) was collected. In the event Escrow Statute compliance was not received on all SET-paid NPM cigarettes, the state in question could be subject to an adjustment to its annual MSA payment. Arizona participated in the inaugural DCH proceeding during FY2020, and Arizona achieved Escrow Statute compliance on all SET-paid NPM cigarettes, thus prevailing and preventing any loss of MSA funds.

- Enforcing the Escrow and Directory Statutes

TEU once again achieved full compliance with 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 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 NPM.

TEU enforces laws that apply to both types of manufacturers. Among other things, TEU (i) determines the identity of the NPMs which had sales 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.” If an NPM refuses to comply with the Escrow Statute, TEU initiates litigation to obtain compliance. TEU also assists the Arizona Department of Revenue (“ADOR”) with tobacco tax enforcement issues that relate to and enhance the enforcement of the escrow statute.

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 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.

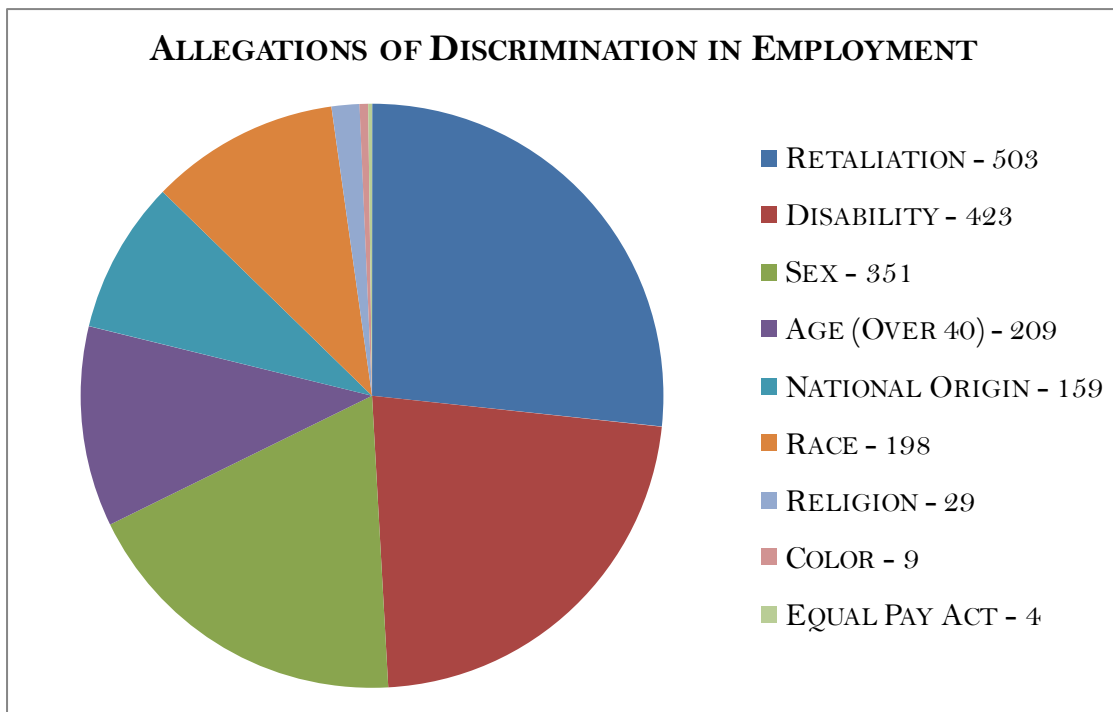
Civil Litigation Division

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. DCRS supports and administers the Arizona Civil Rights Advisory Board, which publishes studies and works to eliminate discrimination.

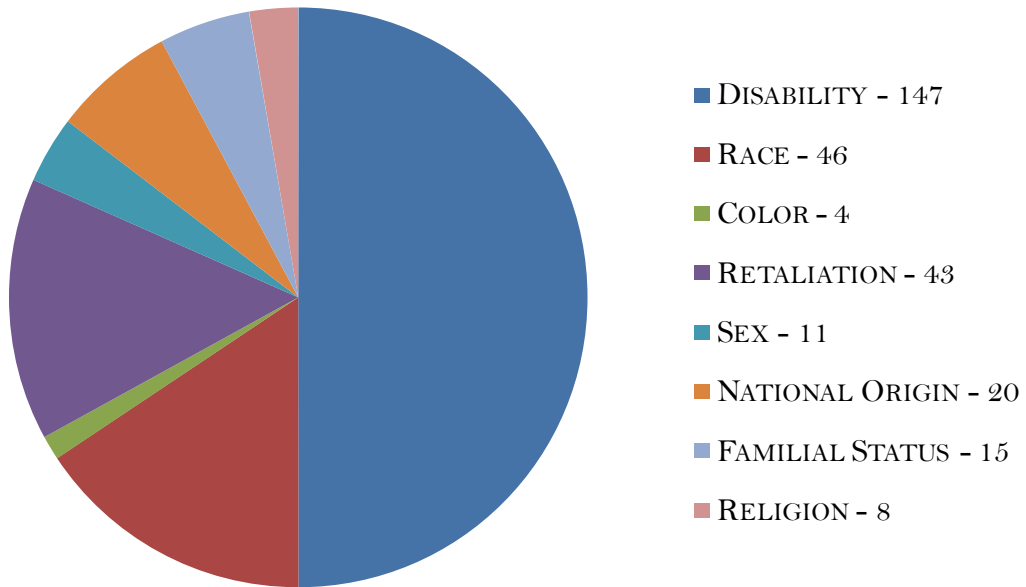
Investigations of Alleged Unlawful Discrimination

Arizonans can initiate a complaint with the DCRS online, by phone, mail, or in person. In FY2020, the DCRS investigated 2,271¹ allegations of the following types of discrimination:

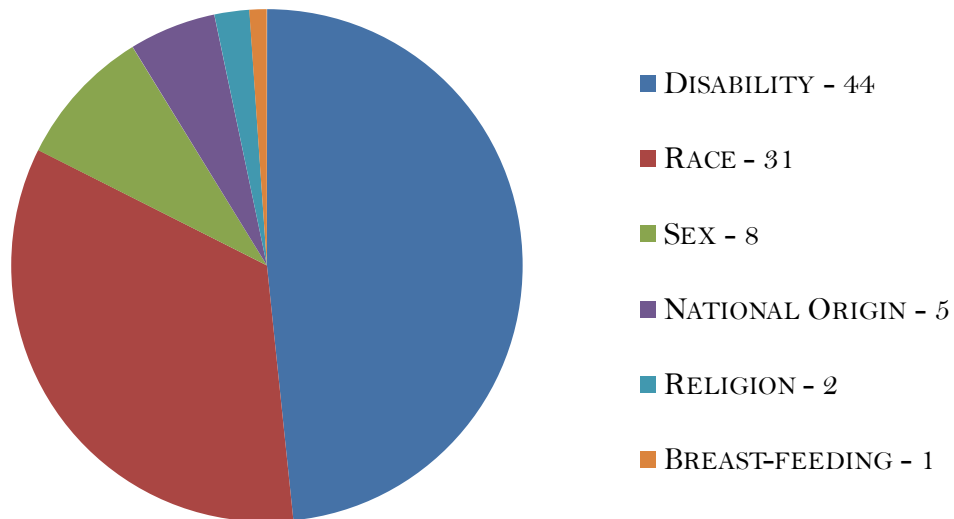


Civil Litigation Division

ALLEGATIONS OF DISCRIMINATION IN HOUSING

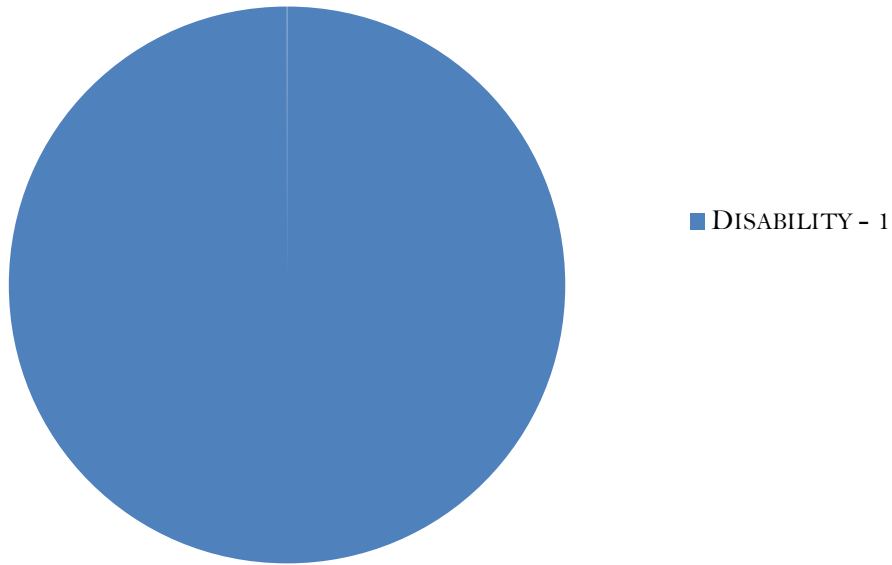


ALLEGATIONS OF DISCRIMINATION BY A PUBLIC ACCOMMODATION



Civil Litigation Division

ALLEGATIONS OF DISCRIMINATION IN VOTING



Resolution of Cases Alleging Unlawful Discrimination

Where possible, the DCRS seeks to resolve disputes through various forms of conflict resolution. In FY2020, the DCRS resolved 106 cases of discrimination through mediation, conciliation, or litigation settlements. As a result of these resolution efforts, the DCRS obtained a total of \$1,020,628.46 in monetary relief for aggrieved parties, in addition to respondent agreements for future monitoring and enforcement activities, and a wide variety of injunctive relief to proactively alleviate future potential civil rights violations.

Highlights of Cases Investigated, Litigated or Resolved by the DCRS

State v. Obrigi's, LLC, d/b/a O'Brien's Sports Bar – The DCRS alleged that O'Brien's Sports Bar violated the Arizona Americans with Disabilities Act ("AzDA") when it refused to serve Bill Larson, a person with a disability, and required him to leave the bar because he was accompanied by his service animal. Mr. Larson is a veteran of the Air Force Reserves. He has a brain injury, which causes him to experience transient ischemic attacks. His service animal, "Whopper," is trained to detect the onset of a transient ischemic attack and alert Mr. Larson so that he may take steps to ensure his safety and the safety of others. On January 16, 2018, Mr. Larson and Whopper visited O'Brien's Sports Bar. The DCRS alleged that the manager of the bar told Mr. Larson he was not allowed in the bar with Whopper. The DCRS further alleged that when Mr. Larson attempted to explain to the bar's owner and manager that Whopper was a service animal, he was forced to leave. The DCRS filed a lawsuit in Maricopa County Superior Court to enforce the AzDA. The State settled the lawsuit with a Consent Decree that included monetary damages of \$7,500 to Mr. Larson and \$2,500 in a civil penalty to the State, as well as injunctive relief to proactively prevent future civil rights violations.

State v. Big Tex Trailer World, Inc. d/b/a Big Tex Trailers – In this employment case involving disability discrimination, the DCRS alleged that the employer denied an employee a reasonable accommodation necessary for his disability



Civil Litigation Division

and discharged him because of his disability. The employee in this case had hip replacement surgery that required medical leave and thereafter required the assistance of a cane for ambulation. After the surgery, the employee was advised not to fly due to risk of deep vein thrombosis and/or a pulmonary embolism. The DCRS alleged that the employer failed to accommodate the employee when it denied his requested reasonable accommodation to attend an in state rather than an out of state training. Further, the DCRS alleged that the employer discriminated against the employee based on his disability when after receiving his request for reasonable accommodation it instructed the employee's manager to get a letter of resignation from the employee or terminate him. Case resolved in FY2021.

State v. Harmony Gardens, LLC – In this employment case involving sex discrimination, the employer failed to take prompt and remedial action to remedy the harassment of an employee by a patient who lived in the care facility. The patient subjected the female employee to unwelcome conduct of a sexually harassing nature that was sufficiently severe or pervasive to alter the terms and conditions of her employment by creating a hostile work environment. Specifically, the DCRS alleged that the patient solicited sex from the employee, made sexually offensive comments, and physically groped her, creating a hostile work environment. The State settled the lawsuit with a Consent Decree that included injunctive relief to help prevent future civil rights violations.

Outreach and Education

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

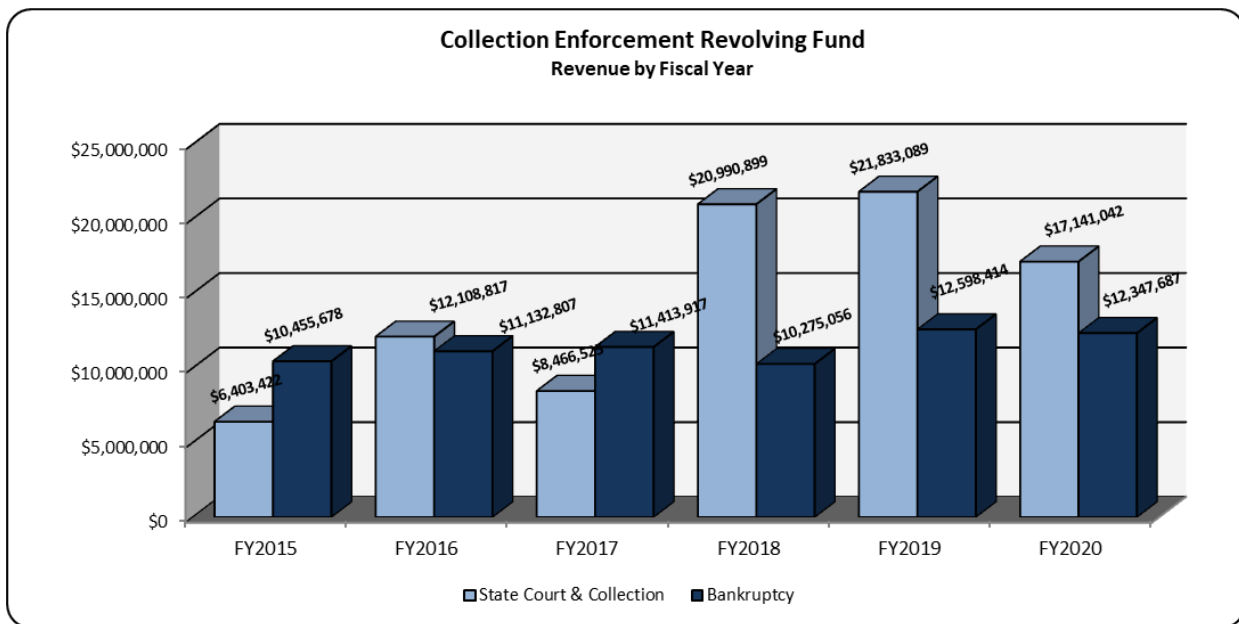
Civil Litigation Division

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.

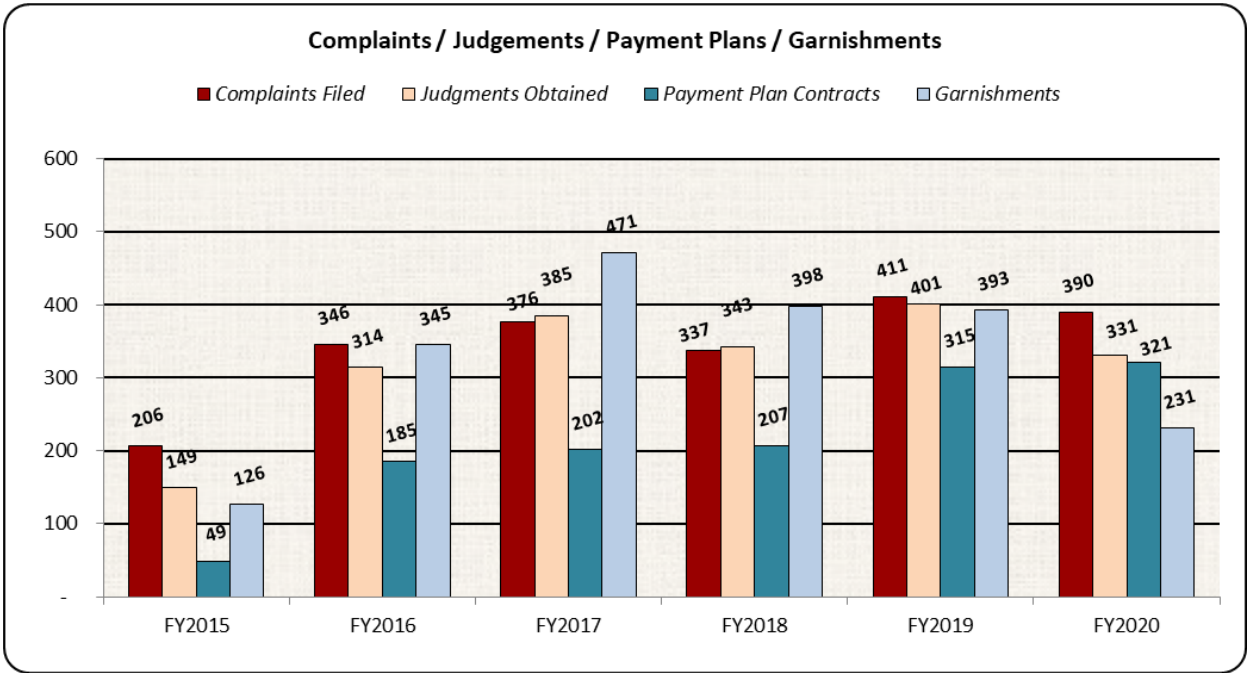
BCE represents nearly all state agencies, boards, commissions and departments in bankruptcy, state court collection litigation and other collection matters. BCE’s responsibilities range from routine collection and bankruptcy matters to complex litigation.

In FY2020, BCE collected approximately \$30 million dollars on behalf of the state. Even in the wake of hardship and uncertainty due to COVID-19, BCE’s collections for fiscal year 2020 were significant. Even though BCE instituted a collection/lawsuit/garnishment/levy moratorium in mid-March and extended it to the beginning of June, collection revenue was down only 15% from the all-time record of \$34.4 million that BCE collected last year. The policies and strategies put into place in 2015 have enabled BCE to maintain this level of collection.



In FY2020, BCE filed 390 Complaints and obtained 331 judgments. In FY2020, BCE entered into a record 321 payment agreements. The substantial increase in payment agreements since 2015 is one of the main reasons why BCE did not see a significant drop in FY20 collections as a result of the pandemic. Payment agreements provided steady and foreseeable collection revenue coming in each month. In FY2020, BCE filed 231 garnishments. The numbers were down due to an AGO garnishment moratorium from March to June.

Civil Litigation Division



Child & 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 DCS's goals of 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, 154.45 attorneys and 121.75 administrative support staff. PSS attorneys and staff provide legal representation to DCS throughout Arizona's 15 counties. Because threats to child safety are not limited to regular business hours, PSS Unit Chiefs provide twenty-four hour legal advice and support for our client through an on-call schedule. They field calls about issues such as missing children, urgent situations involving law enforcement, emergency motions and make weekend court appearances as needed.

Trial Practice

PSS attorneys statewide engage in a high-volume, fast-paced, litigation-focused practice in the Juvenile Division of the Arizona Superior Courts. PSS trial attorneys 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 or termination of parental rights.

Child & Family Protection Division

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. PSS provides intensive training to newly incoming and experienced attorneys including a three-to-four-week training, a 90-day follow-up training, basic and advanced trial colleges, and a three-day, statewide PSS Continuing Legal Education Conference. PSS also utilizes experienced mentors to support PSS attorneys and to assist with chairing trials, litigating high-profile cases, and working directly with the client. In addition, PSS provides substantive and ongoing training to DCS caseworkers, supervisors, and relevant third-party stakeholders throughout Arizona. Each month, PSS lawyers attend over 25 multidisciplinary team meetings statewide, involving law enforcement, medical teams, prosecutors, community representatives, Tribal representatives and our client working together to assess and evaluate cases involving child safety. PSS lawyers also work closely with community partners, members of the judiciary, Tribal representatives and stakeholders on updating court rules, statutes, procedures, and practices in juvenile court.

PSS Appeals

The CFPD Appeals Unit regularly appears before the Arizona Court of Appeals and the Arizona Supreme Court to defend or challenge trial court decisions and to file and respond to appeals and special actions arising from dependency, guardianship, and termination matters. In FY2020, the Appeals Unit filed over 200 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 nine opinions and over 170 memorandum decisions in FY2020, in cases that were briefed by the Appeals Unit.

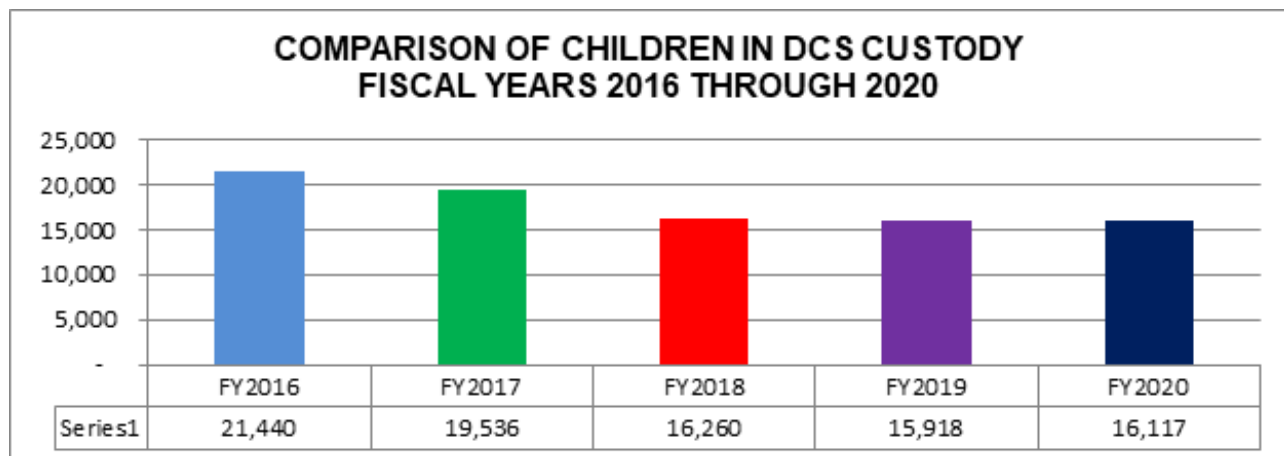
In addition to the items listed above, the Appeals Unit assists PSS by:

- Training new-hire attorneys during mandatory initial training, training all PSS AAGs on changes in the law or other important 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 and advise on policy and appellate issues.
- Serving on various committees both within and outside of the AGO (including 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).
- Becoming nationally known for expertise in ICWA matters, as recognized by the Supreme Court's State-Federal-Tribal Court's ICWA Subcommittee, Casey Family Services, and the Conference of Western Attorneys General.

Child & Family Protection Division

FY2020 Accomplishments:

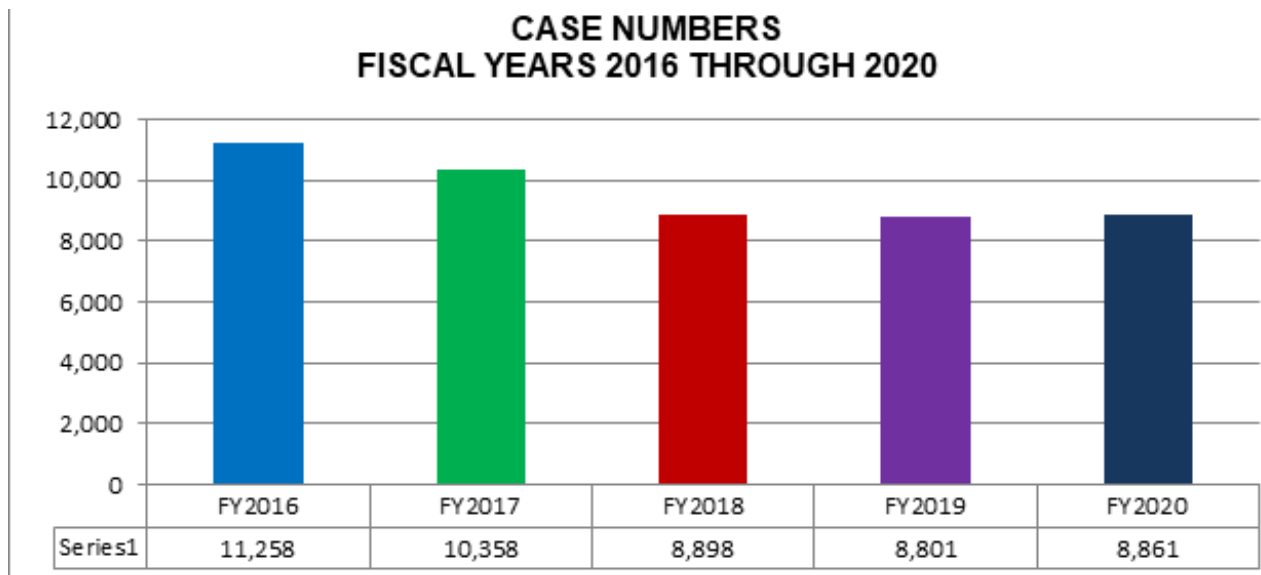
- PSS attorneys prepared for and/or attended 73,203 court hearings on behalf of DCS.
- PSS attorneys prepared for and represented DCS in trials a total of 7,226 days in FY2020.
- PSS trained 22 new attorneys during FY2020. Starting in March 2020, all new PSS attorneys began their practice with our office through virtual training and virtual court appearances. For some attorneys, their first trial was entirely virtual.
- PSS trained 670 new case managers statewide and 59 new DCS supervisors during the fiscal year. PSS also provided training in conjunction with DCS's Advanced Investigator Academy. Starting in March 2020, all DCS training was also conducted virtually.
- PSS conducted a Basics Skills Trial College and an Intermediate/Advanced Trial College for PSS attorneys.
- PSS assisted DCS in protecting the 16,117 children in care from abuse and neglect during FY2020.
- PSS filed 4,782 new dependency petitions.
- PSS filed 1,738 severance motions and petitions.¹
- PSS filed 466 guardianship motions on behalf of DCS.
- PSS assisted DCS in reuniting 2,962 children with their parents.
- PSS assisted DCS in placing 616 children with permanent guardians.
- PSS assisted DCS in the adoption of 2,734 children by relatives or foster parents.
- PSS attended 1,033 trials via virtual court established due to the pandemic during the period of March 1, 2020 and June 30, 2020.



¹ Establishing permanency is the goal for all children in DCS's custody. If reunification with a parent cannot be achieved, DCS proceeds with termination of parental rights to free the child for adoption or permanent guardianship. PSS continues its efforts with the Case Permanency Staffings to ensure timely review of cases for permanency and to identify grounds or 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 terminated achieves permanency and permits adoptions at a much earlier stage in the proceedings.

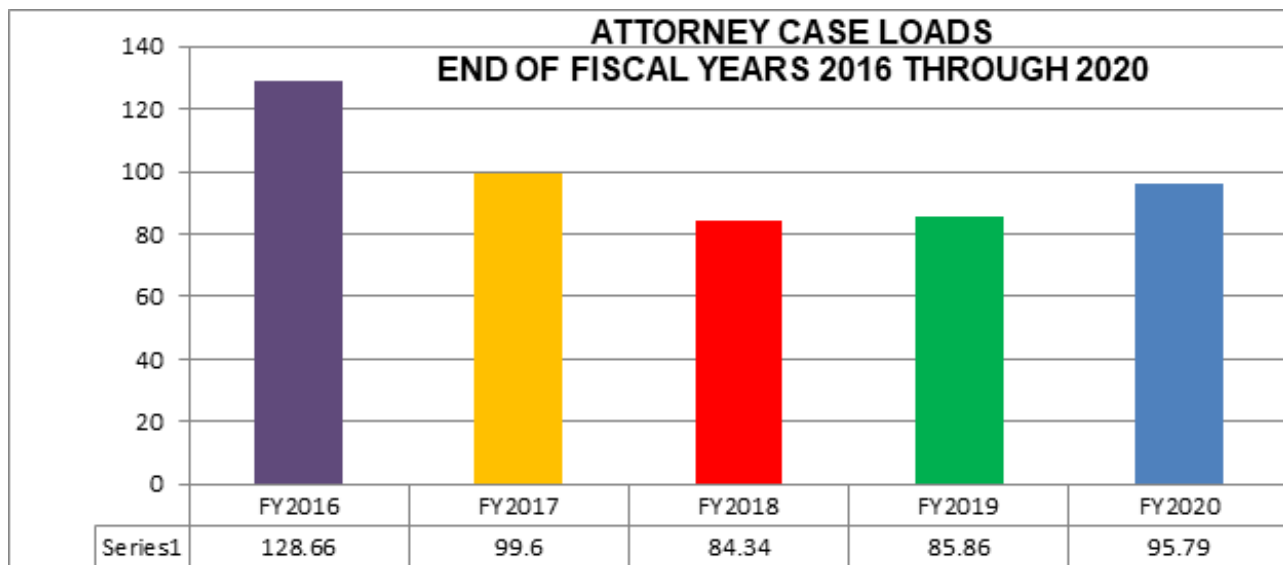
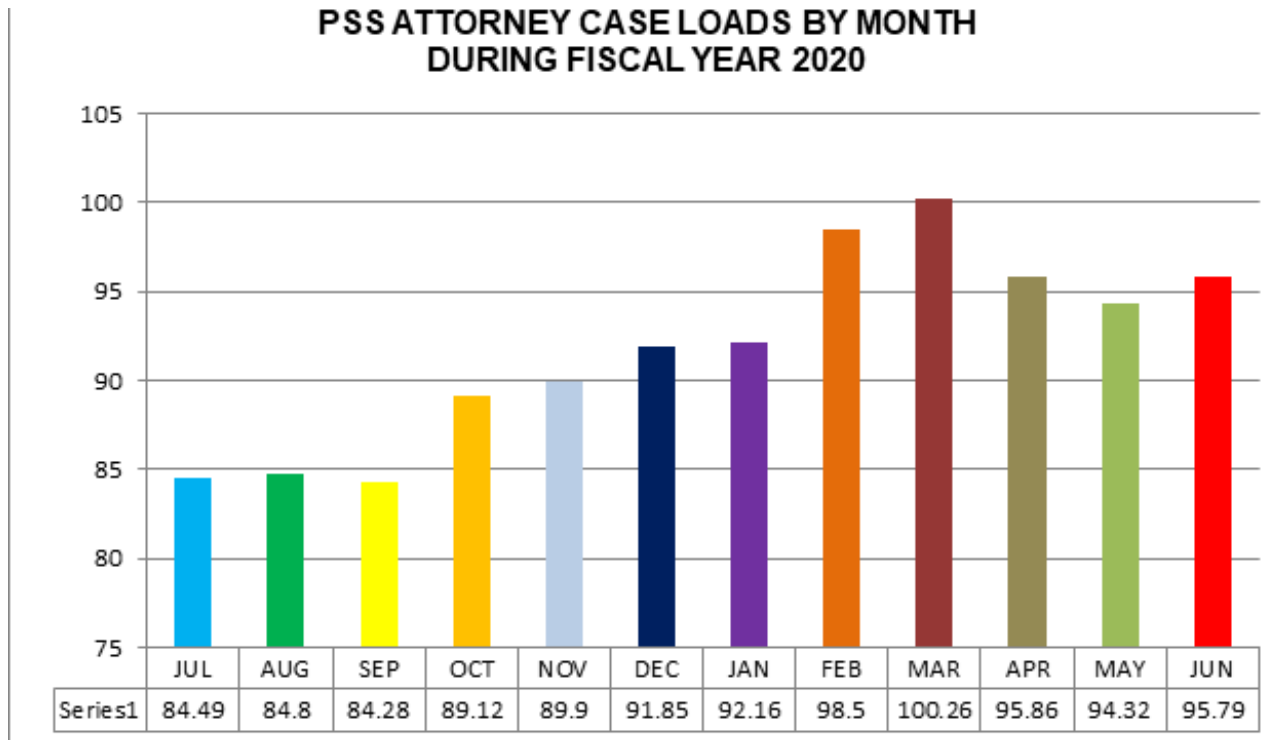
Child & Family Protection Division

The reinstatement of prevention programs continues to be the focus for the Department and the courts. The Department implements more home-based safety plans to remove fewer children from their homes. The Court is focusing on the use of dependency prevention or alternative resource programs to reduce the filing of dependency petitions.



Child & Family Protection Division

PSS saw a very slight increase in the number of open cases as the end of FY2020.



Child & Family Protection Division

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 10 of its 11 statewide offices in the following counties: Cochise, Coconino, Maricopa, Mohave, Pima, Pinal, Yavapai, and Yuma. CSS also handles the litigation in six additional counties: namely, Apache, Graham, Greenlee, La Paz, Navajo, and Santa Cruz and Gila County effective November 15, 2020.

Litigation 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 child support litigation. The majority of paternity orders are entered by the Voluntary Acknowledgement process through DCSS's Hospital Paternity Program and do not require litigation.

Arizona child support law is designed to ensure that the child support order is the appropriate amount for the parents and the child. Because parents' financial circumstances and the child's financial needs change throughout the potentially eighteen-year life of a child support order, many parents request a review of their order to determine whether a change—a modification—would be appropriate. As part of its service, DCSS provides a "modification review" to determine what the modified order may likely be and subsequently refers the case to CSS. In FY2020, modifications constituted 22% of CSS's caseload.

In all, CSS attorneys prepared for and/or attended 17,412 in-person court appearances and 3,602 virtual or telephonic court appearances—21,014 hearings in total. In addition to their court appearances, CSS attorneys provided legal advice on 6,193 cases, and reviewed 17,711 cases to assess for litigation. To maximize the collections for both current support and arrears, CSS attorneys filed 1,186 enforcement actions, which is an increase from last year. At the close of FY2020, the CSS litigation caseload consisted of 6,501 cases.

CSS attorneys are responsible to address requests from and issues raised by constituents. On average, CSS receives one-to-two such constituent requests per week for cases that may not be in active litigation (DCSS is administratively enforcing the child support order). In response, CSS attorneys assess the issue, confer with DCSS, and determine the appropriate course of action. Similarly, during the course of litigation, CSS attorneys must address questions and concerns from self-represented parents. Attorneys receive these questions in phone calls to their office as well as directly at court on a weekly basis. Conservatively, an attorney might receive an average of five-to-seven of this type of inquiry on a weekly basis. CSS attorneys, in response, provide legal information, such as resources for legal advice and information for the appropriate clerk of court.

Child & Family Protection Division

Policy and Training

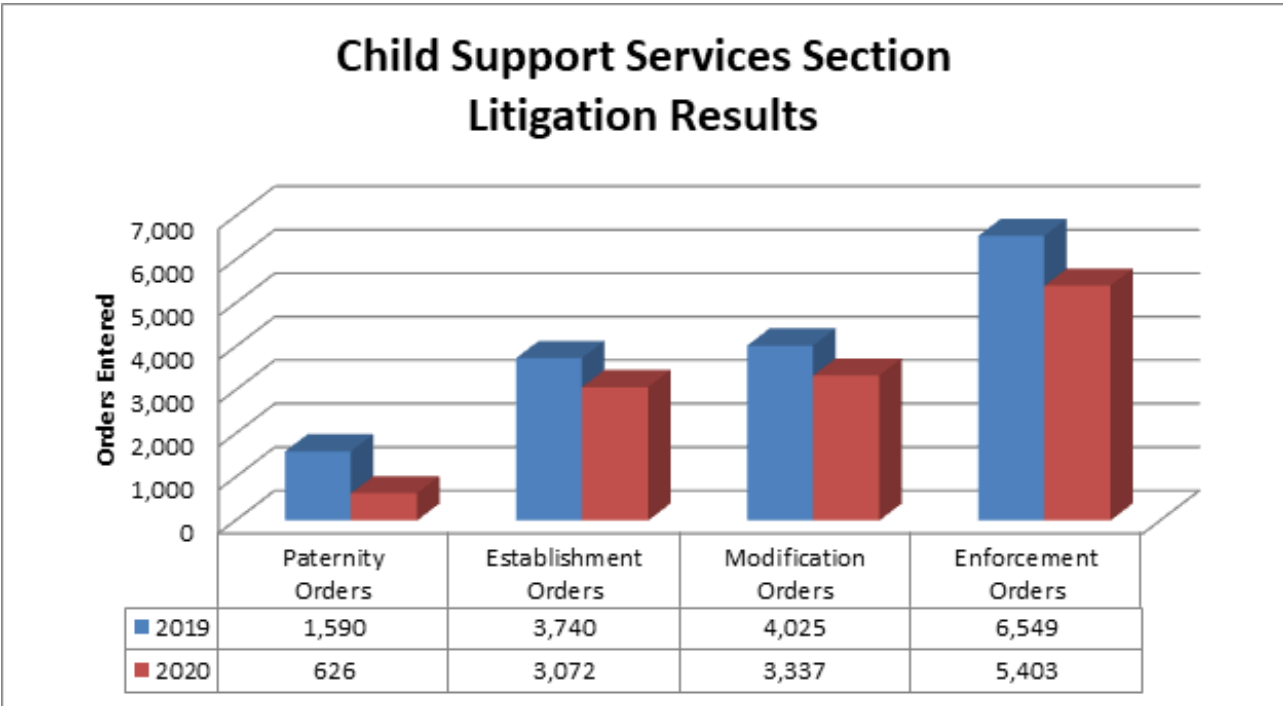
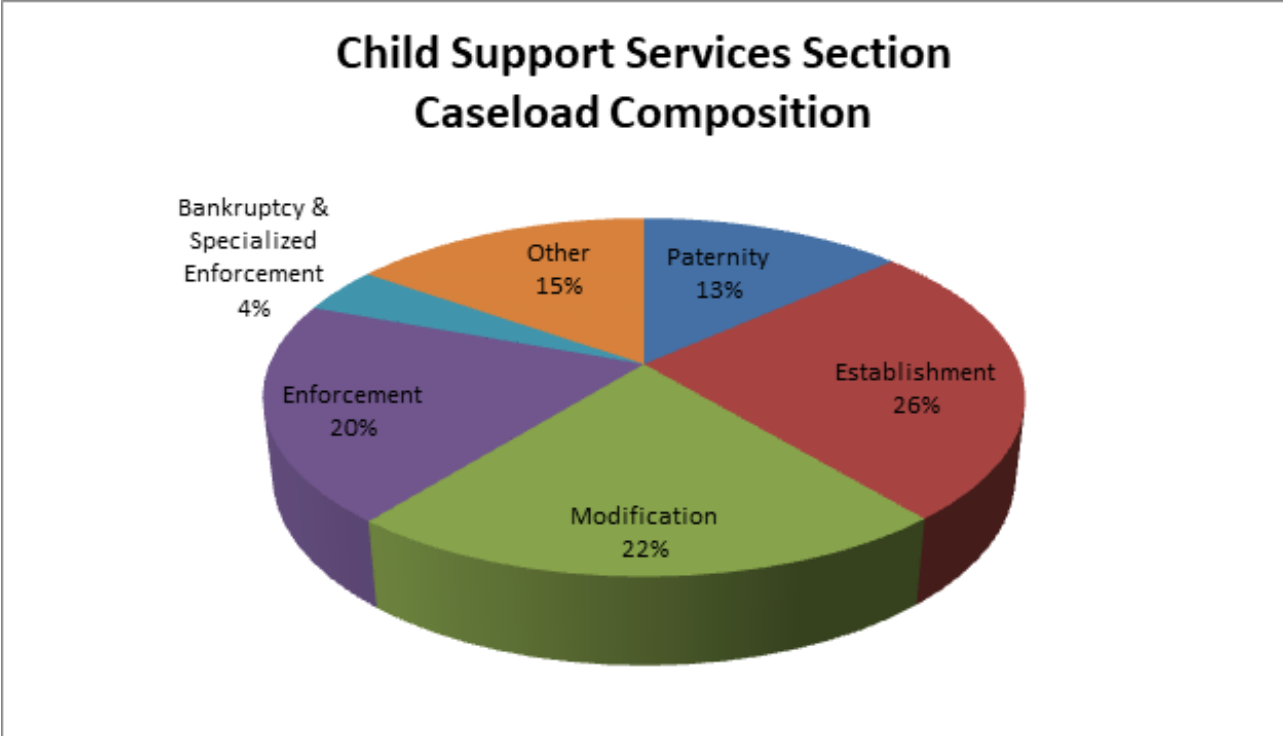
CSS attorneys advise DCSS on various legal issues arising from federal and state statutes, regulations, policies, and court decisions. As such, CSS trains its new and veteran attorneys with these legal authorities in mind. Specifically, new attorneys participate in a four-week training course that covers the applicable Code of Federal Regulations parts, United States Codes sections, and Arizona Revised Statutes regarding paternity and child support establishment, modification, enforcement, and termination. New CSS attorneys also undergo six-to-eight weeks of courtroom training with their supervisor and senior attorneys. As CSS attorneys move through their career in the section, they continue to be trained on developments in the law, as well as courtroom and litigation techniques. Over the last year, CSS has worked to refine its attorney and staff training program to ensure that our members continue to be trained at a high level. CSS also offers certain training to DCSS employees regarding implementation of these various legal requirements.

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 sometimes results in resolving those matters through substantive motions rather than appellate briefing. The Appeals Unit filed four appellate briefs in FY2020, in addition to joining in another party's brief and participating in that appeal's resulting oral argument.

FY2020 Accomplishments:

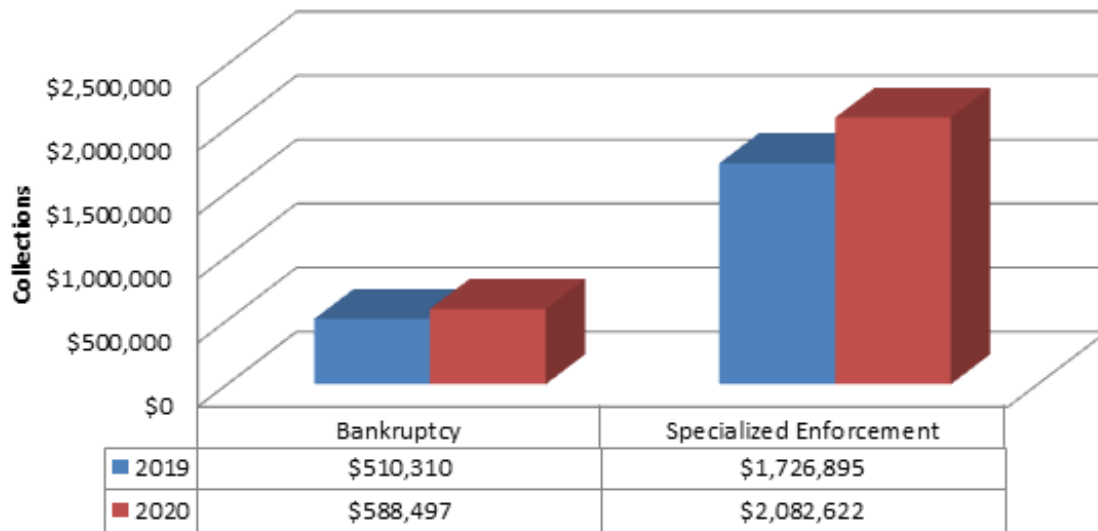
- Judicially established paternity for 745 children.
- Established new child support orders for 3,072 families.
- Obtained child support judgments of over \$26 million.
- Resolved 3,337 actions for modification of support.
- Assisted DCSS to collect over \$393,828,969 in support.
- Contributed to increased current support collections from 59.8% to 60.76% for every child support dollar owed.
- In bankruptcy cases, collected \$588,497 in support.
- In non-family court litigation and administrative enforcement mechanisms, collected \$2,082,622.08 in support² —a 20.6% increase from FY2019.

Child & Family Protection Division



Child & Family Protection Division

Child Support Services Section Specialized Enforcement Collections



Child & Family Protection Division

Civil & Criminal Litigation & Advice Section

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, and a variety but smaller number of other matters arising from the work of agencies within the Arizona Department of Economic Security. The Unit has two attorneys dedicated to CLA appeals, with additional support from other team members as needed. In FY2020, the Appeals Unit filed several appellate briefs and substantive motions and responses in the Arizona appellate courts. In addition, the Unit provides monthly compliance reports to the Court of Appeals to comply with the Court's ongoing oversight of unemployment-benefits appeals. This fiscal year, the Court of Appeals issued two opinions in CLA appellate matters.

In FY 2020, the CLA Civil Practice Team:

- Opened, litigated and/or reviewed 1,023 administrative litigation and civil cases.
- Opened and reviewed 128 contracts, leases, intergovernmental agreements and/or amendments.
- Obtained 303 civil judgments in civil collections cases totaling \$913,185.75
- Secured an additional \$74,387.53 in civil judgment collections without the need for reducing multiple matters to a judgment.
- Collected \$821,622.70 through wage and bank garnishments.
- Filed 446 civil collections cases.
- Opened 90 "matter" files for tracking significant legal advice provided to DES.
- Responded to 1091 subpoena and requests for public records.

Child & Family Protection Division

Administrative, Civil and Appellate Litigation Resolved (Cases Closed) FY 2020

Program	Cases Closed
Adoption Subsidy	2
Adult Protective Services Review Team	226
Arizona Early Intervention Program-AZEIP	1
Bankruptcy P04	12
Comprehensive Medical and Dental Program	2
Department of Child Safety (DCS)	3
Division of Developmental Disability: Grievances	51
Division of Developmental Disability: Long Term Care	36
Division of Developmental Disabilities	43
Equal Employment Opportunity Commission (Matters)	23
Food Stamp Administration	24
Foster Care Licensing	5
Guardianship Subsidy	2
Licensing/Agency	8
Medical Assistance Under DBME	7
Mental Health (CYF/CPS Cases)	1
Personnel Department of Child Safety	4
Personnel Division Of Benefits & Medical Eligibility	7
Personnel Division Of Business and Finance	1
Personnel Division Of Developmental Disabilities	8
Personnel Div. Of Employment Of Rehabilitation Services	4
Personnel Division of Child Support	1
Protective Services Review Team	313
Rehabilitation Services Administration (RSA)	22
SNAP	15
Unemployment Insurance Benefits	239
Unemployment Insurance Contributions	22
Vocational Rehabilitation and Blind Services	31
Grand Total	1113

Child & Family Protection Division

FY 2020 - CLA Civil Collections Unit

Civil Collections by Program

Program	Filed	Judgments Entered	Total Judgments
Cash Assistance	1	1	2,581.00
Child Care	2	1	4,893.68
Child Care Administration	1	1	2,992.94
Combination Cases	5	5	15,443.69
Employee Overpayment	1	1	3,503.00
Food Stamp	8	8	27,492.25
Unemployment Insurance Benefits	428	286	1,264,629.08
Grand Total	446	303	\$ 1,321,535.64

Civil Collections by Program

Program	Collections Rec'd Judgment not Filed	Collections without Reducing Matter to Judgment
Food Stamp	1	2,269.00
Unemployment Insurance Benefits	28	72,118.53
Grand Total	29	\$ 74,387.53

Garnishment Collection Summary

1 st Quarter 2020	168,225.39
2 nd Quarter 2020	190,997.09
3 rd Quarter 2020	207,583.16
4 th Quarter 2020	254,817.06
Grand Total	\$ 821,622.70

Child & Family Protection Division

In FY 2020, the CLA Criminal Practice Team:

- Filed 151 criminal cases
- Obtained 288 criminal sentences
- Obtained restitution orders totaling \$755,008.21
- Collected \$686,807.99 in restitution prior to sentencing
- Obtained orders in fines totaling \$26,000.00
- Obtained orders for 4,266 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	\$14,676.00	0	0	30
Food Stamp	18	33	\$138,986.00	\$45,853.00	\$1,600.00	726
Unemployment Insurance Benefits	133	254	\$601,346.21	\$640,954.99	\$24,400.00	3510
Grand Total	151	288	\$755,008.21	\$686,807.99	\$26,000.00	4,266

Communications Division



Director of Communications
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.

54th Arizona Legislature, First Regular Session

Arizona's 54th Legislature, Second Regular Session convened Monday, January 6th, 2020, and adjourned Sine Die Tuesday, May 26th, 2020. The leadership teams for both chambers remained intact with Senator Karen Fann of Prescott serving as Senate President and Representative Rusty Bowers of Mesa serving as Speaker of the House.

A hefty 1,605 bills were introduced during the course of the 135 day legislative session. Of those, 90 were signed in to law by Governor Doug Ducey, and none were vetoed. The general effective date for all legislation that did not contain an emergency clause or delayed effective date is August 25th, 2020.

It is impossible to provide a review of the session without discussing the obvious impact that the COVID-19 pandemic had on the regular business of the legislature and the state. In a typical session, approximately one-third of all bills introduced will be signed into law. That was not the case this year. On March 23rd, 2020, the legislature suspended session right in the middle of committees hearing bills from the opposite chamber, the legislature suspended the session. This was expected to last three weeks. Unfortunately, the House was not able to reconvene until May 18th, when they voted on and transmitted a small batch of bills that didn't require further amendments to the Governor for his signature before adjourning. The Senate followed suit shortly thereafter without taking any further action on bills, effectively ending an unpredictable and unprecedented session.

Despite the pandemic, the legislative team within the Arizona Attorney General's Office (AGO) monitored nearly 800 bills throughout the legislative process and engaged on dozens of bills when appropriate. This effort would

Communications Division

not have been possible without the timely and thoughtful feedback from the AGO's subject matter experts. The following is a brief overview of 2020 AGO legislative priorities:

Pre-existing Conditions Coverage (2020 laws, Chapter 80)

The AGO partnered with Senator J.D. Mesnard and Representative Jeff Weninger to pass SB1397 (insurance; preexisting condition exclusions; prohibition), which will ensure Arizonans with preexisting conditions are not denied coverage by insurance carriers should the U.S. Supreme Court strike down the Affordable Care Act or relevant portions thereof. The legislation had 14 additional cosponsors and received near unanimous support throughout the legislative process. Arizona joins approximately a dozen other states that have enacted this practical and meaningful protection for Arizona's most vulnerable.

Updating Arizona's Civil Rights Act

The AGO enforces the Arizona Civil Rights Act (ACRA), which prohibits employment discrimination because of race, color, religion, sex, age, or national origin. Unlike federal discrimination law, the ACRA does not provide protections for pregnancy as a condition of sex. This means that women with a pregnancy discrimination complaint must bring their claim to the U.S. Equal Employment Opportunity Commission (EEOC) in lieu of the AGO. The AGO worked with Representative Jeff Weninger to introduce HB2642 (civil rights amendments), which would have ensured Arizona's civil rights laws, like federal law, provide pregnancy discrimination protections. The bill received unanimous support throughout the legislative process but unfortunately did not receive a final vote in the Senate due to COVID-19.

Creating Criminal Penalties for Illegal Horse Racing

Unlicensed, illegal horse races organized by drug cartels and other criminal networks are a serious issue for law enforcement that compromise both public safety and animal welfare. These highly complex and well-organized events typically include music, food trucks, gambling, and can have tens of thousands of attendees. To address a hole in the criminal code that makes it difficult to successfully prosecute these cases, the AGO worked with Representative John Kavanaugh to introduce HB2652 (unauthorized racing meeting; penalties; racketeering), which elevated the penalty to a Class 6 Felony and added it to Criminal Syndicate statutes. The bill received almost unanimous support in the House but did not have the opportunity to pass in the Senate due to COVID-19.

Increasing Penalties for Illegal E-Cigarette Sales

The AGO identified several ways to address the youth vaping crisis and address retailers who demonstrate a pattern of illegally providing tobacco and vaping products to minors. HB2826 (tobacco; vaping; penalties; legal age) and HB2853 (furnishing tobacco; minors; enterprise penalties) were introduced by Representative Joanne Osborne and Representative Shawna Bolick, respectively, and would have increased the penalties for retailers that repeatedly violate the law by selling tobacco and vaping products to Arizona's youth. Both bills received unanimous support in the House but did not have the opportunity to pass due to COVID-19.

The AGO also pursued an increased appropriation to the Counter Strike Program, which began in 2002 as a partnership between the AGO and the Department of Health Services. The AGO currently has two special agents

Communications Division

who partner with teen volunteers to perform sting buy operations across the state. Over 35,000 inspections have been conducted since the program began. In FY19 alone, the program resulted in 550 criminal citations. The fail rate was a record low in 2018 (9.8%) but sadly has spiked recently with the popularity of e-cigarettes. The AGO was on track to increase funding for this essential program to expand its impact, but due to COVID-19 the state budget process was condensed and no new spending was permitted.

Consumer Protections for Auto Dealer Fraud

The AGO's Consumer Protection Division receives on average over one thousand consumer complaints each year relating to the purchases of motor vehicles, making them the second highest reported fraud category to the AGO. While the complaints relate to a variety of complex and problematic practices, the AGO identified three policy changes that would empower and provide greater protection for consumers. The AGO teamed up with Representative Leo Biasiucci to introduce HB2378 (motor vehicle transactions; dealers; notices). The bill would have expanded coverage of dealer bonds to cover non-payment of trade-ins, required written disclosure that a vehicle has a salvage title prior to completion of the sale, and prohibited unscrupulous dealers from using deceptive advertising to lure customers. It received unanimous support in the House but did not have the opportunity to pass in the Senate due to COVID-19.

Civil Remedy for Victims of Human Trafficking

The AGO has taken the lead in the battle against Arizona's human trafficking crisis with aggressive prosecutions of individuals who take advantage of vulnerable victims. Since January 2015, the AGO has prosecuted or is currently prosecuting 267 cases involving 327 defendants that are connected to sex trafficking, child sex trafficking, sexual exploitation of minors, or illegal enterprises/money laundering in the trafficking arena. As of July 15, 2020, the AGO has approximately 89 open cases involving 100 defendants charged with crimes connected to human or sex trafficking.

To further justice to victims of these heinous crimes, the AGO worked with Representative Shawna Bolick to introduce HB2624 (human trafficking; civil action; liability), which would have provided a civil remedy for victims of human trafficking against the individuals or entities that benefited from trafficking them. Civil litigation can provide relief for victims when restitution through a criminal case is not possible or is insufficient. While restitution is mandatory in criminal trafficking cases, it can be difficult to impose and often falls far short of the victim's true economic losses. HB2624 enjoyed unanimous support in the House but did not have the opportunity to pass due to COVID-19.

Protecting Homeowner's in State Judgments

The AGO worked with Representative Ben Toma to advance HB2495 (state judgments; liens; homestead; enforcement), which would have clarified the retroactivity of 2013 legislation on the expiration of civil judgments and allowed the State to attach judgment liens to homestead properties. A Court of Appeals Ruling from 2018

has prevented the AGO from attaching judgment liens to homestead properties, even in instances where there is equity exceeding the statutory homestead exemption. This forces the State into the unfortunate position of deciding whether to seek foreclosure in order to collect a debt. The foreclosure process is resource heavy and puts the State in an undesirable position of forcing an individual out of their home in order to collect a judgment. HB2495 would have allowed the State to simply attach the lien to the property and wait for the home to be sold to collect the debt, allowing the State to conserve resources while ensuring Arizonans are not forced out of their homes. The legislation was on track to pass with popular support but did not have the opportunity to be signed into law due to the COVID-19 pandemic.

Criminal Justice Reform

The AGO has consistently supported prudent and meaningful criminal justice reforms, including reforms to the state's civil asset forfeiture laws. The current administration has worked to reduce the AGO's dependency on asset forfeiture funds within the Anti-Racketeering Revolving Fund (ARRF) because it is the most ethical and fiscally sound path. In 2015, the current administration inherited 50 employees who were funded via forfeiture dollars. As this report is being produced that number has been reduced to just 10.75 Full Time Employees (FTEs), the lowest it has been in several administrations. During the 2019 legislative session, the AGO worked with lawmakers to cap the number of employees that can be funded through ARRF dollars at 16 FTEs to ensure no future administration will revert back. In 2017, the AGO supported legislation increasing asset forfeiture transparency and accountability for law enforcement agencies.

In February, SB1556 (civil asset forfeiture; conviction procedures) was introduced and rapidly passed out of the Senate with an agreement among stakeholders that the proponents of the legislation would work with the AGO and other law enforcement stakeholders to consider addressing operational and practical concerns with the bill as it moved through the House. While the proponents of the bill argued that the effect of the legislation was to merely require a criminal conviction to seize property, the proposed legislation would have entirely eliminated the pre-conviction seizures and liens that allow the State to preserve property in cases involving convictions related to white collar crime. This is a fundamental change to existing law that would ultimately devastate victims by allowing for the transfer and depletion of ill-gotten gains that are typically used to make victims and taxpayers whole after a conviction.

When the Legislature returned from a suspension of legislative activity, this bill was rushed through in the final days of session and no opportunity for amendments was provided, despite assurances that revisions would be considered in the House. The pro-victim's rights community was ultimately successful in stopping SB1556 from becoming law. Justice reform must be approached with a rational mind that balances the rights of victims with individual liberties, and the AGO looks forward to continuing balanced reform in the coming years.



Communications Division

Community Outreach

The Community Outreach Section (Outreach) assists the mission of the AGO by providing a public face for the services available to the public within the AGO. Outreach continuously updates presentations and educational materials to ensure the public is provided critical updates on the latest scams and aware of the most current educational presentations and information. Outreach provides diverse presentations and programs designed to increase education and community awareness for children and adults on important topics such as:

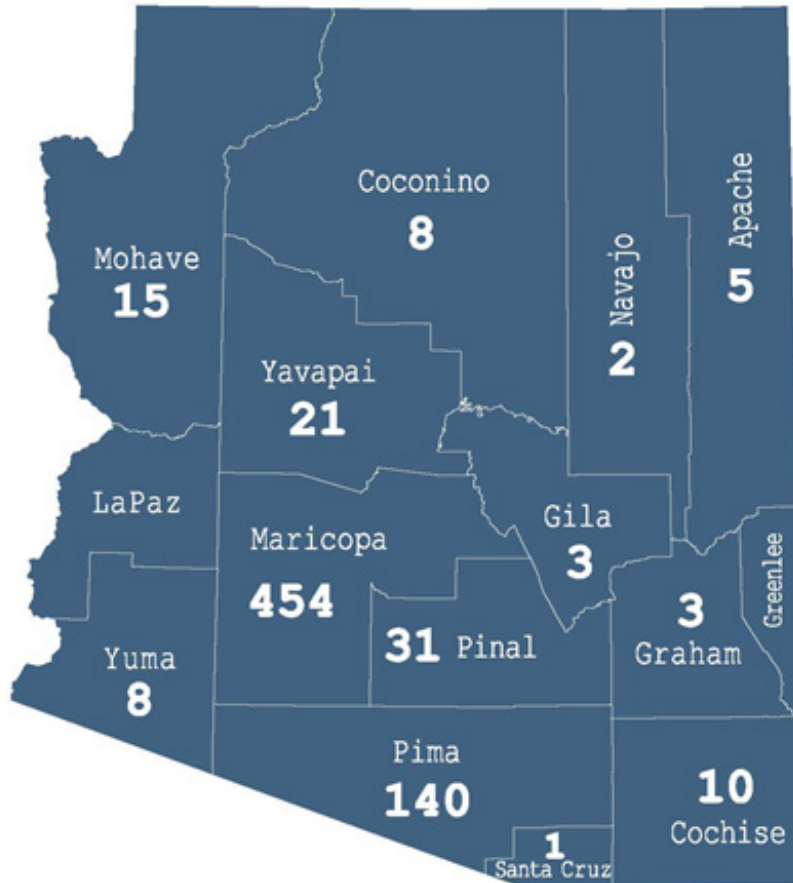
- Anti-bullying
- Consumer scams
- Human trafficking
- Life-care planning
- Suicide prevention
- Opioid addiction and prevention
- Internet safety
- Vaping and tobacco cessation

From FY2015 to FY2020, Outreach has provided more than 3,300 community education presentations to more than 300,000 parents, seniors, students, and other members of the community, and has participated in nearly 300 other public events, reaching more than 100,000 Arizonans. In total, Outreach has educated or touched more than 400,000 Arizonans in just six years.

**AZ Attorney General's Office
Community Outreach and Education
Presentations Per County**

Total: 701

31 Spanish Presentations

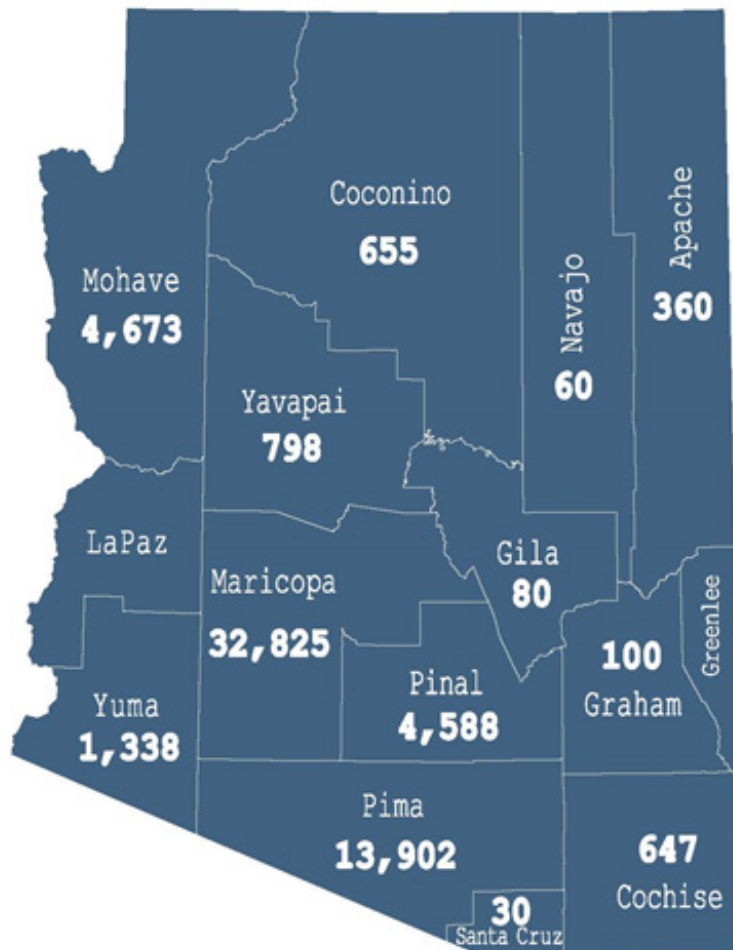


Fiscal Year 2020

Communications Division

AZ Attorney General's Office Community Outreach and Education Attendees Per County

Total: 60,056



Fiscal Year 2020

Communications Division



Before the COVID-19 pandemic hit, Outreach was on pace to have its best year to date in FY2020. Despite in person presentations and events coming to a halt in March of 2020, Outreach still provided 701 educational presentations in 13 counties to 60,056 Arizonans in FY2020, including 31 in Spanish. Additionally, Outreach attended another 48 community events, providing educational resources to another 17,500 Arizonans. In FY2020, Outreach delivered 4,900 life-care planning packets, in addition to another 20,000 downloads of the packet from the AGO website. Outreach delivered 14,449 scam alerts to Arizonans, and assisted in the destruction of 47,250 pounds of sensitive documents via “shred-a-thons.”

Senior Scam Alerts
14,449 scam alerts delivered to Arizonans in FY2020

SCAM ALERT:
Friends and Family Scam

Scam at a glance:
A scammer contacts you posing as a friend or family member to trouble. They request that you send money right away to resolve an issue, and they ask you to keep it a secret from other family members.

Scammers prey on the kindness and generosity you have for your friends and family in order to steal your hard-earned money.

Warning Signs:

- Being contacted out of the blue by someone claiming to be a family member or friend, asking for money due to an emergency, most commonly an arrest, accident, or medical bill.
- Contact is done by phone, email, mail, or social media.
- The scammer may contact you at odd hours.
- You are asked to send money immediately.
- The scammer tells you not to tell anyone about the situation.

Card 7 of 12

Protect Yourself:

- Resist the urge to act immediately.
- Ask as many questions as possible to verify the person contacting you is who they claim to be. Birthdays, addresses, and ages are easy for scammers to look up. Travel itineraries are also easy to look up if it is posted on social media.
- Try to contact another family member of the person the caller is claiming to be, or anyone who would know of the real family member's or friend's whereabouts.
- Call or text your friend or family member directly. The easiest way to verify someone's identity may be via their cell phone.
- Never send money if you are even slightly skeptical about where it may be going.

Resources:

Arizona Attorney General's Office
www.azag.gov/complaints/consumer
Phoenix: (602) 542-5763, Tucson: (520) 628-6648 or Toll-Free: (800) 352-8431

Talk Force Against Senior Abuse Helpline
(800) 542-2124 or (844) 894-4733

Federal Trade Commission
www.ftc.gov or (877) 382-4357
www.azag.gov/seniors/foia/alert

Card 7 of 12

ALERTA SOBRE LAS ESTAFAS:
Fraude en la Venta y Reparación de Autos

Detalles sobre las estafas:
Los concesionarios automovilísticos y las talleres de autos ayudan a los consumidores con las necesidades de sus vehículos; sin embargo, algunos a propósito engañarán o defraudarán a los consumidores con respecto a los términos de la compra o de la reparación de un vehículo.

Ya sea que usted está comprando un vehículo o buscando a un mecánico con buena reputación, siempre es importante investigar.

Señales de Advertencia:

- La agresión para que firme los documentos.
- Los términos del contrato son distintos a lo que le prometió el agente de la concesionaria.
- El vendedor le sugiere que usted se lleve el vehículo a su hogar antes de que se apruebe su financiamiento.
- No le permiten ver las partes o reflexiones que necesitan ser reparadas.
- Ellos temblorosos con usted en cualquier momento.

Protéjase:
Comprando un Auto

- Investigue el valor del auto antes de negociar el precio.
- Negocie principalmente con respecto al precio real del vehículo, no sobre el pago mensual.
- No firme un contrato con espacios en blanco.
- Revise las tasas de financiamiento de su banco o unión de crédito antes de salir a comprar vehículos.

Obteniendo Reparaciones

- Si es posible, obtenga varias cotizaciones por escrito antes de realizar cualquier reparación mayor.
- Obtenga estimaciones de costo por escrito que identifiquen el problema y el costo estimado.
- No pague por cualquier cosa que usted no haya autorizado.
- Haga su tarea. Obtenga información sobre talleres de reparación de la oficina de mejores negocios Better Business Bureau.

Recursos:

Oficina del Procurador General de Arizona
www.azag.gov/complaints/consumer
Phoenix: 602-542-5763, Tucson: 520-628-6648
Ó larga distancia gratuita: 1-800-352-8431
Línea de Ayuda de la Fuerza de Trabajo Contra el Abuso de Personas Mayores
602-542-2124 ó 1-844-894-4733

Communications Division

Outreach relies heavily upon direct contact with the community to provide educational presentations, most of which take place in K-12 settings, retirement homes, and community centers. In response to the pandemic, Outreach shifted to an online format, providing live webinar presentations and pre-recordings of all presentations that can be viewed conveniently and remotely at an individual's leisure. In FY20, Outreach provided 64 webinars to 1,741 Arizonans. Since the pandemic began, AGO Outreach has provided 112 free educational webinars across the state to more than 2,400 attendees.



The AGO continues to coordinate strategies to stop human trafficking through training and prosecutions, with the overall goal of improving public safety. Since January 2015, the AGO's Criminal Division has prosecuted or is currently prosecuting 267 cases involving 327 defendants that are connected to sex trafficking, child sex trafficking, sexual exploitation of minors, or illegal enterprises / money laundering in the trafficking arena. Additionally, the AGO recognizes prosecution alone is not enough and more needs to be done in the educational arena to help individuals avoid becoming victims of trafficking in addition to educating the public about how to identify a trafficking victim.

Outreach offers a human trafficking awareness program that targets youth, parents, and the general public. The program focuses on prevention and is available to the public free of charge. Since January 2015, trainers have presented the program approximately 172 times to over 7,254 attendees while distributing over 8,000 education booklets. Eleven of these trainings were for staff and volunteers with foster care licensing agencies throughout Arizona and over 100 attendees were school resource officers.

Outreach also helps provide support for SAFE Action Project, a recently launched collaborative effort to train tourism professionals at all levels to identify, report, and prevent human trafficking. This effort is done in

Communications Division

conjunction with the AGO, the Arizona Anti-Trafficking Network, the U.S. Department of Homeland Security, and TRUST Arizona. To date, trainings have been provided to the airline industry, representatives from major hotel chains, and representatives from the trucking industry.

Outreach also works with partners such as the Arizona Office of Tourism, Truckers Against Trafficking, and Lyft to provide training and educational materials to help employees identify the signs of human trafficking and what to do if someone suspects a crime is being committed. For example, an informational card was recently developed by Outreach in conjunction with Lyft to distribute to drivers and to be made available to customers in operator vehicles.



In order to assist the AGO's larger mission in tobacco enforcement and educating the public on the dangers of e-cigarettes/vaping, Outreach began providing anti-vaping educational presentations to the public in January 2019. Through August 2020, Outreach has provided 187 in-person anti-vaping presentations to 16,715 people in addition to 12 webinars to another 108 people. Outreach's vaping presentations have become one of the most popular education programs, with 143 of these presentations taking place in FY2020.

Communications Division



COMMUNICATIONS DIVISION

FY2020 GRANTS

OFFICE OF THE ARIZONA ATTORNEY GENERAL

\$300K TO HUMAN TRAFFICKING SURVIVORS

Support services and shelter will be provided to 150 survivors via:

- Phoenix Dream Center
- Starfish Place
- Our Family Services
- A New Leaf

"We are blown away at the level of commitment and support that the Arizona Attorney General's Office continues to provide to victims and survivors of human trafficking. Not only is the AG's office on the front lines of making our community safer through aggressive commitment to prosecuting traffickers, their release of grant funding to help organizations who assist survivors is changing the landscape of services available to survivors."
-Pastor Brian Steele, Executive Director
Phoenix Dream Center

\$400K TO FIRST RESPONDER MENTAL HEALTH

Treatment, services and training will serve more than 2,000 first responders and their families via:

- United Phoenix Firefighters
- EMPACT Suicide Prevention
- Marana Health Care

"Arizona first responders are at greater risk for behavioral health related problems due to the constant exposure to death and trauma, but are often reluctant, resistant or ill-prepared to access care and treatment due to the "culture" of the profession. EMPACT is excited to expand our recovery-based efforts by implementing the Support for Arizona First-Responder (SAFeR) Project, thanks to support from the Arizona Attorney General's Office..."
- Erica Chestnut-Ramirez
EMPACT Suicide Prevention Center

Communications Division

Community Grants

The AGO routinely uses funding from consumer settlements to issue competitive grants and funding for various community needs. During FY2020, the AGO provided critical funding to the following entities:

\$300,000 in Grants to Organizations that Provide Support and Shelter to Survivors of Human Trafficking

Nearly 150 individuals, including children and babies, are expected to benefit from services provided to four different organizations including the Phoenix Dream Center, Starfish Place, Our Family Services, and A New Leaf. The funds will help the organization expand survivors' access to temporary or permanent shelter, counseling, education, medical care, vocational training, and other related essential support services for trafficking victims.

\$400,000 in Grants to Assist with First Responder PTSD and Mental Health

Over 2,000 first responders and first responder families are expected to be served statewide over the next year through direct treatment, mental health services, and training as a result of four different grants to organizations that provide mental health treatment and services to first responders. Grants were provided to the United Phoenix Firefighters, EMPACT Suicide Prevention, and Marana Health Care.

MORE TESTIMONIALS

"As one of the nation's first ever public housing for victims of human trafficking, Starfish Place has become a beacon of hope for women and children trying to break the cycle. I am thrilled to hear that Starfish Place has received a \$75,000 grant award from the Office of the Arizona Attorney General. I am also not surprised, given the personal attention and resources Attorney General Brnovich has devoted to fighting this disgusting scourge on our community. This grant will help fund essential onsite medical care, child care assistance and tuition fees for victims. Now more than ever, we must ensure that this vital property and the resources it provides are available to those who need it."

- Phoenix City Councilman Jim Waring
Chair, Human Trafficking Task Force

"Our proactive approach to managing the effects of PTSD and behavioral health have been instrumental in keeping first responders healthy and capable. The grants awarded by the Arizona Attorney General's will give our programs some much needed resources to continually grow and improve. The members of the United Phoenix Firefighters Association are deeply grateful for this funding and all the support that we have received from Attorney General Brnovich and his office."

- Steve Beuerlein, United Phoenix Firefighters



Communications Division

\$2.5 Million in Police Officer Safety Equipment Funding

During the 2019 legislative session the AGO worked with the legislature to re-appropriate \$2.5 million in settlement penalties and fees to administer safety equipment funding requests from law enforcement agencies. In FY2020, the AGO provided \$2.5 million in funding to purchase new safety equipment to over 100 law enforcement agencies statewide including local police departments, country sheriff's, and tribal agencies.

As a result of the funding, hundreds of officers and agencies across the state will receive new much-needed equipment including body cameras, ballistic shield and helmets, new radios or communications equipment, and new ballistic vests and protective plates.



Statewide Law Enforcement Training

The AGO is committed to supporting local law enforcement officers, agencies, and communities across Arizona. In partnership with federal, local, and state law enforcement agencies, the AGO provides free tools, resources, and training to Arizona Peace Officers statewide. These partnerships focus on officer safety, life-saving medical care, law enforcement community relations, continuing and enhancing technical skills, and protecting Arizonans.

In recent years, the AGO has sponsored free educational classes tailored to law enforcement officials including "Street Medicine," a life-saving trauma course, American Heart CPR / AED classes, basic and advanced handgun training, and opioid reversal drug (Narcan) administration classes. Diverse law enforcement classes were conducted in multiple counties during FY2020, however the COVID-19 pandemic brought in-person instructions to a halt in March 2020.

Despite the challenges, the AGO provided free trainings to hundreds of officers and first responder personnel across the state including classes on how to administer Narcan to 85 individuals, Advanced Street Medicine classes to 64 officers, Advanced Handgun classes to 44 officers, and Handgun classes to 60 Phoenix Police Department recruits.

Appeals & Constitutional Litigation Division



Division Director Beau Roysden

MISSION:

The Appeals & Constitutional Litigation Division provides leadership in criminal appeals and capital litigation, civil appeals, federalism litigation, defending state statutes from legal challenges, election-related matters, enforcement of state statutes, legal opinions, ethics, and library and research services. It is committed to excellence, fairness, and integrity.

Division Summary

The Solicitor General's Office is responsible for:

- *Managing the State of Arizona's civil and criminal appellate litigation*
- *Managing the State of Arizona's capital and post-conviction litigation*
- *Protecting the State's sovereignty from federal overreach*
- *Defending constitutional challenges to Arizona state laws*
- *Initiating election enforcement matters on behalf of the office*
- *Initiating civil enforcement actions for improper expenditure of public monies*
- *Legislative requests for investigation pursuant to SB 1487*
- *Overseeing the preparation and publication of Attorney General Opinions*
- *Enforcement of the state's open meeting laws;*
- *Investigating complaints regarding violations of Arizona's election 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*

Special Litigation Section and Civil Appeals Section

The Special Litigation Section, which is led by Solicitor General O.H. Skinner, fought for Arizona and Arizona consumers during the past fiscal year, scoring major victories at both the state and federal level. This included substantial victories in the fight against class action settlement abuse, important victories in defense of the state's laws, and major regulatory reform victories that will benefit Arizonans. The Solicitor General also coordinated amicus briefs and appeared in federal and state appellate courts, including the U.S. Supreme Court on behalf of the State.

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.

Appeals & Constitutional Litigation Division

Major Accomplishments - Special Litigation Section

Federalism Unit

The Federalism Unit is primarily responsible for protecting the state from overreach by the federal government and other states. The unit also often serves as the lead unit in defending state statutes against legal challenges in federal and state court. In the 2019–2020 fiscal year, the federalism team took part in high-profile litigation in both state and federal court, and pressed for pro-consumer regulatory reform.

Federalism Unit Highlights

AACJ v. Brnovich - The Federalism Unit successfully defended important aspects of the State's victim's rights laws against a First Amendment challenge brought by criminal defense attorneys at the federal district level. The federalism unit continues to defend the State's statute as there is ongoing litigation at the Ninth Circuit Court of Appeals.

Platt v. Moore - The unit obtained a dismissal of a challenge to the state's forfeiture laws in conjunction with attorneys in the forfeiture section in the Criminal Division. This case was appealed and argued in the Ninth Circuit Court of Appeals.

Miracle v. Hobbs - The unit had a complete victory in this lawsuit that challenged the constitutionality of Arizona's statute that helps ensure accountability by petition circulators in the state's voter initiative process.

Arizonans for Second Chances v. Hobbs - The unit scored another victory when the Arizona Supreme Court ruled in favor of the State 6-1 and denied relief in a lawsuit that challenged Arizona statutory and constitutional provisions that protect the integrity of the system of qualifying initiatives for the ballot.

Arizonans for Fair Elections v. Hobbs - The unit also prevailed in this lawsuit involving initiative integrity. The district court and the Ninth Circuit denied Plaintiffs' requests for injunctions in a case involving qualifications of initiatives for the ballot.

CDK Global LLC v. Brnovich - The unit defeated a preliminary injunction request seeking to enjoin a state law that sought to prevent anti-competitive behavior in the computer systems that store data for automobile dealers. After plaintiffs appealed the decision, the unit is continuing to defend the law before the Ninth Circuit Court of Appeals.

Department of Homeland Security v. Thuraissigiam - The unit led a 10-state amicus brief supporting the federal government. In its 7-2 ruling, the High Court reversed the Ninth Court and affirmed the ability of federal officials to quickly remove those with invalid asylum claims.

Appeals & Constitutional Litigation Division

Brnovich v. DNC - The unit obtained a stay of a Ninth Circuit's decision striking down Arizona's ban on ballot harvesting and regulation of out-of-precinct voting. The Federalism Unit filed a petition for a writ for certiorari with the U.S. Supreme Court arguing that Arizona had authority to enact the laws to prevent voter fraud and safeguard elections. Fourteen amicus briefs were filed in support of the State's position, including a brief joined by 17 different states.

Government Accountability Unit

The Government Accountability Unit's (GAU) responsibilities include civil enforcement of state law relating to public bodies, public monies, and state election law. GAU investigates and litigates: 1) violations of state law by counties, cities, and towns under A.R.S. § 41-194.01; 2) illegal payments of public monies; 3) open-meeting law violations; 4) violations of school procurement regulations and laws; 5) civil enforcement of election laws, including failure-to-file referrals for candidates and lobbyists; 6) quo warranto actions; and 7) other actions for declaratory and injunctive relief. Attorneys also handle investigations and litigation on topics that involve significant constitutional, statutory, and/or rule interpretation, or institutional issues. GAU attorneys assist in drafting and reviewing Attorney General opinions, and writing amicus briefs on behalf of the Attorney General's Office in cases pending in state and federal courts.

The Government Accountability Unit is also authorized to assist in consumer protection matters. In May 2020, the Attorney General brought a consumer protection action against Google LLC involving its collection of users' location data. The complaint alleges that Google engages in unfair and deceptive acts and practices to collect this data, which it then uses to power its lucrative advertising business. The case was the product of a nearly eighteen-month pre-suit investigation.

Open Meeting Law Enforcement Team ("OMLET")

The OMLET received 210 open meeting law complaints, of which 172 were closed and 18 resulted in violations.

Referrals from Arizona Secretary of State for Violations of Arizona Laws Requiring Lobbyists and Committees to File Reports

GAU received 163 referrals from the Secretary of State's Office finding reasonable cause that political committees and lobbyists failed to file reports required under A.R.S. §§ 16-926, -927, and 41-1232.02 and 41-1232.03. Of those, GAU sent 134 notices of violation, and of those, 23 ultimately resulted in final orders imposing civil penalties.

S.B. 1487 Investigations

The GAU received three requests for investigations from legislators under A.R.S. § 41-194.01. The Office's statutorily-required reports led to two special action petitions filed in the Arizona Supreme Court. One stems from an investigation of the City of Tucson's Ordinance, which found that Tucson is likely violating A.R.S. § 16-204.01 by continuing to hold elections "off-cycle" (city elections held during odd-years) despite having a significant decrease in voter turnout between the 2018 statewide election and 2019 city election. Accordingly, the GAU filed a special action in Arizona Supreme Court seeking to declare that Tucson's continued off-cycle elections violate Arizona law. The action is currently pending in the Arizona Supreme Court.

Appeals & Constitutional Litigation Division

Elections Integrity Unit

The Elections Integrity Unit (“EIU”) is responsible for the Office’s civil enforcement of state election law. Further, where appropriate, the EIU works in conjunction with and refers election integrity matters to the Criminal Division for prosecution. The EIU was established by the legislature in 2019-2020 Fiscal Year Budget through the Consumer Protection – Consumer Fraud Revolving Fund to establish a unit to receive and investigate elections-related complaints.

The Elections Complaint Submission form was launched by the EIU at the end of FY 2019-20, enabling concerned citizens to electronically report instances of alleged election law violations. Arizona is one of just five states that have an online form to submit elections-related complaints. Prior to the form’s launch, the EIU received emailed and mailed complaint submissions in a non-uniform manner.

Highlights:

The EIU’s inaugural project was to conduct the statutory review of the Secretary of State’s 530-page 2019 Elections Procedures Manual (“Manual”) to ensure adherence to Arizona law. See A.R.S. § 16-452(B). In so doing, the EIU identified 115 suggested changes to the Manual, of which 100 were applied in whole or part.

Notable adjustments to the Manual based on EIU input include: adding comprehensive security protocols for ballot drop-off locations and drop boxes; creating uniform procedures to handle out-of-precinct voters; eliminating procedures which contravened Arizona law, including post-election application of missing signatures and electronic adjudication (which was subsequently authorized by the legislature and added via an Addendum to the manual); and clarifying procedures that were statutorily incomplete or contained partial misstatements of Arizona law.

In March, 2020, the EIU successfully enjoined Maricopa County Recorder Adrian Fontes from unlawfully mailing Presidential Preference Election ballots. Specifically, just four days before the election, Fontes planned to mail early ballots to all voters, regardless of whether or not they requested a ballot by mail. Such a mailing would have not only violated Arizona law, but voters would have had inadequate time to both receive their ballot and timely return in order for their vote to be counted. Absent obtaining an injunction, thousands of voters would likely have been disenfranchised, and the election’s orderly administration would have been upended.

The EIU also supports the Office’s participation and intervention in elections-related cases, including *Arizona Democratic Party v. Hobbs* (Notice of Appeal filed by Brnovich on September 10), *Brnovich v. DNC* (formerly *DNC v. Hobbs*) (Cert Petition to SCOTUS filed), *Arizonans for Fair Elections v. Hobbs* (prevailed), *Second Chances v. Hobbs* (prevailed), and *Miracle v. Hobbs* (prevailed).

The EIU filed an amicus brief in the Arizona Supreme Court in *Lohr v. Bolick*, arguing legal protections provided to judicial officers, law enforcement, domestic abuse victims and others under A.R.S. § 16-153 should necessarily protect those individuals when they run for public office.

Appeals & Constitutional Litigation Division

Attorney General Opinions

The GAU drafted the following Attorney General opinions:

- *Concerns Relating to Arizona's Open Meeting Law and COVID-19*, No. I20-002 (March 13, 2020)
- *Concerns Relating to COVID-19 and Procurement Procedures That Apply to School Districts Under Arizona Law*, No. I20-003 (March 23, 2020)
- *Candidate Filing Deadlines at the Secretary of State's Office*, No. I20-004 (March 24, 2020)
- *Authority of Local Officials and County Sheriffs to Enforce Violations of Lawful Emergency Declarations Issued by Cities and Towns*, No. I20-006 (March 31, 2020)
- *Use of School District Funds for Health-Related And Other Expenditures for Families, Students, And Community Members In Response to COVID-19*, No. I20-007 (April 23, 2020)

Class Action Fairness Efforts

The Class Action Fairness team within the Special Litigation Section carries out the Attorney General's statutory role under the federal Class Action Fairness Act, which includes reviewing hundreds of notices of federal class action settlements and stepping in to ensure that those settlements properly put consumers first. During the year, the team filed briefs at both the district court and appellate levels on behalf of consumers.

Class Action Fairness Effort Highlights

In *In re: Google LLC Street View Electronic Communications Litigation*, the team filed a brief continuing its efforts to highlight the dangers of cy pres class action settlements, which divert settlement funds away from class members. The brief argued that the settlement's purported injunctive relief was duplicative of relief that 39 State AG's obtained in 2013 and that the settlement could not be approved when the entire \$13 million cash fund was being sent to cy pres recipients and class counsel instead of to the class members. O.H. Skinner participated in the final fairness hearing, speaking against approval of this cy pres-only settlement. This brief joins the teams' prior briefs regarding the dangers of cy pres settlements including at the courts of appeals and the Supreme Court.

In the District of Arizona, the team's efforts in *Unknown Plaintiff Identified as Jane V., et al., v. Motel 6 Operating LP* resulted in the parties amending the settlement agreement to increase the minimum class member recovery from \$50 to \$75 and to remove class-wide caps ultimately resulting in class members' ability to receive more of the settlement funds.

Procurement Investigations

GAU brought a school procurement investigation against Colorado River Unified School District (CRUSD) stemming from a related open meeting law investigation. The Office agreed in principle on favorable terms with the defendant, with CRUSD agreeing to enter into a consent judgment that would require monitoring, training, audits, and payment of investigative costs.

GAU brought a school procurement investigation and lawsuit against East Valley Institute of Technology (EVIT) based upon a self-report from EVIT's hired investigator. The Office conducted approximately 10 examinations under oath to attempt to uncover any further procurement violations by the former superintendent. Ultimately, the Office agreed in principle on favorable terms with the defendant, with EVIT agreeing to take remedial action to prevent such violations in the future and agreeing to enter into a consent judgment that would require monitoring, training, audits, and payment of investigative costs.

GAU sent a representative to revise and amend the current Arizona Administrative Rules regarding school procurement, in particular, the rules regarding multiple purchases and cooperative purchasing.

Appeals & Constitutional Litigation Division

GAU continued its monitoring with two school districts with which it formerly entered consent judgments, Scottsdale Unified School District (SUSD) and San Tan Charter Schools (San Tan). GAU oversaw the required special audit for SUSD. Furthermore, GAU aided in drafting San Tan's new financial policies that will be used in its future special audits.

Major Accomplishments – Civil Appeals Section

For the Civil Appeals Section, appellate briefing continued at a rapid pace in fiscal year 2020. ACL attorneys reviewed and/or drafted more than 455 appellate briefs in fiscal year 2020, including nearly 374 in the Arizona Court of Appeals and 23 in the Ninth Circuit. ACL civil appellate attorneys also participated in over 26 moot court exercises.

Significant Cases

Carter Oil v. ADOR (App. 2020) - The Civil Appeals and Tax Sections obtained a reversal of an unfavorable tax decision, saving Arizona taxpayers and the State more than one hundred million dollars in improper refund tax claims. The Court of Appeals agreed with the Attorney General's Office, reversing a lower tax court's decision, thereby recognizing that dyed diesel fuel is not machinery or equipment.

Jessica P. v. DCS (App. 2020) - The Civil Appeals Section successfully defended the facial constitutionality of Arizona's statute governing termination of parental rights, with the court of appeals holding that the statute was narrowly drawn to serve the compelling state interest of promoting and protecting child welfare. The court further rejected the parent's claim that DCS had violated her right to reasonable accommodations under the Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213, concluding that Arizona's statutory requirement that DCS make reasonable efforts to provide reunification services is consistent with the ADA's requirement that disabled parents be reasonably accommodated.

Arturo D. v. DCS (App. 2020) - The court of appeals held that the juvenile court complied with the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), A.R.S. §§ 25-1001 to 25-1067, when it exercised temporary emergency jurisdiction to adjudicate the child dependent. The court of appeals rejected the father's arguments that the juvenile court erred because (1) there were no "custody orders" in California and (2) California did not "decline jurisdiction," but merely declined to open a case.

Sandra R. v. DCS (2020) — The supreme court vacated the court of appeals' opinion and held that the juvenile court does not violate due process by terminating parental rights to a non-abused child on the ground of abuse if it finds by clear and convincing evidence that there is a risk of harm to the non-abused child. The court further held that the juvenile court is not required to make detailed express factual findings concerning the risk of abuse if such risk is manifest in light of the nature of the abused child's injuries and the other children's vulnerability due to age.

Jessica C. v. DCS (App. 2020) — The court of appeals rejected a due process challenge to a custody determination in a dependency action. The court of appeals held that the appellant's actions below indicated an intent to relinquish any such due process right and further that she failed to demonstrate any resulting prejudice.

Appeals & Constitutional Litigation Division

Criminal Appeals Section and Capital Litigation Section

Overview of Accomplishments

In fiscal year 2020, the Criminal Appeals Section and Capital Litigation Section worked to uphold the convictions and sentences of criminal defendants in Arizona. The Criminal Appeals Section filed 643 briefs, habeas answers, petitions for review, responses to petitions for review, and other substantive motions and responses, which includes matters that went to evidentiary hearing and oral argument. Members of the Sections have also been involved in providing education and training on a variety of criminal, evidentiary, and procedural issues to prosecutors throughout the State.

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's members also respond to federal habeas petitions in non-capital cases, and a supervisor from the Section oversees all such cases for the Office. The Section also assists trial lawyers with research and advice regarding death-penalty issues, and Section members conduct periodic death-penalty and habeas-corpus seminars in connection with the Arizona Prosecuting Attorneys' Advisory Council and the National Attorneys General Training & 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. Section members also serve on the Arizona Supreme Court's Capital Case Oversight Committee, the Arizona Forensic Science Advisory Committee, and the State Bar's Criminal Jury Instructions Committee.

Major Accomplishments

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 would otherwise be 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 spent on costly retrials and re-sentencings.

Because of the COVID-19 pandemic, there were significant operational challenges presented in the last half of the 2020 fiscal year, including delays in docketing new matters and having attorneys and staff become familiar with a new document management system. Ultimately, however, these challenges were overcome and the Section's productivity was essentially the same as the prior fiscal year. The Criminal Appeals Section caseload remains heavy but manageable, and the quality of the work remains very good.

Appeals & Constitutional Litigation Division

Significant Cases

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

State v. Malone - Over a dissent by the Chief Justice, the Arizona Supreme Court reversed an opinion from the Arizona Court of Appeals and held that the defendant could not introduce evidence of his alleged brain damage to show a character trait for impulsivity to negate premeditation. This opinion reaffirms Arizona's Mott rule, which provides that evidence of a defendant's mental disorder short of insanity is not admissible either as an affirmative defense or to negate the mens rea element of a crime.

State v. Trujillo - The Arizona Supreme Court held that the Sixth Amendment jury-finding requirement does not apply to factual findings necessary to impose sex offender registration. In so ruling, the Court disapproved statements in a prior case, *State v. Noble*, which indicated that sex offender registration laws have traditionally been viewed as criminal punishment.

State v. Arias - In this high-profile case that garnered national attention, the Arizona Court of Appeals affirmed the defendant's first-degree murder conviction in the face of numerous allegations of prosecutorial misconduct. Although the court found that various instances of misconduct occurred, the court was convinced that based on the totality of circumstances, including the very strong evidence of guilt, the defendant was not denied a fair trial.



Assistant Attorney General Terry Crist III faces tough questioning in the Arias case

May v. Shinn - In this federal habeas case, the district court concluded that Arizona's child molestation statute was unconstitutional and that the defendant's counsel was ineffective for not challenging the statute. We were able to reverse this ruling by convincing the Ninth Circuit that, under the deferential standard of review applicable to federal habeas cases, the state court's rejection of this claim was not unreasonable. Further, when a panel of the Ninth Circuit voted to grant relief on another ground, we were successful in filing a motion for rehearing. Thus, the Ninth Circuit reversed the district court's grant of habeas relief, thereby affirming the defendant's multiple convictions for child molestation.

State v. Stuebe - In this case of first impression, the Arizona Court of Appeals held that video and email evidence that was automatically created by a machine was not hearsay. The court also held that automatically-triggered security video was not "testimonial," and, thus, its admission did not implicate the Confrontation Clause. This is an important case given that prosecuting agencies are utilizing electronic evidence more and more.

Appeals & Constitutional Litigation Division

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. However, this decline has resulted in an increase in federal habeas petitions, which are often voluminous and consume a tremendous amount of the Section's resources. This additional burden has been amplified by the effect of the United States Supreme Court's decision in *Martinez v. Ryan*, 566 U.S. 1 (2012), which not only effectively eliminated a robust procedural defense available to the State to defend against ineffective-assistance claims, but also has been interpreted by federal courts as permitting liberal evidentiary development of those claims. As a result, the Section anticipates more federal hearings in death-penalty cases going forward.

The COVID-19 pandemic has also resulted in some case delay. Restrictions intended to slow the virus's spread have prevented expert evaluations and other necessary prison visitation. Death-row inmates have requested and received numerous continuances of pleadings and evidentiary hearings, citing their attorneys' inability to perform investigative tasks and carry out other obligations that require in-person contact. Once the pandemic subsides and court systems resume normal operation, the Section will face a glut of backlogged cases, further taxing its resources.

On the plus side, the United States Department of Justice (DOJ) certified Arizona in April 2020 for expedited capital review procedures pursuant to Chapter 154 of the Anti-terrorism and Effective Death Penalty Act. DOJ determined that Arizona's mechanism for appointing counsel in state post-conviction cases meets the requirements for compensation and competency set forth in 28 U.S.C. § 2265(a). DOJ's decision is under review by the United States Court of Appeals for the District of Columbia but, if upheld, will enable Arizona to take advantage of several statutory benefits, including a shorter limitations period applicable to habeas petitions, fixed and expedited timelines for court decisions, and more stringent procedural defenses. See 28 U.S.C. § 2261 et seq.

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. If and when lethal-injection drugs are obtained, 20 inmates have exhausted their of-right appeals and the Section is prepared to seek execution warrants for those inmates. The ongoing lack of execution drugs will, without question, permit these inmates to initiate successive, and often frivolous, state and federal appellate proceedings, further burdening the Section's resources and delaying finality for crime victims. This trend is already emerging, with several inmates having filed successive state post-conviction and federal habeas petitions.

Significant Cases

United States Supreme Court

The Section's most significant accomplishment was its success in a United States Supreme Court case handled jointly with the Special Litigation Section and argued by Solicitor General O.H. Skinner. In *McKinney v. Arizona*, the Court considered whether a procedure the Arizona Supreme Court used to correct an appellate error found on habeas violated the Sixth and Eighth Amendments. Specifically, in an en banc decision in McKinney's case, the Ninth Circuit granted the habeas writ after finding that the Arizona Supreme Court had excluded certain categories of mitigation when independently reviewing McKinney's death sentence on direct appeal, in violation of the Eighth Amendment. On the State's motion, the state supreme court corrected this perceived error by conducting a new independent review of the death penalty under the correct standard.

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McKinney challenged this procedure before the United States Supreme Court, arguing that it constituted a reopening of direct appeal, triggering the sentencing jury-trial right recognized after McKinney's conviction became final. See *Ring v. Arizona*, 536 U.S. 584 (2002). He also argued that the procedure violated the Eighth Amendment by permitting mitigation to be considered in the first instance by an appellate court. The United States Supreme Court rejected both arguments. This was a crucial victory for the Office, as the Ninth Circuit's en banc decision in McKinney's case potentially implicates numerous other Arizona death sentences. The law is now settled that any similar error found in these cases can be cured by the Arizona Supreme Court and does not require a full jury resentencing.



from the left – CLS Unit Chief Ginger Jarvis, CLS Section Chief Lacey Gard, Solicitor General O.H. Skinner, ACL Division Chief Beau Roysden, and Assistant Solicitor General Kate Sawyer

Arizona Supreme Court

The Section's attorneys successfully defended a number of convictions and death sentences in the Arizona Supreme Court this fiscal year. These cases are:

State v. John Michael Allen - John Allen was convicted of killing his wife Sammantha's 10-year-old cousin, A.D. Allen and Sammantha routinely subjected A.D. to harsh physical punishment, which included confining her inside a plastic storage box. On July 11, 2011, Allen and Sammantha believed that A.D. had stolen a popsicle and punished her with hours of strenuous physical exercise. Allen then locked A.D. inside the storage box and went to bed. A.D. died from suffocation during the night. A jury sentenced Allen to death, and a judge sentenced him to terms-of-years sentences for several related non-capital convictions. While the court remanded for resentencing on some of the non-capital counts, it affirmed Allen's convictions and his death sentence, rejecting the various arguments he advanced, including his assertions that he did not act with the requisite degree of culpability to warrant the death penalty and that the evidence was not sufficient to support the death-qualifying aggravating factors.

State v. Thomas Riley - While serving a prison sentence in 2008, Riley stabbed to death a fellow inmate, Sean Kelly, with the goal of gaining membership in the Aryan Brotherhood gang. About 2 years after the murder, Riley wrote a letter describing the killing in detail, which he signed, "Your hero the butcher." A jury convicted him of first-

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degree murder and sentenced him to death. On appeal, Riley argued, among other things, that the trial court had erroneously denied his motion to change counsel, had made various mistakes during jury selection and during jury instructions, and had erroneously admitted certain evidence. He also alleged that the trial court incorrectly instructed the jurors regarding the seldom-used (and now repealed) cold-and-calculated aggravating factor, see A.R.S. § 13-751(F)(13) (2008), and that the court should not have permitted him to waive the presentation of mitigating evidence at sentencing. The Arizona Supreme Court found no reversible error, and affirmed Riley's convictions and death sentence.

State v. James Clayton Johnson - Johnson burglarized a Mesa business and killed its owner, Xiaohung Fu. Johnson stabbed Fu numerous times, cut her neck, and carved a symbol into her abdomen. A few days later, he was arrested after robbing a Christmas tree lot. A jury found Johnson guilty of first-degree murder and other offenses and sentenced him to death for killing Fu. The Arizona Supreme Court affirmed Johnson's convictions and sentences, rejecting numerous arguments, including a challenge to the trial court's order precluding cumulative evidence concerning one of his primary mitigation themes: that he was a student at Columbine High School when the mass shooting occurred there.

State v. Alan Michael Champagne - In 2011, Champagne shot and killed Philmon Tapaha in Champagne's apartment. Tapaha's girlfriend, Brandi Hoffner, witnessed the murder. Champagne thereafter held Hoffner captive, giving her methamphetamine in an effort to calm her. As Hoffner smoked the methamphetamine, Champagne crept up behind her and strangled her with an electrical cord. Champagne kept the bodies in his apartment for approximately 1 week and thereafter buried them in his mother's backyard, where they remained for nearly 2 years before a landscaper discovered them. A jury found Champagne guilty of second-degree murder for killing Tapaha but first-degree murder for killing Hoffner, and sentenced Champagne to death for the first-degree murder conviction. On appeal, Champagne challenged numerous trial-court rulings, including the court's denial of his motion to change counsel and its ruling admitting certain statements he had made to an undercover police officer while incarcerated for another offense. The Arizona Supreme Court rejected these arguments and affirmed Champagne's convictions and sentences.

Ninth Circuit

The Section's attorneys also achieved some significant victories in the United States Court of Appeals for the Ninth Circuit in the last fiscal year:

First Amendment Coalition of Arizona, Inc., et al. v. Charles L. Ryan, et al. - In this civil case, the First Amendment Coalition, joined by a group of death-row inmates, argued that the First Amendment entitled them to disclosure of potentially identifying information concerning lethal-injection drug suppliers and participants in the execution process. This information is protected by Arizona statute. See A.R.S. § 13-757(C). The Coalition and inmates also asserted a First Amendment right for execution witnesses to hear an execution in its entirety. The district court dismissed the relevant portions of the complaint under Federal Rule of Civil Procedure 12(b)(6). For the most part, the Ninth Circuit agreed with the district court, finding no First Amendment right of access to information regarding drug suppliers or execution participants. This ruling was a major victory for Arizona, as it serves to reassure drug suppliers that their confidentiality will be maintained and that federal courts in the Ninth Circuit cannot use the First Amendment to override § 13-757(C)'s protections. The Ninth Circuit, however, reversed the district court's determination that the First Amendment does not entitle the public to hear an execution in its entirety. On remand, the Arizona Department of Corrections, Rehabilitation and Re-Entry resolved the lawsuit by amending its execution protocol to require the execution chamber's microphones to remain on during an execution's duration.

Clarence Wayne Dixon v. Charles L. Ryan, et al. - Dixon murdered Deana Bowdoin in 1978 but was not arrested until 2001, when police matched DNA collected from a victim he had raped in 1985 to biological evidence preserved from Bowdoin's killing. Dixon was thereafter convicted of first-degree murder and sentenced to death; the state courts denied relief at all stages of appeal and the district court denied habeas relief. The Ninth Circuit affirmed

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the district court's decision, rejecting Dixon's claims that counsel was ineffective for failing to challenge his competency to waive counsel, that the trial court denied Dixon due process by failing to conduct a competency hearing sua sponte, that the trial court erred by denying Dixon's request for a continuance, and that his rights under the Sixth and Fourteenth Amendments were violated when he was restrained during trial. The Supreme Court denied Dixon's subsequent petition for writ of certiorari, and he has now exhausted his of-right appeals.

Richard Kenneth Djerf v. Charles Ryan - In 1993, Albert Luna, Jr., stole some of Djerf's belongings. In retaliation, Djerf killed Luna's mother, father, 18-year-old sister, and 5-year-old brother. Djerf bound and tortured the victims before killing them. He raped Luna's sister and killed Luna's father in front of his wife and young son. He then asked Luna's mother whether she wanted to die first or have her son watch her die; ultimately, he shot them both in the head. Djerf thereafter unsuccessfully tried to set the home ablaze. Luna returned to discover his family murdered. Djerf pleaded guilty to four counts of first-degree murder and a judge sentenced him to death for each count. His convictions and sentences survived state appellate review, and the district court denied habeas relief. On appeal, the Ninth Circuit affirmed the district court's decision, rejecting Djerf's arguments that he received ineffective assistance of counsel pretrial and at sentencing and that Djerf had involuntarily waived counsel and pleaded guilty. The court further found harmless any failure to consider mitigation by the Arizona Supreme Court during its independent review of the death penalty. With the Supreme Court's subsequent denial of Djerf's petition for writ of certiorari, he has exhausted his of-right appeals.

Attorney General Opinions Year in Review

The Appeals and Constitutional Law division coordinates the drafting and publication of Attorney General opinions. An Assistant Solicitor General chairs the AGO Opinion Review Committee. In fiscal year 2020, the Attorney General received 21 new opinion requests and issued 12 formal opinions. Those opinions addressed topics including: whether a county that offers a jail education program through an accommodation school under A.R.S. § 15-913.01(C) is eligible to receive state education funding for county jail prisoners who participate in the program and are between the ages of eighteen and twenty-one but are not persons with disabilities; whether monies paid to amortize unfunded liability for certain public retirement plans are excluded from "local revenues" under the Arizona Constitution, Article 9, § 20(3)(d)(i); whether a private developer can use Arizona's public works eminent domain statutes, A.R.S. §§ 12-1141 to -1162, if it is necessary to build a transmission line that connects an Arizona substation with a California substation; the appropriate implementation of the newest portion of A.R.S. § 15-1444(A)(7) pertaining to community colleges and employee representative groups; and whether commercial use of a school-owned facility constitutes being "used or held for profit," thereby disqualifying the facility from full property tax exemption pursuant to A.R.S. § 42-11104(A). Those opinions also addressed topics relating to the COVID-19 pandemic.

Ethics Year in Review

The Appeals and Constitutional Litigation Division's ethics counsel provides guidance on ethical issues to employees of the AGO as well as chairs the office's ethics committee. During the year, ethics counsel responded to numerous ethics questions from employees throughout the AGO and the questions encompassed a broad range of ethical issues pertaining to confidentiality, conflicts of interest, inadvertently received communications, and many others. Many of these questions were resolved the same day when received. There were, however, some more complex questions where ethics counsel researched, analyzed, and provided advice in a prompt manner. In certain circumstances, ethics counsel researched and drafted memoranda on topics to provide guidance on certain issues. Of note, ethics counsel drafted memoranda concerning the ethical implications of the

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AGO investigating and potentially bringing suit against a client-agency for a potential data breach and the line between the client's ability to dictate objectives for a legal representation to the AGO and the attorney's ability to set strategy for the representation. Ethics counsel continued to review AGO employees' requests for outside employment, volunteer, or pro bono activities to guard against potential conflicts of interest. If ethics counsel determined there was a potential for a conflict between the employee's duties and the contemplated outside activity, ethics counsel provided an explanation for the denial of the request. Further, ethics counsel continued to review, analyze, and draft screening memoranda to protect against potential conflicts of interest. The office's ethics committee met on an as-needed basis and twice convened to determine whether to recommend reporting an attorney to the State Bar of Arizona. Of the two attorneys discussed, the office reported out-of-state attorney Bruce Clark to the State Bar for the unauthorized practice of law in a dependency matter in the Court of Appeals. The Attorney Discipline Probable Cause Committee imposed an admonition on Mr. Clark.

AGO Library and Research Services Year in Review

The Appeals & Constitutional Litigation Division (formerly 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 library budget supports specialized electronic research databases and print materials. 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.

An AG Office-only electronic catalog was completed this fiscal year, and will soon be ready to launch. This catalog will allow AGO researchers throughout the state to identify research materials in specific AGO libraries and easily determine if print materials can be borrowed. The catalog will also link researchers to web-based research guides and provide links to research databases accessible to state employees via remote access.

Training emphasis was placed on the new Westlaw Edge platform, and a series of classes was added specifically for paralegals. Specialized research and the review of grant-writing projects were delivered to requesting AGO sections in fiscal year 2020. Overall, the AGO Library and Research Services section is functioning efficiently and in a cost-effective manner while delivering training and specialized services to AGO researchers.

State Government Division



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 75 state agencies, boards and commissions. ACS is comprised of 16 attorneys and 6 support staff. Its clients include the Arizona state court system, the Departments of Administration, Corrections, Housing, and Juvenile Corrections, Game and Fish, Gaming/Racing, the Boards of Equalization and Executive Clemency, the state retirement systems, and the Secretary of State's Office, to name a few.

Overview of Accomplishments

Election Matters

Arizona Libertarian Party, et al. v. Hobbs - Like other states, Arizona requires candidates for office to demonstrate a modicum of support by gathering a certain number of signatures in order to appear on the ballot. The plaintiffs alleged that Arizona required too many signatures for Libertarian Party candidates, who—unlike Republicans, Democrats, and Greens—did not want Independent voters to sign their petitions. Thus, their “pool” of

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potential signers was smaller, and so (they alleged) the signature requirements were too burdensome. The district court granted the State summary judgment, and the Ninth Circuit affirmed 3-0. Plaintiffs appealed to the United States Supreme Court. The Court required a response brief, but ultimately denied review, leaving Arizona's ballot access law intact.



Mecinas v. Hobbs - Plaintiffs challenged Arizona's forty-year-old ballot order statute for general elections. Plaintiffs claimed that determining ballot position in a county based on which party won the most votes for governor in the last general election in that county unconstitutionally burdened their First and Fourteenth Amendment rights. Plaintiffs filed a motion for a preliminary injunction with two lengthy expert reports, which provided a very short time over the holidays to respond to Plaintiffs' motion. The Secretary filed a motion to dismiss, and the Court took testimony from each side's experts and oral argument on Plaintiffs' Motion for Preliminary Injunction and the Secretary's Motion to Dismiss. Ultimately, the Court dismissed the case with prejudice for lack of standing and non-justiciability under *Rucho v. Common Cause*. Plaintiffs' emergency appeal to the Ninth Circuit was rejected.

Voto Latino v. Hobbs - Plaintiffs alleged that Arizona's law requiring early ballots be received by elections officials by Election Day violates the First and Fourteenth Amendment because, inter alia, rural mail delivery is not reliable and ballot drop offs are not easily available everywhere. Months after they filed their Complaint, Plaintiffs filed a motion for preliminary injunction. Ultimately, the case was settled when both sides agreed to provide more voter education in rural areas and implement additional ballot drop off locations.

League of Women Voters v. Hobbs - The complaints in this case date back to at least 2016, when Plaintiffs sent a letter claiming that Arizona's change of address through ADOT ("Section 5") and that the voter registration systems run by AHCCCS and DES more generally ("Section 7") did not comply with the National Voter Registration Act ("NVRA"). This Office collaborated with ADOT, the Governor's office, and the Plaintiffs to incorporate the legal changes required by NVRA and Arizona law into ADOT's new computer system. A settlement agreement resolved all of Plaintiffs' Section 5 claims at minimal cost and no attorney's fees award against the State. It is anticipated the Section 7 claims will also settle at minimal cost to the State and no attorney's fees.

Initiative Challenges - Title 19 allows any elector to challenge any part of the initiative process, including: whether the 100-word summary is misleading, circulator registration issues, and any of the hundreds of thousands of signatures submitted. Initiative proponents can sue to "rehabilitate" signatures, and challenge legislative council's analysis of each measure. This year there were a record-breaking twelve initiative-related lawsuits, in spite of the fact that there were only four initiatives. One trial included more than 350 subpoenaed witnesses and 2,500 exhibits, a special master, and a "scoreboard" database that could show what would happen if certain petitions were removed or included based on specific legal rulings by the judge, a first in the State.

Miscellaneous Matters

Susan Lagerman v. ASRS—ACS represented the Arizona State Retirement System (ASRS) in this challenge to eligibility of retirement benefits at normal retirement date despite the employee's failure to submit a retirement application at that time. The Arizona Supreme Court ruled in ASRS's favor, holding that submitting a retirement application to the ASRS is a condition precedent to eligibility for receipt of benefits and the non-forfeiture

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provision of the retirement plan did not require the plan to pay member benefits as of the member's normal retirement date, regardless of when the member submitted a retirement application.

Sabatina, Jeannean/Nicole, In the Matter of Licensed Fiduciaries - ACS represented the Arizona Supreme Court's Fiduciary Board in a license revocation matter involving Jeannean and Nicole Sabatina. The Notice of Charges listed several grounds for revocation including self-dealing, conflict of interest, filing misleading or false estate budgets, filing false affidavits with the Court, exceeding judicially approved budgets, failing to comply with statewide fee guidelines, and restricting families' and friends' access to vulnerable persons. After a six-day hearing, the Presiding Disciplinary Judge issued a 168-page Recommended Decision summarizing the evidence that "overwhelmingly established" violations of fiduciary statutes and regulations and which justified license revocation. Based on the Recommended Decision, the Fiduciary Board revoked the Sabatinas' fiduciary licenses. The Sabatinas did not appeal the Board's decision.

WildEarth Guardians v. Provencio - The plaintiffs challenged the US Forest Service's approval of motorized big game retrieval (MBGR) for elk and bison on the three ranger districts of the Kaibab National Forest. The Arizona Game and Fish Commission intervened in the case to defend MBGR for elk and bison, as hunting is an essential conservation tool for maintaining healthy elk and bison populations, and MBGR is an essential tool for ethically hunting and harvesting these large animals. The district court granted summary judgment to the defendants, and the Ninth Circuit affirmed 3-0.

State v. Edward Martinez - Several criminal defendants jointly challenged the constitutionality of the Maricopa County Superior Court's jury selection system, alleging 1) that the current selection system did not meet the 6th Amendment's requirement that juries be selected from jury pools/venires composed of a fair cross-section of the community, and 2) that the Superior Court was not in compliance with a portion of the Arizona Code of Judicial Administration related to the 6th Amendment's fair cross-section requirement. ACS represented the Maricopa County Jury Commissioner in responding to the challenge. After more than a year of discovery and motion practice, the superior court upheld the constitutionality of the jury selection system as a matter of law.

Staples v. State Board of Equalization - Pima County Assessor, Bill Staples brought a Declaratory Judgment Action in the Tax Court against the State Board of Equalization and its Director seeking a declaration that in general the Board erroneously admits evidence presented by property owners and hearings held by the Board in Pima County. This Office argued that a Declaratory Judgment action was not the appropriate method to object to how the Board conducted the hearings. We argued that the Assessor failed to participate in the hearings and failed the appeal any case to the State Tax Court. The complaint failed to present a justiciable issue ripe for resolution. The court agreed that no justiciable issue existed and dismissed the complaint.

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Significant Other Responsibilities

Bonds - ACS reviewed 38 projects for Industrial Development Bond funding, totaling over \$1,861,250,000.00.



Personal Property Leases - ACS reviewed and approved, as to authority and form, third-party personal property leases for the State with an aggregate value of more than \$7,147,265.00.

Real property leases/contracts/agreements - ACS reviewed over 131 leases, contracts and other agreements for various agencies.

Environmental Enforcement Section

The Environmental Enforcement Section (EES) represents the State in civil enforcement actions for violations of Arizona's environmental protection laws. EES represents, advises, and defends the Arizona Department of



Environmental Quality (ADEQ) in its administration of the State's environmental protection 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 Revolving Fund (WQARF), and Comprehensive Environmental Response, Compensation, and Liability Act (Superfund Program). EES also advises and represents the Oil and Gas Conservation Commission (OGCC) and the Arizona State Emergency Response Commission (AZSERC).

Case Highlights

State of Arizona v. United States International Boundary and Water Commission (USIBWC) - In this case, EES successfully negotiated a settlement to remedy illegal discharges from the sewage collection system for USIBWC's wastewater treatment plant in Nogales, Arizona. The agreement includes a \$38 million dollar plan to upgrade the sewage pipeline with protective measures that will resist damage from stormwater and debris. The parties negotiated the settlement after the court ruled that USIBWC was liable for the violations.

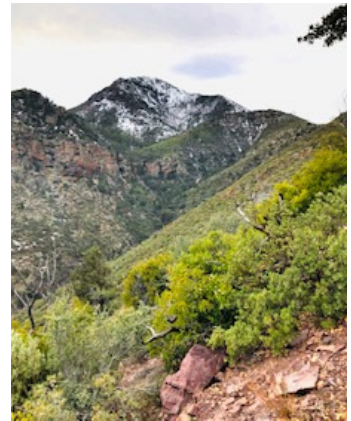
Town of Florence v. Arizona Department of Environmental Quality (Florence Copper Mine) - In the Arizona Court of Appeals, EES successfully defended ADEQ's decision to issue an aquifer protection permit to Florence Copper for its in situ copper extraction facility. The appellants argued that ADEQ violated legal and technical standards and

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sought to have ADEQ's permitting decision overturned. The permitting decision was previously upheld by the Arizona Water Quality Appeals Board (WQAB) and the Maricopa County Superior Court. Following extensive briefing and oral argument, the Court of Appeals upheld ADEQ's decision and awarded the State attorney's fees.

State v. Arvel Adams - EES obtained court approval of a settlement with Arvel Adams for the clean-up of waste tires, construction debris, and other solid waste and the remediation of petroleum-based contamination in the soil and groundwater at several facilities in Show Low, Arizona.

State v. Rosa - EES successfully obtained a judgment in Maricopa County Superior Court that permanently restrained owners and managers of the Two Tanks Water System from illegally altering the tanks and pipes and shutting off the system. The complaint alleged that the owners made changes to the system that denied drinking water to members of the system and created potential health risks to the drinking water in the system. In addition to the permanent injunction, the court ordered the defendants to pay a civil penalty and litigation costs.



State v. Agrigold Farms - EES obtained court approval of an air quality settlement with Agrigold L.L.C. in Maricopa County Superior Court. The complaint alleged that Agrigold failed to use reasonable agricultural practices to control excessive airborne dust. The dust was so severe that vision was impaired on local roads. Under the court's judgment, Agrigold was required to pay a \$60,000 civil penalty and may be required to pay an additional \$40,000 civil penalty if it fails to use reasonable agricultural practices during the four years following the date of the judgment.

Significant Matters

Water Quality Assurance Revolving Fund (WQARF) Program - EES represents ADEQ in its 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 in obtaining access agreements to conduct remedial work; negotiating settlements and prospective purchaser agreements; recovering remediation costs; and developing effective programs for administration and enforcement.

Arizona Oil and Gas Conservation Commission - EES advises the Arizona Oil and Gas Conservation Commission in the administration of its duties. The OGCC holds regular meetings and regulates the exploration and production of oil, gas, helium, carbon dioxide, and geothermal resources in Arizona. The OGCC issues permits for exploration and production wells and inspects those wells for compliance.

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Arizona State Emergency Response Commission (AZSERC) - EES advises the Arizona State Emergency Response Commission in the administration of the Emergency Planning and Community Right to Know Act and related programs for emergency notifications of chemical releases.

Training - EES provides training to client agencies in environmental law, open meeting law, public records law, and other areas related to environmental law and administrative procedure. EES also participates in training programs through the Western States Project, a consortium of state agencies responsible for the enforcement of environmental laws in the western United States.

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 State Commission for Postsecondary Education, the Arizona State Board for Charter Schools, the School Facilities Board, and the Professional Practices Advisory Committee.

Health Unit

Major Case Highlights: State Court

The Health Unit handled four appeals at the Arizona Court of Appeals, which included two oral arguments. Three of the cases were decided in ADHS's favor and one remains ongoing. The Health Unit also responded to two petitions for review in the Arizona Supreme Court, one of which was accepted for review and went to oral argument.

Emergency Medical Services

EHS represents and advises ADHS in regulatory matters involving ambulance services throughout the State. Any person or entity that wants to operate an ambulance service must be granted a Certificate of Necessity (CON) through ADHS.

Arrowhead Mobile Healthcare Inc. v. Arizona Department of Health Services - Arrowhead Mobile Healthcare Inc. intervened in an administrative hearing concerning another ambulance service's application to amend its CON to expand its service area to an area that would overlap with Arrowhead's CON service area. Following the administrative hearing, the Director granted the other ambulance service's application to amend its CON and determined that it was necessary to protect public health and safety to further expanded its service area. Arrowhead sought judicial review of the Director's decision asserting that (1) the Director had exceeded her statutory authority by sua sponte granting an expanded service area beyond that requested; (2) the Director's decision was invalid because it did not set forth the reasons for the rejection or modification of each finding of fact or conclusion of

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law as required under A.R.S. § 41-1092.08; and (3) the Director's decision was contrary to law, unsupported by substantial evidence, arbitrary and capricious, or an abuse of discretion. The superior court rejected Arrowhead's arguments that the decision was not sufficiently specific under A.R.S. § 41-1092.08, but found that the Director had exceeded her statutory authority by expanding the ambulance service's service area beyond what it had requested in its application to amend its CON and remanded the matter to ADHS for further proceedings consistent with the court's decision. Arrowhead appealed and the Department cross-appealed from the superior court's decision. The appeal is ongoing.

Sexually Violent Persons (SVPs)

Individuals who are found to be sexually violent persons pursuant to A.R.S. § 36-3701 et seq. are committed to ADHS's custody for placement in the Arizona Community Protection and Treatment Center (ACPTC) on the grounds of the Arizona State Hospital.

In re MS 2009-000010, Case No. 1 CA-MH 19-0011, Arizona Court of Appeals - Appellant is an SVP who appealed from superior court's denial of his petition for absolute discharge. On appeal, Appellant argued that there was not substantial evidence to support the superior court's findings that Appellant's mental disorder had not changed, that he remained a danger to others, and that he was likely to engage in acts of sexual violence if he were discharged. The court of appeals affirmed the superior court's ruling and held that there was sufficient evidence for the superior court to find, beyond a reasonable doubt, that Appellant's continued placement at ACPTC was warranted.

Medical Marijuana Program

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 administrative hearings, Superior Court and Appellate litigation for ADHS.

Saguaro Healing LLC v. State - Plaintiff filed a lawsuit alleging that the Department violated the AMMA and its rules by failing to allocate it a dispensary registration certificate. Plaintiff argued that the Department had a duty to allocate Plaintiff a certificate because Plaintiff submitted the only application in the 2016 certificate allocation for a county that had no operating dispensary. The Department successfully argued to the trial court that it had followed its rules to allocate certificates and did not allocate a certificate to Plaintiff because at the time applications were submitted, another dispensary existed in the county at issue. The court of appeals agreed and affirmed the trial court. The Arizona Supreme Court granted Plaintiff's petition for review and ruled that the Department violated A.R.S. § 36-2804(C) because it did not have discretion to not exceed a cap on dispensary registration certificates and was required by section 36-2804(C) to issue at least one dispensary certificate in each county with a qualified applicant. The matter has been remanded to the superior court.

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Premium Leaf, Inc. v. Arizona Department of Health Services - Plaintiff filed its lawsuit alleging that the Department violated the AMMA and its rules by allocating a dispensary registration certificate to a certificate applicant that, according to Plaintiff, submitted an application that violated the Department's rules. Specifically, Plaintiff alleged that the successful applicant's proposed dispensary location failed to satisfy local zoning requirements and therefore the applicant did not submit a complete, valid, application. Per Plaintiff, by allocating the certificate to the successful applicant, the Department violated the AMMA and the Department's own rules. The superior court agreed with the Department and dismissed this case. Plaintiff appealed the issue of whether a zoning form from a local jurisdiction indicating compliance with local zoning restrictions was sufficient for a dispensary registration certificate application. The court of appeals ruled that such a zoning form was sufficient, irrespective of any additional steps that the applicant would have to take to be able to occupy the specified location. The Arizona Supreme Court denied Plaintiff's Petition for Review.

3 SL Family, LLC (GAM) v. State/Arizona Department of Health Services - Plaintiff filed its lawsuit alleging that the Department violated the AMMA and its rules by allocating a dispensary registration certificate to an applicant that proposed a dispensary location was within 500 feet of two preschools, which Plaintiff asserted should qualify as a "private school." On a partial motion for summary judgment, the superior court ruled that a preschool is a "private school" under the AMMA.

Medmar Tanque Verde, LLC v. State - Plaintiff, a medical marijuana dispensary, filed its lawsuit alleging that the Arizona Department of Health Services improperly prohibited it from accepting marijuana seed donations from a designated caregiver. ADHS moved for summary judgment, asserting that the AMMA allows dispensaries to accept from patients and caregivers only donations of "usable marijuana" (a defined term that excludes seeds) and "marijuana plants." Plaintiff argued that because marijuana seeds were part of a marijuana plant, seed donations would be allowed under the statutory provision that permits donations of marijuana plants. Taking judicial notice of *State v. Jones*, 246 Ariz. 452 (2019), in which the Arizona Supreme Court stated that the AMMA should be broadly interpreted, the superior court ruled that the AMMA should be interpreted to allow the donation of a part of a plant and that because marijuana seeds are a part of the marijuana plant, patients and care givers can donate marijuana seeds to dispensaries.

Health Care Institution Licensure

ADHS licenses health care institutions in the state, including assisted living facilities to ensure public health and safety.

Heritage at Carefree LLC V. Arizona Department of Health Services - In 2016 and again in 2017, the Department investigated Heritage at Carefree, an assisted living facility with 60 residents, for violations of an administrative rule that prohibits assisted living facilities from allowing employees or employees' family members from acting as a resident's representative, unless the resident is a family member. The Department found a violation of this rule in 2016 when an owner of the facility was appointed as a resident's power of attorney (POA). Heritage claimed it had corrected the violation, however, in 2017, the Department discovered another violation of the rule when an employee's daughter was acting as the POA for another resident. The Department assessed a civil penalty of \$2,200 which was affirmed by the superior court on judicial review of the Director's decision. Heritage appealed and argued that the rule could not be violated unless and until the prohibited person took some affirmative action as the POA and that being appointed as a representative was not enough. The court of appeals affirmed

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the Department's decision and held that the Department was not required to wait until some affirmative action was taken by the prohibited person to find that the rule was violated because waiting could lead to "potentially disastrous results." The court of appeals also affirmed that the \$2,200 civil money penalty was appropriate and well within the Department's discretion.

Federal Court Case Highlights

Arizona Center for Disability Law v. Christ, et al. - The Arizona Center for Disability Law (ACDL) filed a complaint against ADHS's Director and the Superintendent of the Arizona State Hospital asserting that the ACDL was entitled to greater access to the Hospital and its patients and to a particular patient's records. The Health Unit negotiated a Settlement Agreement that resulted in a dismissal of the lawsuit. The agreement sets forth specific guidelines with respect to when the ACDL staff may enter the premises and under what circumstances.

Arizona Recovery Housing Association v. Arizona Department of Health Services - The Arizona Recovery Housing Association (AZRHA), representing approximately 177 sober living homes (SLHs) in Arizona, brought a challenge to recent statutes and rules designed to regulate SLHs. AZRHA claims that these statutes and rules violate the Federal Fair Housing Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act. The Health Unit successfully defeated AZRHA's attempt to obtain a temporary restraining order to enjoin ADHS from enforcing the SLH licensure program. The matter is ongoing.

Significant Matters

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 the past year; several resulted in administrative hearings. The Health Unit also provided legal advice concerning administrative enforcement actions against the certificates held by Emergency Medical Certified Technicians whose actions were determined to be a threat to the health and safety of Arizona residents. The Health Unit also provided legal advice on current rule making revisions for Arizona Administrative Code, Title 9, Chapter 25, Article 9, as well as general legal advice on a weekly basis to this program.

Women, Infants, and Children Program

The Health Unit attorneys represent the Arizona Women, Infants, and Children Supplemental Nutrition Program administered by the Bureau of Nutrition and Physical Activity at ADHS. In FY2019, the Health Unit provided advice and counsel in informal settlement conferences, drafted settlement agreements, and represented the Program in hearings before the Arizona Office of Administrative Hearings. It also provided advice on contract issues and revisions to the Vendor Manual.

Due to the adoption of an electronic system that sends information directly to Program administrators when persons purchase WIC approved foods with WIC monies, the Program is able to monitor activities in "real time"

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to determine compliance with the federal rules governing this supplemental food program. As a result of direct monitoring, the Program determined that a number of vendors appeared to be involved in fraudulent activities involving federal funds earmarked to support WIC approved families. ADHS representatives referred the matter to federal and state law enforcement agencies for an investigation into the vendors' alleged misappropriation of federal funds.

Health Care Institution Licensing

Health Unit attorneys represented ADHS in multiple enforcement meetings, informal settlement conferences, and provided weekly advice in matters involving hospitals, outpatient treatment centers, assisted living facilities, and behavioral health facilities. In addition to providing legal advice, the Health Unit represented ADHS in over 45 health care licensing matters this past year the majority of which resulted in settlement agreements.

Hacienda Healthcare - Health Unit attorneys assisted ADHS in dealing with Hacienda, an intermediate care facility for individuals with intellectual disabilities ("ICF-IID") that was previously unlicensed by the State. After Hacienda had a terrible, widely publicized event occur at its ICF-IID, ADHS negotiated a provider agreement that allowed Hacienda to continue to operate, with State oversight. That oversight continued through new licensing legislation that now requires ICF-IIDs to be licensed. ADHS also required Hacienda to enter into a Systems Improvement Agreement with required benchmarks related to health and safety metrics and required Hacienda to hire a third-party expert to assist Hacienda in meeting federal and state licensing requirements. ADHS and its sister agencies are continuing their oversight of Hacienda to ensure that Hacienda provides safe care to its patients.

State Lab Licensing

ADHS, through its Office of Lab Licensure, licenses environmental labs that do compliance testing of air, drinking water, and wastewater. Health Unit attorneys assisted ADHS in an enforcement action against XENCO Labs, which operated three labs licensed to do compliance testing for drinking water and wastewater. As part of an annual inspection, ADHS concluded that XENCO was not in compliance with Arizona law governing environmental labs. ADHS initiated an investigation, conducted personal interviews of lab employees, and reviewed lab data for a couple of years. ADHS determined that several XENCO employees falsified lab data that was reported to ADHS. During this process, the Health Unit attorneys provided advice, attended enforcement meetings, and eventually negotiated a settlement of the license enforcement action. As part of the settlement, XENCO agreed to pay civil money penalties in the sum of \$275,000, and agreed to pay for a third-party to audit their ongoing lab operations.

Child Care Licensing

Health Unit attorneys represent the Bureau of Child Care Licensing (CCL), which licenses child care facilities and homes. Health Unit attorneys provided legal advice and counsel in enforcement meetings, settlement conferences, and other matters posed by opposing counsel and interested parties. In addition, the Health Unit attorneys represented CCL in an enforcement action to bring immediate sanctions against child care facilities whose operating building and grounds posed a direct risk of harm to enrolled children.

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Sexually Violent Persons (SVPs)

ADHS is responsible for the care, supervision, and treatment of those persons judicially determined to be SVPs under the Sexually Violent Persons Act (SVPA), A.R.S. § 36-3701 et seq. The Arizona Community Protection and Treatment Center (ACPTC) is an ADHS-operated facility on the grounds of the Arizona State Hospital that is licensed for the care, treatment, and supervision of SVPs. ACPTC has a sex offender treatment program and provides individualized treatment plans for its residents.

Health unit attorneys provide legal advice to ACPTC, handle motion practice and advocacy roles related to effective representation of ACPTC under the SVPA, and handle related superior court and appellate litigation. This past year, Health Unit attorneys and staff have coordinated the review and filing of 101 annual reports under A.R.S. § 36-3708, 369 quarterly reports, and 369 monthly reports under A.R.S. § 36-3710(F). Health unit attorneys also work with the ACPTC to respond to various resident requests and inquiries, including records requests under A.R.S. § 36-3712(B). In SVP matters that are handled by the counties, Health Unit attorneys communicate with the parties in order to facilitate various issues raised under the SVPA.

Health Unit attorneys also represent the State in Maricopa County Superior Court proceedings concerning SVPs' petitions for conditional release to a less restrictive alternative and absolute discharge. This year, Health Unit attorneys successfully represented the State in four petitions for discharge and/or conditional release to a less restrictive alternative brought by SVPs in Maricopa County Superior Court.

Medical Marijuana Program

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 administrative, superior court, and appellate litigation for ADHS. ADHS processes approximately 900-1100 medical marijuana card applications per day, and regulates 117 operating medical marijuana dispensaries. The Health Unit provides ADHS in managing the legal complexities in this highly regulated and growing industry. Attorneys in the Health Unit handled approximately 250 medical marijuana cardholder and dispensary matters in the past year. ADHS settled the majority of the cases, with approximately 30 cases going to hearing.

The Health Unit continues to defend ADHS in superior court lawsuits alleging that ADHS improperly allocated dispensary registration certificates during its October 2016 allocation process. The lawsuits have been brought either by a dispensary or by entities attempting to open a dispensary. All of the lawsuits challenge the Department's actions pursuant to rules related to the AMMA.

State Government Division

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, at every stage of the employment relationship, to more than one hundred state agencies, boards, commissions, and courts. 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. When necessary, ELS also counsels and defends client agencies against claims 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 that would otherwise be referred to outside counsel.

Significant Responsibilities

ELS Advice and Hearing Practice

ELS provided nearly 2,100 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 and the newly enacted Families First Coronavirus Response 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 compliance with 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 or virtual 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.

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 legal challenges are filed, 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 some non-risk management cases. In FY 2020, ELS opened files for 15 new Risk Management lawsuits. ELS also monitored and assisted agencies in responding to 62 charges of discrimination filed with the federal Equal Employment Opportunity Commission (EEOC). ELS closed 28 EEOC charges. ELS attorneys and legal assistants recorded nearly 10,000 hours of Risk Management litigation matters (lawsuits, claims and EEOC charges).

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Major Case Highlights

Lincoln v. DPS - In October 2019, ELS won a defense verdict for the Department of Public Safety (“DPS”) after a four-day jury trial, on a tort claim relating to the plaintiff’s employment at DPS. Assistant Attorney General Ann Hobart and Senior Paralegal Hank Vaci litigated the case and associated with outside counsel for the trial.

Pulve v. Department of Corrections - In February 2020, ELS obtained a summary judgment ruling for the Department of Corrections, Rehabilitation, & Reentry in a lawsuit in federal court in which the plaintiff claimed he was denied a promotion on the basis of a perceived disability.

Newell v. Arizona Board of Regents - In a published decision in April 2020, the U.S. District Court in Phoenix awarded summary judgment to the Arizona Board of Regents that in terminating an assistant dean’s employment based on performance issues, Arizona State University did not violate the Family and Medical Leave Act.

ELS Workers Compensation Practice

The ELS workers compensation group opened 64 new matters and closed 58 matters. ELS attorneys and legal assistants billed more than 3100 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.

Major Accomplishments

Appeals

Andrich v. ADC - Former inmate and former attorney Andrich sued various Department of Corrections’ staff alleging that his conditions of confinement at the Alhambra Unit, where inmates are initially placed when they come into custody, constituted cruel and unusual punishment. The Court granted the Defendants summary Judgment based on Andrich’s failure to exhaust administrative remedies before he brought his lawsuit, which was affirmed on appeal in January 2020.

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Crespin v. Ryan - Inmate Crespin petitioned for special action relief based on a disciplinary violation for having a black tarry substance in his property that a field test determined was heroin. Although the substance was not preserved, the superior court determined that there was sufficient evidence to support the disciplinary sanction and granted Respondents' motion for dismissal. Crespin appealed and the Arizona Court of Appeals affirmed in November 2019.

Harding v. Arizona Board of Dental Examiners - Plaintiff filed suit against the Arizona Board of Dental Examiners and one of its investigators for abuse of process, defamation, and intentional infliction of emotional distress. The Court of Appeals affirmed summary judgment in favor of Defendants, finding Plaintiff's claims were barred by the statute of limitations.

Tucker v. State - Parolee sued various parole officers and supervisors, asserting State-law and constitutional claims arising from an allegedly illegal search and seizure and false arrest and imprisonment following compliance check at his home. The district court dismissed all 28 claims, and the Ninth Circuit affirmed on all counts except three.

Van Loan v. The Nation of Islam, et al. - Plaintiff, a pro per disbarred lawyer, sued numerous governmental entities alleging they and the Nation of Islam had conspired to kill him. After a victory at the trial level, Plaintiff appealed. The Ninth Circuit upheld the trial court's decision to dismiss without permitting Plaintiff to pursue discovery.

Trials

Fiero v. Ryan et al. - Jose Fierro is a State prisoner serving a life sentence in the Arizona Department of Corrections for first degree murder and who has been incarcerated since 1987. Beginning in 2011, he made a series of six protective-custody requests. Each time he requested protective custody; he was placed in alternative housing rather than placed in protective custody. On December 26, 2013, he was assaulted by other inmates, and he claimed that he was severely and permanently injured as a result of the assault. He sued six ADC officials, claiming that their decisions to place him in alternative housing rather than placing him in protective custody was the reason he was assaulted. He sought \$3 million in damages. After a five-day federal trial, the jury returned a complete defense verdict.

Keates v. Koile et al. - Plaintiff alleged violation of her constitutional rights by Department of Child Safety workers for taking custody of her daughter without a court order after being informed by medical professionals that Plaintiff's daughter had threatened suicide, was in the Emergency Room, needed in-patient behavioral care treatment, and Plaintiff refused to provide consent. After a five day federal trial, the jury returned a defense verdict on all counts.

Lopez v. Bennett & Swaney - Prison inmate contracted botulism after consuming homemade alcohol or food. He claimed that the security-officer Defendants violated his 8th Amendment right to medical care when they deferred to medical staff for his evaluation and treatment - none of whom knew that he had botulism or a serious medical need. The State presented evidence that the inmate had been seen multiple times and continuously monitored by medical and security staff. At the close of Plaintiff's case, the judge granted Defendants' motion for a directed verdict and dismissed the case.

State Government Division

Motions for Summary Judgment

BBC Entertainment v. State of Arizona, et al. - The Plaintiff operated a bowling alley and bar in Tucson and alleged that construction along Ina Road in Tucson resulted in significantly diminished vehicle traffic near its business. The complaint alleged the State violated A.R.S. § 33-2401 by denying reasonable access to its business and alleged that the delay in construction and alleged restriction of access to its business constituted negligence by the State. Plaintiff alleged it suffered damages exceeding three million dollars. The superior court granted the State's Motion to Dismiss for failure to state a claim.

Katz v. ABOR - Plaintiff sued ABOR alleging negligence for injuries sustained while attending a performance at ASU's Grady Gammage Memorial Auditorium. During intermission, Plaintiff decided to use the restroom and instead of waiting in line, he jumped over a four foot high wall and fell 28 feet and landed on two individuals in the Orchestra seating. The State Court granted summary judgment in favor of ABOR, finding that Plaintiff went beyond the scope of the duty owed to invitees when engaging in behavior that was clearly unpermitted activity and because the condition was open and obvious.

Marie, K v. DES - Plaintiff sued the State of Arizona, acting through DES, alleging violations of Title II of ADA, Section 504 of the Rehabilitation Act of 1973, 1st and 9th Amendments, and seeking injunctive relief and punitive damages. Plaintiff claimed that DES did not provide reasonable accommodations to her when requested in connection with her SNAP and AHCCCS benefits. The district court granted judgment as a matter of law as to Plaintiff's claims under the 1st and 9th Amendment and for punitive damages, denied Plaintiff's motion for injunctive relief, and granted summary judgment on the Plaintiff's ADA and Rehabilitation Act claims finding DES provided her with the reasonable accommodation she requested in 2014 and was not deliberately indifferent in ultimately providing the accommodation she requested in 2017.

Monts v. Bowen et al. - Plaintiff sued the Chief Executive Officer/Superintendent of the Arizona State Hospital and nine employees alleging excessive force and civil rights violations after he was involved in a physical altercation with employees who detained him when he entered an unauthorized area. The district court granted summary judgment in favor of all Defendants.

Neary v. ABOR, et al - Plaintiff sued the Arizona Board of Regents, ASU and UA's Rugby teams and coaches, and multiple other individual Defendants for injuries sustained when one rugby player kicked another rugby player in the face during a game stoppage while the player was tying his shoe. The court granted summary judgment in favor of ABOR, finding it owed no duty to Plaintiff under the facts of the case. The Court granted summary judgment in favor of all Defendants, finding none of the named the Defendants were legally liable for the injuries because the unprovoked attack was an unforeseeable superseding event.

State Government Division

Licensing Enforcement Section

The Licensing & Enforcement Section (“LES”) represents over forty state professional licensing agencies. LES attorneys serve as “general counsel” for these agencies and provide representation in administrative disciplinary and license denial hearings before the agencies and the Office of Administrative Hearings. The attorneys also represent the agencies in the Superior Court in judicial review actions, special actions, and injunctive proceedings, as well as in the Court of Appeals. In addition, LES is responsible for providing independent legal advice to its client agencies in connection with prosecutions and adversary proceedings. LES attorneys also assist its client agencies in the rule making process, monitor and advise on proposed and enacted legislation, and ensure its clients’ compliance with open meeting and public records laws, and their respective governing statutes and rules.

Major Accomplishments

In the Matter of Phillip Gear, M.D. involved a physician responsible for the ongoing care of a globally neurologically incomplete, gastric tube feeding dependent patient who gave birth in a long-term care facility after an undiagnosed pregnancy. The pregnancy was the result of a sexual assault allegedly by a nurse at the facility. The Arizona Medical Board found that the physician deviated from the standard of care by, among other things, failing to investigate and document the patient’s significant weight gain 2018 despite multiple notifications by ancillary providers and failing to investigate changes in vital signs including tachycardia. The Board also found that the physician’s care and medical records were substandard and that the actual care was being rendered by students under his supervision. In lieu of a hearing, the physician agreed to surrender his medical license.

In the Matter of Carl Malmquist, P.T. involved a physical therapist who owned several clinics in Yuma, AZ who hired unlicensed physical therapists from Mexico to perform physical therapy services and supervise assistive personnel. The clinics’ patient population was primarily migrant workers and elderly retired individuals. In addition to violating Arizona law by hiring unlicensed physical therapists, the Physical Therapy Board also found that Mr. Malmquist engaged in significant billing irregularities. In lieu of a hearing, Mr. Malmquist agreed to surrender his physical therapy license.

Angels Cremation and Burials, L.L.C. v. Arizona State Board of Funeral Directors and Embalmers involved a funeral home’s appeal of an order issued by the Arizona Board of Funeral Directors and Embalmers disciplining the funeral home’s license based on its practice of stacking human remains in vehicles while they are being transported. Following an administrative hearing, the Board determined that stacking was not an acceptable industry practice and found that the funeral home violated the Board’s statutes and rules. The Board disciplined the funeral home for engaging in conduct showing disrespect for the deceased person that is contrary to the prevailing standards and practices of the profession. The Board’s decision was affirmed by both the Superior Court and Court of Appeals.

Frank Zanzucchi, Jr. v. Arizona State Liquor Board involved an appeal of the Arizona Liquor Board’s revocation of the Hi-Liter Gentleman’s Club’s liquor license following an administrative hearing. The basis of the revocation was repeated, blatant acts of dancer sexual misconduct. While the appeal was pending, the Board and the licensee entered into a consent agreement in which the licensee admitted all of the violations, paid a \$100,000 civil penalty, agreed to make substantial modifications to its premises to prevent future violations, and dismissed its appeal.

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Steven R. Gray, Ed.D. v. Arizona Board of Psychologist Examiners involved a challenge to the Board of Psychologist Examiners' authority to consider and adjudicate anonymous complaints received from the public. Dr. Gray sought special action relief from the Superior Court which declined to accept special action jurisdiction and also found that the Board has the authority to accept anonymous complaints. The Court of Appeals affirmed the decision on all grounds.

Board Member Training

LES attorneys regularly provide training to its client agencies on Arizona open meeting and public records laws, administrative hearing processes and procedures, and conflict of interest laws applicable to public officials. LES client agencies collected the following civil assessments and penalties:

<i>Civil Assessments and Penalties</i>	
<i>(in dollars)</i>	
Board of Accountancy	\$ 37,500.00
Dental Board	\$ 4,500.00
Occupational Therapy Board	\$ 850.00
Board of Athletic Training	\$ 8,750.00
Barber Board	\$ 4,145.00
Board of Cosmetology	\$ 95,675.00
Behavioral Health Examiners Board	\$ 1,000.00
Board of Technical Registration	\$ 55,900.0
Department of Liquor Licenses and Control	\$ 465,975.00
Massage Board	\$ 2,450.00
Medical Board	\$ 1,000.00
Nursing Board	\$ 700.00
Board of Nursing Care Institution Administrators	\$ 150.00
Board of Osteopathic Examiners in Medicine & Surgery	\$ 3,207.00
Pharmacy Board	\$ 76,612.00
Physical Therapy Board	\$ 4,500.00
Physician Assistant Board	\$ 2,000.00
Private Postsecondary Education Board	\$ 6,000.00
Registrar of Contractors	\$ 3,313,712.11
Respiratory Care Examiners Board	\$ 16,243.00
Veterinary Medical Examining Board	\$ 8,200.00
TOTAL	\$ 4,109,069.11

State Government Division

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 advice and litigation relating to agency authority, compliance with state and federal law, property rights, land use, and contractual issues.

ASLD manages over nine million acres of state trust land; NRS provides legal services relating to the sales, leasing, and management of land for commercial, residential, mining, grazing, agricultural, utility, and transportation uses. NRS attorneys assist in securing water resources for the development of state trust land and represent 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.

Significant Responsibilities

In re Hopi Reservation HSR - NRS Attorneys are set to commence the second phase of the first trial in Arizona history to determine the federal reserved water rights for an Indian tribe. In the first phase, the Special Master enumerated water rights for past and present uses and found, consistent with the State's position, that the Tribe's assertion of a maximum amount of water used for a particular purpose is not consistent with the "minimalist approach" established by the Arizona Supreme Court. In preparation for the second phase, relating to future uses, the State parties prevailed on a motion for summary judgment requiring the Tribe to sufficiently set forth the attributes necessary to substantiate its claims for future uses. In addition, the State parties prevailed in supporting the court's proceeding with the trial in a timely manner, by remote means, consistent with the Arizona Supreme Court's administrative orders.

ASLD Auctions - NRS Attorneys assisted ASLD in negotiating and structuring auctions, noticed and scheduled for Fall 2020, that are anticipated to add approximately three hundred million dollars to the state land trust for the benefit of public schools and universities and other public beneficiaries. The trust will further benefit from a participation interest in the development of certain parcels and from planning and infrastructure that will benefit surrounding parcels of state trust land.

Other Entries

NRS assisted ASLD to achieve the annexation of state trust land into and the acquisition of development entitlements from several municipalities throughout the state that add value to state trust lands.

NRS advises and represents the Arizona State Land Commissioner in her role as public trust advocate relating to the management and protection of sovereign lands belonging to the State along the Colorado River.

NRS attorneys regularly attend meetings and provide representation on the Arizona Open Meeting Law for the State Parks Board, including Advisory Committees, the State Board on Geographic and Historic Names, and the State Mine Inspector.

State Government Division

Public Law Section

The Public Law Section (PLS) provides legal advice and representation to a wide range of state agencies, boards, commissions and councils. The Public Law Section's diverse client agencies include those involved in financial and occupational regulation (including Department of Insurance and Financial Institutions and Department of Real Estate); natural resources and energy (Department of Agriculture, Water Quality Appeals Board, Arizona Power Authority); military affairs (Departments of Veterans' Services and Emergency and Military Affairs) and promotions (Arizona Exposition and State Fair Board and Office of Tourism). PLS attorneys advise on all aspects of Arizona public law—such as contract matters, open meetings, conflict of interest and public records laws—as well as federal laws and regulations. While many PLS cases begin as administrative enforcement matters litigated at the Office of Administrative Hearings, our attorneys provide legal representation through every stage of the judicial review and appeals process including before the Arizona Court of Appeals and Arizona Supreme Court.

Significant Matters

Department of Insurance and Financial Institutions (DIFI) Consolidation

As of July 1, 2020, three PLS client agencies combined into one: the Department of Insurance and Financial Institutions (DIFI). The new agency is comprised of the former Department of Insurance, the former Department of Financial Institutions and the Automobile Theft Authority.

PLS attorneys provide legal advice and support to DIFI on an ongoing basis to assist in the transition. DIFI has a broad scope of authority, including regulating:

- Insurance companies doing business in Arizona, including auto and health insurers
- Insurance producers (or agents)
- Banks and credit unions
- Collection agencies
- Mortgage bankers, mortgage brokers, and mortgage loan originators
- Money transmitters
- Real estate appraisers
- Escrow agents

The Automobile Theft Authority combats auto theft in Arizona by providing grants to support law enforcement activities throughout the State.

State Government Division

Arizona Exposition and State Fair Board

PLS attorneys play a crucial role in supporting the work of the agency responsible for organizing the Arizona State Fair and operating the Veterans Memorial Coliseum in Phoenix. Our attorneys provided legal advice and representation on diverse and wide ranging matters this year, including:



- Reviewing hundreds of contracts for the 2019 annual Arizona State Fair, including the first Mixed Martial Art (MMA) event held at the Fair
- Representing the agency in negotiations to lease the Coliseum to the Phoenix Suns and Phoenix Mercury
- Assisting with many other agreements, including those related to political rallies, the Super Bowl Committee venue reservation during 2023 Super Bowl, and installation of internet wiring and cell towers onsite.

Department of Real Estate

The Department of Real Estate licenses and regulates over 80,000 real estate professionals in Arizona. As their attorneys, PLS likewise carries a heavy caseload of licensing and enforcement actions and handled approximately 90 Real Estate licensing cases this year.

PLS attorneys handled a variety of administrative hearings including the license revocation of a real estate salesperson who misrepresented his services and took thousands of dollars from his clients under the guise of improving their credit and assisting them in the purchase of a home. PLS attorneys also represented the Department in disciplinary matters against licensees who failed to disclose material information during transactions and brokers who failed to properly supervise the activities of their salespersons and staff.

Water Infrastructure Finance Authority of Arizona (WIFA)

The Water Infrastructure Finance Authority provides funding to Arizona communities for the construction and maintenance of wastewater and drinking water infrastructure through two federally-funded state revolving funds. PLS attorneys advise WIFA on many issues, including environmental review and funding for water rights, corporate governance, and procurement.

Major Case Highlights

AmeriCapital Mortgage & Investments, LLC v. Department of Financial Institution - In April 2019, the Department of Financial Institutions (DFI) initiated a revocation action against licensed mortgage broker AmeriCapital Mortgage & Investments, LLC, for violations discovered during a DFI examination. AmeriCapital's owner had allegedly made false statements to DFI on numerous license renewal applications by concealing two unsatisfied civil judgments against AmeriCapital, including a judgment in which AmeriCapital had been assessed punitive damages of \$150,000 because the Court found that the actions of the owner's employee husband against an AmeriCapital client had been "egregious, outrageous, and conducted with an evil mind." After a several-day

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hearing handled by PLS attorneys for DFI, the administrative law judge recommended revoking AmeriCapital's mortgage broker license. The DFI Superintendent adopted that recommendation. AmeriCapital appealed, and in June 2020 the Superior Court affirmed the Director's revocation order in its entirety. AmeriCapital did not appeal the Superior Court's decision, and the revocation has become final.

Amaya v. Arizona State Board of Tax Appeals - Claiming she was an armed-forces member under A.R.S. § 43-1022(19), Lisa Amaya deducted pay received as a US Public Health Service ("USPHS") employee from her 2012 income. The Department of Revenue ("DOR") disallowed the deduction, stating her USPHS employment didn't qualify for it. Amaya appealed to the DOR Director and State Board of Tax Appeals, losing each appeal. She still had an appellate right in Arizona Tax Court. Instead, she filed suit in federal District Court, alleging that the administrative rulings constituted gender discrimination under the Equal Protection Clause. PLS attorneys moved to dismiss and the Court agreed. The Court held that the suit was barred by the Federal Tax Injunction Act, which states "district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State." 28 U.S.C. § 1341.

SDB Construction Services v. Department of Veterans Services, 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 that the company was owed an additional \$250,000 from the Arizona Department of Veterans Services ("DVS"). After a lengthy hearing, the administrative law judge denied all 19 of the claims, and that decision was adopted by Arizona Department of Administration Director in his final administrative decision. SDB then appealed to the Maricopa County Superior Court. The Superior Court affirmed the administrative decision in DVS' favor on almost all issues and remanded two issues. Despite not prevailing on any substantive issue, SDB filed separate applications seeking attorneys' fees and costs, which the State opposed. PLS attorneys successfully negotiated a settlement in which ADVS agreed to pay SDB \$50,000 to settle all claims between them, thus bringing this years' long litigation to a close and saving the State hundreds of thousands of dollars.

State Government Division

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.

Major Case Highlights

Carter Oil Company, Inc. v. ADOR - Taxpayer, a retailer of dyed diesel fuel, sought a refund of transaction privilege taxes paid on fuel sold to a mining company that used the fuel in mining equipment. Taxpayer claimed that the fuel was not taxable because it constituted exempt “machinery or equipment” used in mining operations under A.R.S. § 42-5061(B)(1) and (2).

ADOR lost at the Tax Court, but prevailed at the Court of Appeals. Taxpayer requested additional time to file a Petition for Review, but ultimately declined to file the petition, and a Judgment Upon Receipt of Mandate in favor of ADOR was entered by the Tax Court and filed on August 11, 2020.

It was estimated that the State would have had to pay approximately \$200 million in other refund claims and interest had the ADOR not prevailed.

NuOrder Technologies, LLC v. ADOR - Taxpayer brought a small refund claim in the Arizona Tax Court for transaction privilege tax paid on a hosted software product for online ordering from restaurants. This type of software at issue was not the type that is installed on the user’s computer or server, but rather is software that is hosted by the vendor or by a third party working for the vendor. This is sometimes called “hosted software” or “Software as a Service” (SaaS).

Plaintiff moved to certify a class of all businesses that had paid taxes on subscription revenue from any SaaS product. SaaS is a burgeoning area of business activity, and NuOrder’s claims would likely have implicated hundreds of companies that do business in Arizona.

The Tax Section successfully defended the motion to certify as a class action and NuOrder subsequently dismissed its lawsuit, thereby avoiding a significant refund liability for ADOR.

Transportation Section

The Transportation Section (TRN) provides legal services to the Arizona Department of Transportation (ADOT) and the Arizona Department of Public Safety (DPS). TRN also advises 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



State Government Division

Advisory Committee, the Arizona Companion Animal Spay and Neuter Committee, ADOT's Homeland Security Committee, and the School Bus Advisory Council.

TRN's representation of ADOT encompasses a wide variety of subject areas including litigation and advice related to acquisition of real property needed for highway construction purposes, as well as related construction contract matters. We provide legal advice to the Aeronautics Division of ADOT, which oversees the Grand Canyon Airport, and to Arizona Highways Magazine. We represent the Motor Vehicle Division of ADOT (MVD) concerning motor vehicle registration, driver licensing including commercial driver licensing, motor carrier issues, over-dimensional permits, third party vendors and motor vehicle dealerships. Attorneys representing MVD also handle the appeals from administrative decisions suspending driving privileges.

TRN represents DPS in connection with a broad range of licensing and certification issues, including concealed weapon permits, private investigator and security guard licenses, school bus driver certifications, vehicle contraband forfeiture matters other matters regulated by DPS. Attorneys representing DPS also provide advice on a wide variety of issues including criminal history record information, a statewide sex offender registration database, commercial vehicle enforcement, impounds, the crime lab and fingerprint clearance cards.

In relation to representation of ADOT, DPS, and the various boards, commissions, and committees, the TRN attorneys provide representation and advice on procurement matters, personnel matters, property management, public records, open meetings and a variety of contractual matters including inter-governmental agreements, interagency service agreements, grant agreements, and general contracts.

Significant Highlights

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

In addition to providing daily advice, attorneys in TRN's MVD group successfully prosecuted 13 automobile dealer cases and assisted ADOT in collecting approximately \$180,000 in fines as a result. Those attorneys also handled 7 litigation matters to completion as well as 11 appeals.

TRN AAGs representing DPS advised DPS on 450 out-of-state conviction records to assist DPS in determining whether to include these offenders on the internet sex offender website pursuant to ARS § 13-3827.

Operations Division



Chief Director of Operations

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.

Information Services Section

The Information Services Section (ISS) is comprised of system/security engineers, software and reporting support personnel, web administrators, and litigation support professionals. ISS is responsible for managing the information technology infrastructure as well as providing technical support services to AGO staff.

Overview of Accomplishments

Azure Site Recovery - The ISS Engineering team has designed and implemented a solution that allows for synchronization of critical server workloads to the Microsoft Azure Cloud. This will enhance the high availability solution and provide disaster recovery capabilities. The team is working to implement similar solution for all critical AGO data as well.

Legal Files Web Conversion - The ISS Software team has worked closely with Legal Files and Elli Balstad to configure predictive testing used in the migration of Hummingbird DM documents into the Legal Files application. These predictive tests go hand in hand with successful migrations and allow for immediate validation of the migrated documents. The Legal Files web migration work continues and the team has begun consulting with the vendor on a phase 2 migration program.

Heightened Security - ISS continues to work to identify and mitigate security issues in technology, policy, and practice.



Operations Division

We have implemented a new malware protection tool sponsored by the state as a replacement for Cylance. Later this year, we will be adding another anti-vires layer of protection to our portfolio. ISS continues working on the implementation of a “Least Privilege” model as a key component of securing the network. We are also working on the creation of a multi-factor login protection solution.

Data Growth at the AGO - ISS Engineering has added an additional 16TB of primary storage Fall 2020. We have also increased the disk-based backup solution allowing us to hold more backup data for restores.

Point to Point Microwave Wireless Link –The new point-to-point microwave link between the CapCenter and Palm facilities has been fully configured and is in operation as the primary link between Palm and the capital mall. The link is backed up by an AZNET controlled solution ensuring that there are multiple paths available. The available bandwidth for the Palm facility has been more than doubled.

Movement into the new datacenter –As ISS creates disaster redundancy in the Microsoft Azure cloud we migrate more resources to our off-site datacenter. We anticipate that during the next year we will be able to collapse almost all of our CapCenter infrastructure into the off-site datacenter. We will continue to maintain our high availability configuration in the offsite facility.



Strategic Enterprise Technology & Support Section

Strategic Enterprise Technology & Support (SETS) is the newest Operations Section and was established in December 2019. This section focuses on providing desktop support to AGO staff and on leading strategic and critical projects for the Office.

The Helpdesk manager and team technicians are part of SETS. The helpdesk team resolved approximately 7,500 issues that were recorded in the AGO ticketing system during 2020. The team also resolved telephone call and email issues that were not included in that count.

In support of AGO’s pandemic workplan, the ISS team configured the Barracuda device to enable remote work by large numbers of AGO staff. The SETS Helpdesk team assisted with the mobilization of 875+ AGO employees to teleworking using that device. The Helpdesk team assisted AGO staff with installation and configuration, along with training staff on the teleworking device/procedures. In many instances, previously retired equipment was upgraded by the Helpdesk to enable those devices to support teleworking.

Operations Division

SETS has worked with the ISS team to develop the strategy to sunset AGO's outdated document management system. This cross-functional IT team has worked with the outside vendor to develop specifications and to test a conversion program that is used to move documents into the new document management system. This project also required development of a tracking system to monitor the readiness of business units to be moved into the new document management system.

The upgrade of the AGO Case Management System has been the key strategic project for SETS. To accomplish this, SETS and ISS worked with AGO Division "Champions" to establish cross-agency standards and preparation steps for Division upgrades. Since this project is being led by SETS (not an external vendor), the training, testing, and implementation strategies are SETS' responsibility. Supporting this required creation of AGO specific training materials and also a series of scripts to be used for Super User testing prior to each section's Go Live. Eight sections across two divisions were upgraded to the new Case Management System and migrated from the outdated document management system before the pandemic stalled the rollout process.

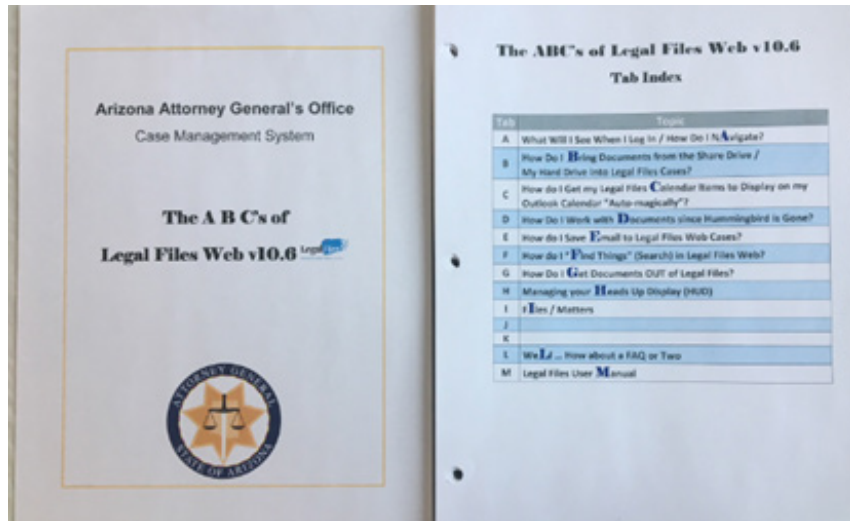
PC replacement as part of Go Live weekend



Operations Division

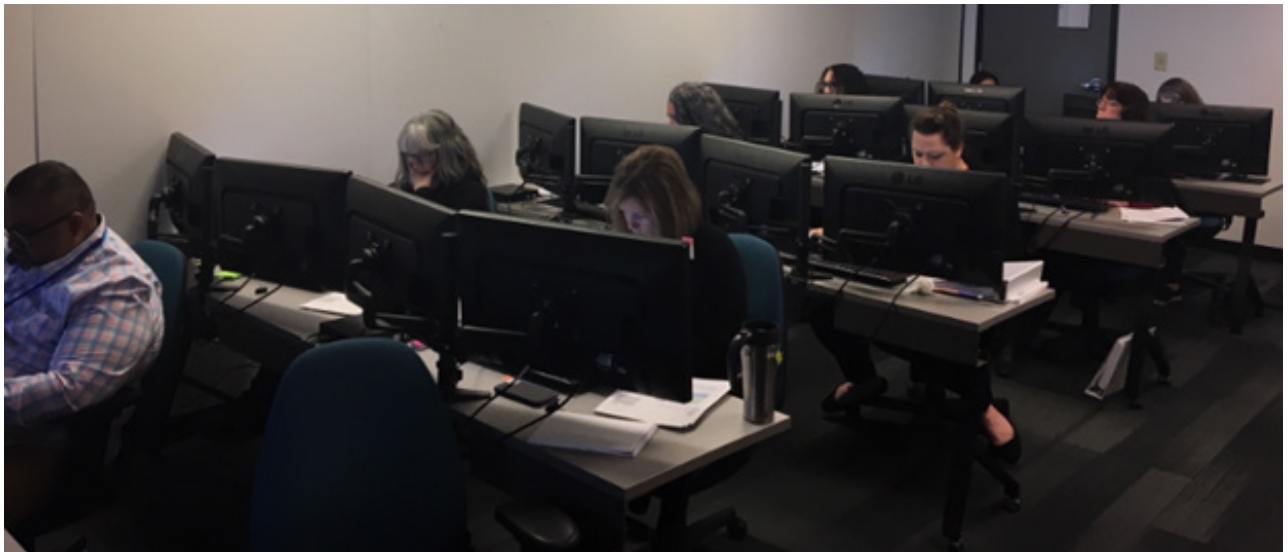


PC replacement as part of Go Live weekend



AGO Training Materials

Super User Testing before Division Go Live



Operations Division

Human Resources Section

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.

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.

ADA Accommodations

The AGO is committed to a work environment that promotes equal employment opportunity and prohibits discriminatory practices. We routinely engage in the interactive process with employees to determine effective workplace accommodations that allow employees to do the essential functions of their job. Upon receipt of a request for an accommodation, the ADA Coordinator and Human Resources collaborates with the employee to work towards a practical, effective and often creative solution that benefits the employee and the work unit. Through this process, a multitude of formal and informal accommodations have been provided to employees. The partnership and communication between all parties, including the Division management team, has proven to be the key to success for workplace accommodations.

Medical Leave Requests

The FMLA entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health coverage under the same terms and conditions as if the employee had not taken leave. If an employee is not eligible for leave under the FMLA, the request for leave is considered as potentially an accommodation request or other type of leave based on the circumstances of the request.

The process for each medical leave of absence request includes:

- The initial receipt/intake of a request.
- FMLA eligibility check.
- The appropriate paperwork and notifications are provided to the employee and supervisor.
- Upon review of medical certification, a designation of the leave is provided to the employee and supervisor.
- Management of the leave while in progress (qualified life events; donated annual leave requests; employee time entry; benefit premium billings; return to work certifications; on-going intermittent leave).
- Closure of leave request records upon completion.

Operations Division

Fiscal Year 2020:

- Approximately 200 requests for Medical Leave (Including 11 cases under the Expanded FMLA)
 - Management of approximately 102 Continuous leave requests and 98 Intermittent leave requests
- ### COVID-19 Response

Since March 2020, the Human Resources Section has been committed to assisting employees during the spread of the coronavirus. Human Resources responded to requests for assistance with telework considerations, leave options related to COVID-19, Employee Assistance Program services, accommodation requests and work-site precautions.

Best Practices

- Intake process for employee requests
- Monitoring and on-going assistance for COVID-19 related requests
- Verbal and written communications with employees and supervisors
- Questionnaire for potential exposure and COVID-19 diagnosed cases
- Notifications related to positive COVID-19 cases
- Collaboration between sections within the Operations Division in response to COVID-19 related requests
- FFCRA federal leave process, forms, communication templates, eligibility checklist and designation for COVID-19 related leave
- Attendance of weekly ADOA COVID-19 Teleconferences

March – June, 2020:

- Intake and management of more than 150 matters from employees related to COVID-19
- 72 Accommodation requests related to COVID-19

Health and Wellness

To continue supporting work and personal life balance, the following wellness events were hosted at the AGO offices:

- Mammography Onsite Mobile
- Prostate Cancer Screenings
- Mini Health Screenings
- Blood Drives in coordination with American Red Cross and Vitalant
- Flu Shot Clinic
- Employee Assistance Program Training for Office Administrators and the Operations Division

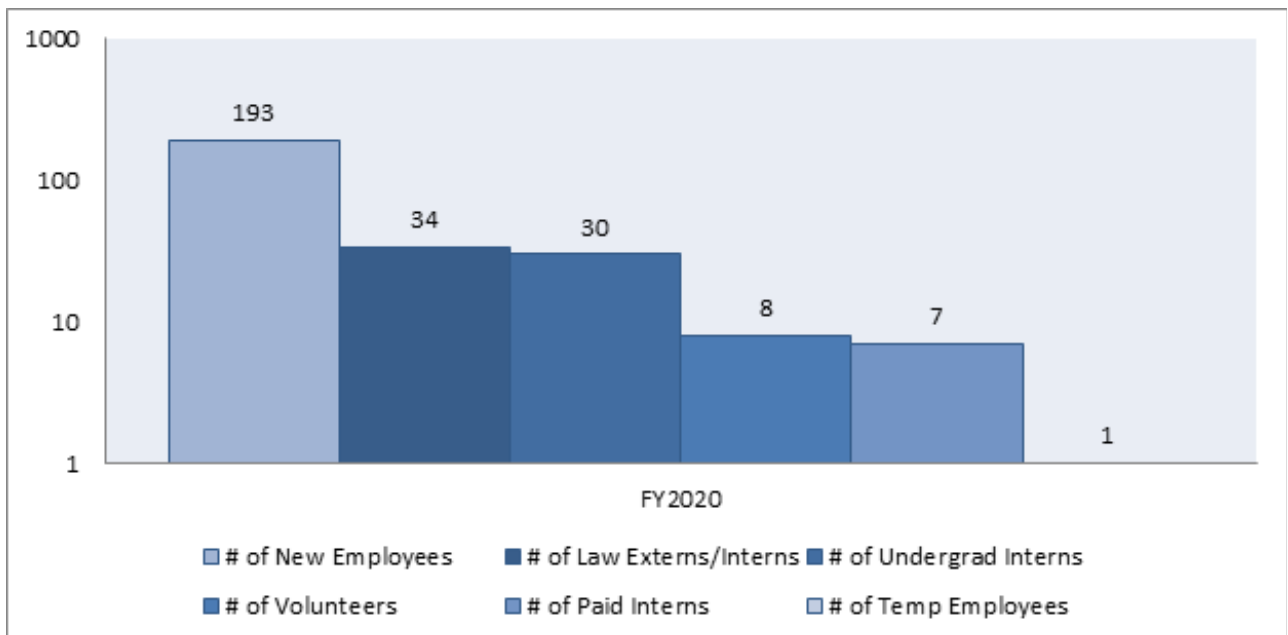
Operations Division

Worker's Compensation

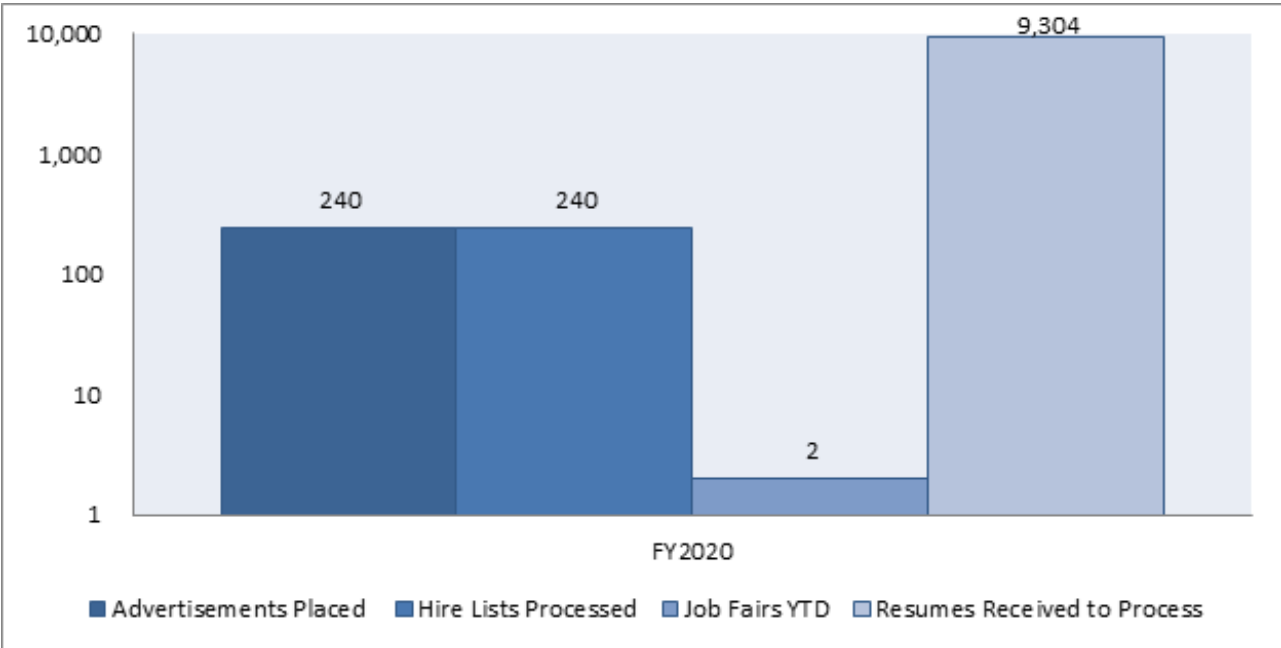
In the event an employee experiences an injury at the worksite, the Human Resources Section provides guidance to employees and supervisors during the process while maintaining compliance with Federal and State regulations. We manage worker's compensation claims for our AGO office locations throughout the state. A Worker's Compensation Educational Pamphlet was created to assist employees and supervisors through the claims process through recovery. During Fiscal Year 2020, HRS handled 15 Worker's Compensation cases.

Annual Accomplishments

- ASRS Employer Conference
- Background Check Process Improvement
- Benefit Open Enrollment
- EAP Training for Office Administrators and Operations Staff
- EEO Plan
- Grant Compliance
- HRIS Security Infrastructure
- Intern Program
- LTD process changes
- Merit Incentive Program for FY2020
- New Employee Orientation Benefit Presentation
- OSHA Report
- PSPRS Cancer Insurance Program for FY2020
- Public Records Requests
- Record Retention Audit
- Workplace Harassment Training



Operations Division



Operations Division

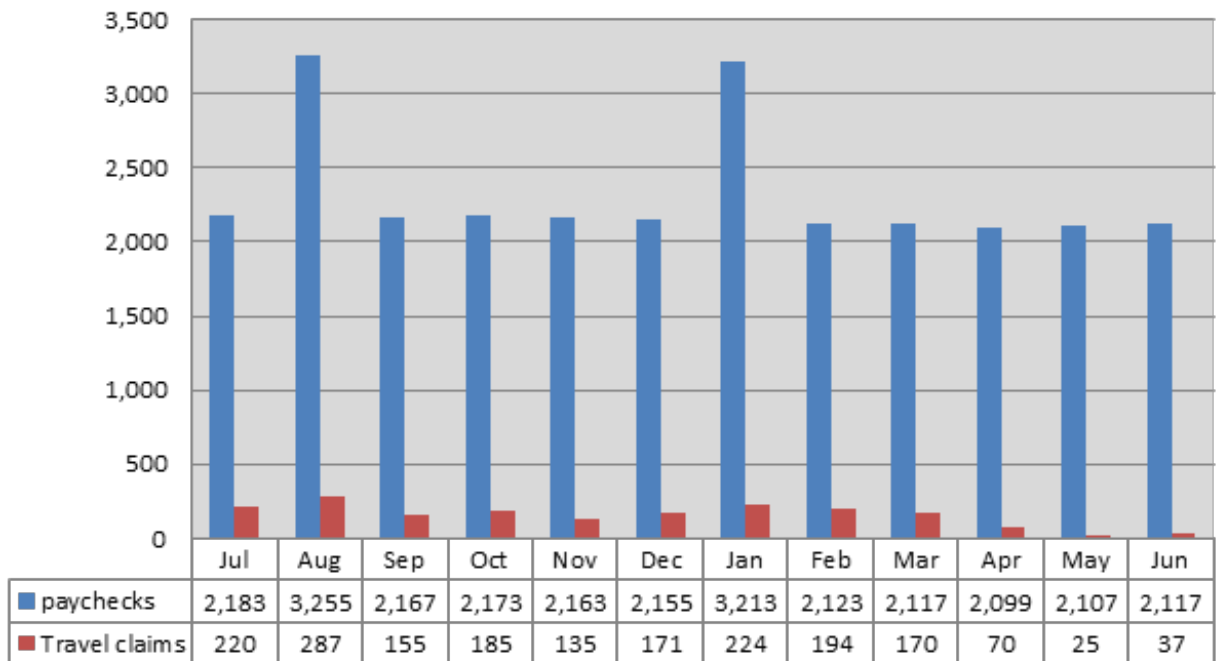
Budget & Finance Section

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.

Fiscal Year 2020:

- Payroll issued 27,872 paychecks to employees as well as 1,873 travel & employee reimbursements
- Delinquent travel claims received were down 67%
- Accounts Payable paid out \$ 31,220,518 to vendors in FY20
- 1,306 transfers were completed between the AGO and other state Agencies
- 485 Deposits processed totaling more than \$17.7 million dollars.

FY20 Paychecks Issued and Travel & Employee Reimbursement Processed



Operations Division

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.

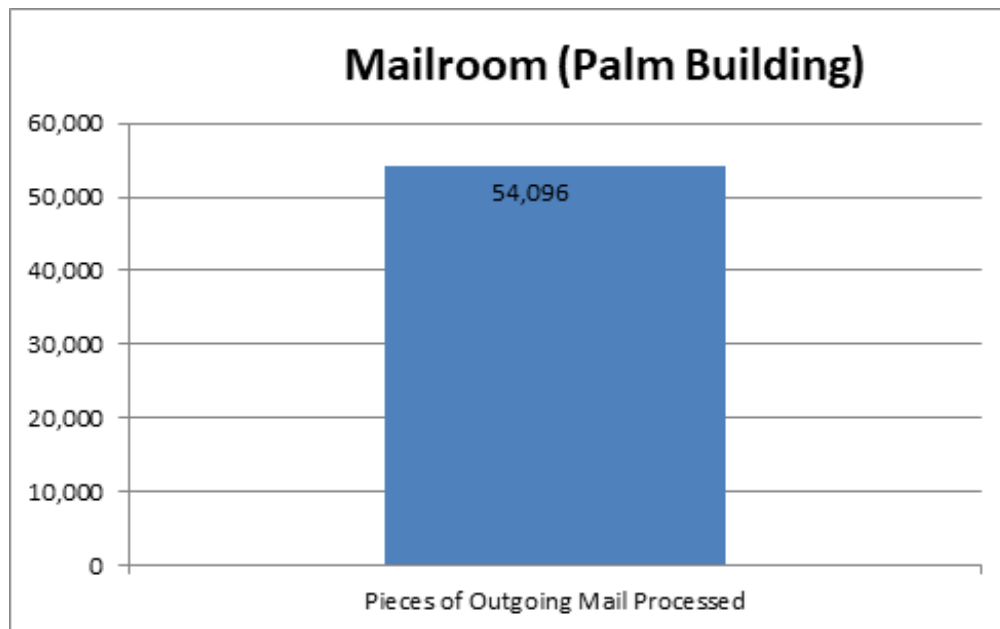
Fiscal Year 2020 Accomplishments

- Enhanced cleaning and sanitization practices throughout all areas
- Purchased and distributed personal protective equipment for employee and visitor safety
- Cross-trained employees in all areas of Facilities in order to better serve customers
- Streamlined several mail functions in order to expedite services
- Completed major construction and installed new cubicles to enhance work space efficiency through design and restructuring
- Installed electrical car charging station
- Worked with the Information Services Section to install new video conferencing equipment, projectors and speakers in our main training room
- Improved the recycling program which funds supplies for New Employee Orientation
- Installed new carpet tiles throughout building
- New paint, ceiling grid, laminate flooring and electrical work throughout several areas
- Renovated multiple restrooms throughout building

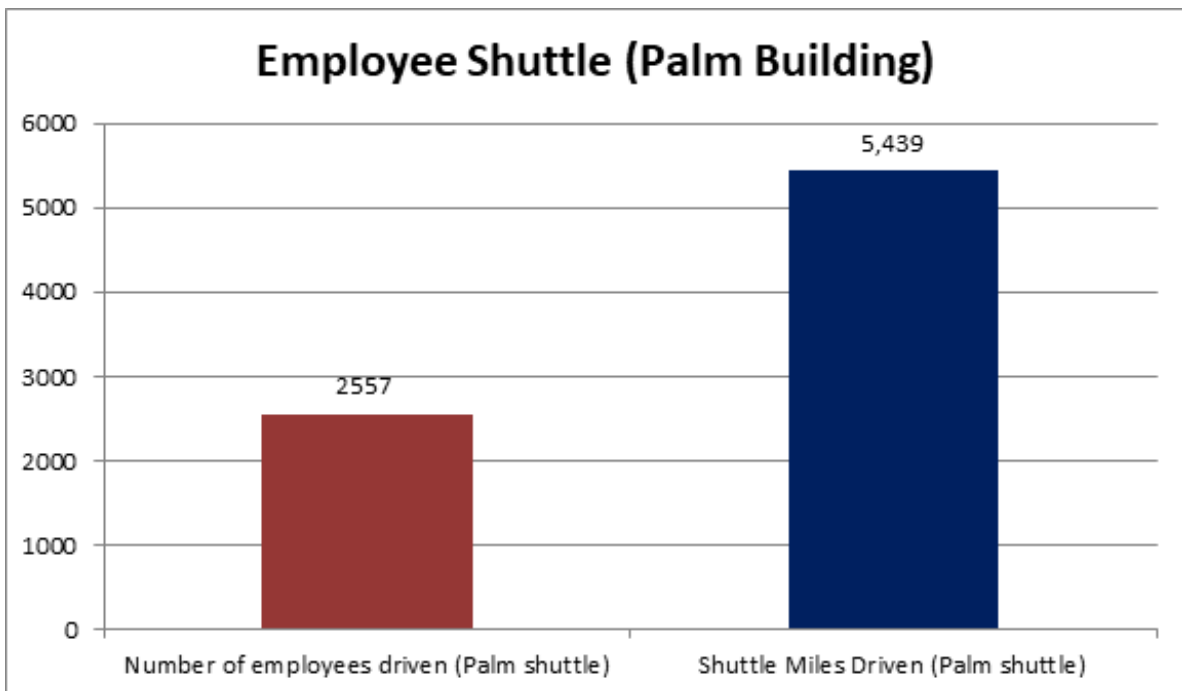
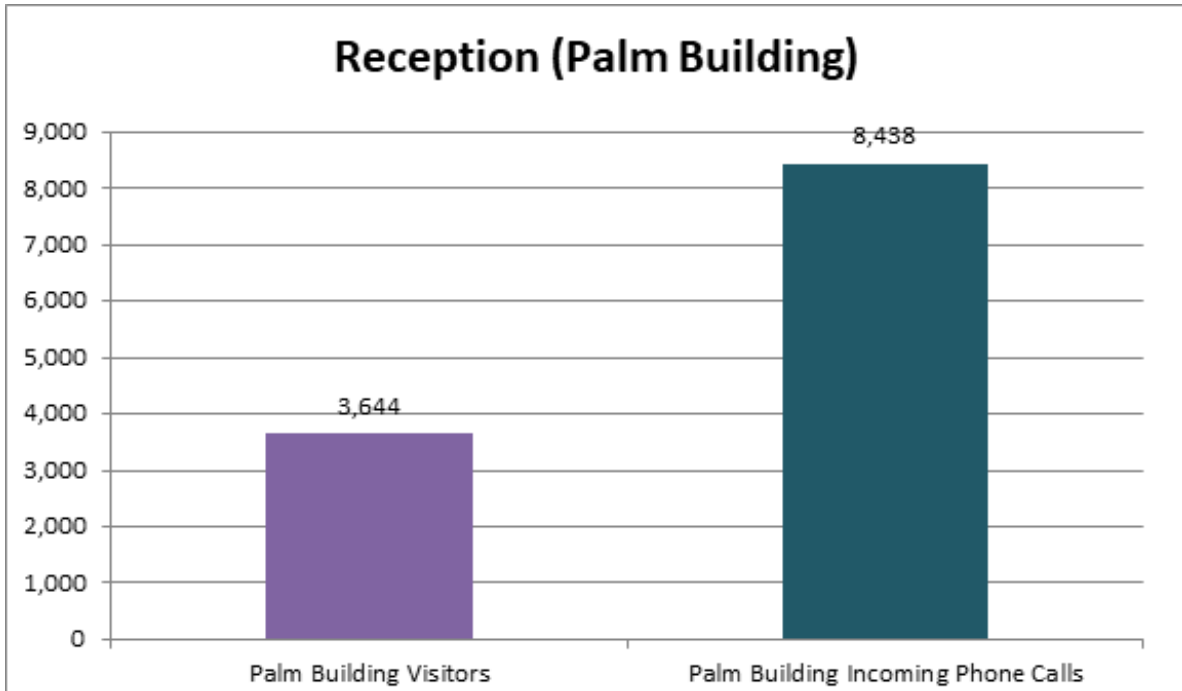


Operations Division

- Installed bottle filler in lobby for employees and visitors
- Transformed existing spaces in order to create new conference room and meeting areas
- Managed several furniture remodel projects including design and installation



Operations Division



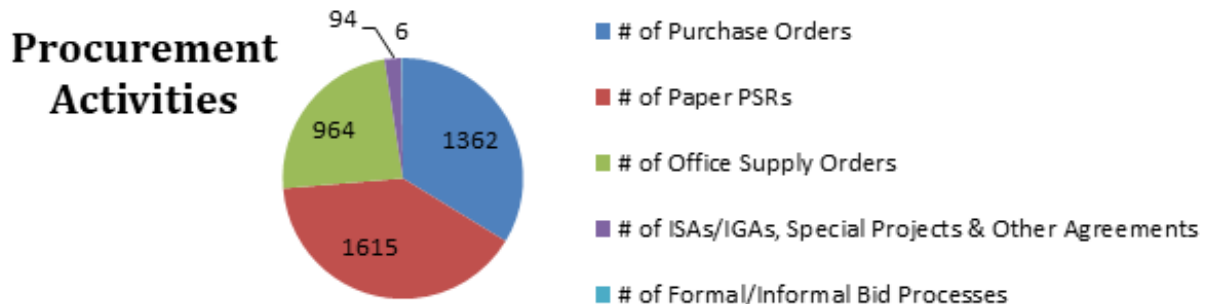
Operations Division

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
- Arizona Procurement Portal (APP) 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 the Outside Counsel Contract for Calendar Year 2019 to approx. 100 firms.
- Solicit and award a contractor to conduct a comprehensive study of Missing and Murdered Indigenous Women and Girls.
- Solicit and award contracts to distribute funds to provide support programs for mental health to benefit first responder personnel from the Wells Fargo Settlement.
- Solicit and award contracts to distribute funds to provide essential services for survivors of human trafficking from the Wells Fargo Settlement.
- Negotiate multiple Outside Counsel Agreements to support special needs of other Agencies; including the NAU (3 contracts).
- Negotiate multiple Governmental Agreements to coordinate AGO with Federal, County and City Agencies.
- Continued management and training for the new Source to Pay (S2P) e-procurement system: Arizona Procurement Portal (APP).

Criminal Division



Division Chief Paul Ahler

MISSION:

To protect the citizens of Arizona by investigating and prosecuting criminal cases 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 and 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

CRM is divided into seven Sections: Drug & Racketeering Enforcement Section (DRG); Financial Remedies Section (FRS); Fraud & Special Prosecutions Section (FSP); Health Care Fraud & Abuse Section (HCFA); Office of Victim Services (OVS); Southern Arizona White Collar Crime & Enterprise Section (SAWCCE) and Special Investigations Section (SIS).

Long Time Criminal Staff Member Receives APAAC's Lifetime Achievement Award



Sheree Hunt had over 30 years of legal secretarial/administrative experience in several Arizona prosecution offices, working in Apache and La Paz County Attorney's Offices, along with the AGO. In April 1988, Sheree began her career as a Legal Secretary/Bad Check Specialist for the Apache County Attorney's Office, where she worked for ten years. In 1998, Sheree then went to work as an Office Administrator/Legal Secretary for the La Paz County Attorney's Office, where she worked for nearly five years. In 2003, Sheree came to work as an Office Administrator/Legal Secretary for the AGO in the DRG Unit performing administrative support functions for the Unit Chief. She later transferred to the FRS Section, assisting the Section Chief with a wide range of administrative and secretarial functions. She also coordinated with the section's property manager, tracking case funds for numerous state agencies. Several years later she was promoted to the Office Administrator position for the FRS Section where she assisted with day-to-day operations and managing the Section. Sheree finished her career with the AGO as an Administrative Assistant in the FSP Section where she was assigned to two attorneys handling high profile and complex fraud scheme cases. In December 2019, Sheree retired and we wish her the best of luck.

Criminal Division

Four Criminal Division Members Win APAAC Honors

In addition, the Criminal Division would like to recognize the additional staff members that were nominated for APAAC recognition:

Administrator of the Year - FSP Legal Secretary Stacey Canez received APAAC's 2020 Administrator of the Year award. Stacey is a hard-working and dedicated individual who exhibits all the qualities of an exemplary employee. She completes her assignments with diligence and attention-to-detail. Over the past 15 years, Stacey advanced from a student clerk to a lead legal secretary with a great deal of operational skills and responsibilities. She possesses excellent administrative skills and an ability to work well with everyone. Stacey has taken on additional duties and responsibilities to assist others in the Division. She is able to handle Division fiscal matters including travel, procurement and budgetary issues as well as being able to assist the Division Chief as necessary in the absence of the Division OA. During the past year, Stacey has been instrumental in helping with the transition to a new AGO case management system, which has involved many meetings, additional assignments and the creation of training protocols for all employees.

Legal Assistant of the Year - HCFA Senior Legal Assistant Peni Cox received APAAC's 2020 Legal Assistant of the Year award. Peni is known for her tireless dedication and exceptional legal assistance to the attorneys she supports. Peni is tasked with running the HCFA Section in Prescott where she serves as not only a Legal Assistant but also assists with secretarial and administrative matters as well. For the past nine years, Peni has been an exceptional employee with unwavering dedication to the AGO. She is a key component of the investigation and prosecution team that covers nearly half of the geographic area of the State. Peni is a leader in providing services in the Prescott office and also her assistance to the Phoenix and Tucson HCFA staff. She is always approachable, knowledgeable and is willing to do whatever it takes to get the job done.

David R. White Excellence in Victim Advocacy Award - FSP prosecutor Shawn Steinberg received APAAC's 2020 David R. White Excellence in Victim Advocacy Award. Shawn is a remarkable voice for the crime victims she represents and she deserves special recognition for her work with the victim's family in a State v. Luna/Carrasco, a murder case involving two defendants who frequently committed home-invasions in an attempt to steal drugs. When she noticed these dangerous offenders would taunt the next of kin, she made appropriate records with the court, often drawing the ire of the defendants and sometimes their attorneys. When confrontations would occur in the hallway, Shawn skillfully defused the situation and protected the victim's family with the assistance of court security, often times securing the removal of antagonistic persons from the courtroom. Shawn worked closely with the victim advocate and the victim's family to craft plea agreements that reflected the nature of the case, the defendants' criminal histories and relative involvement, and at the same time, ensuring that justice prevailed for the victim. Both defendants pled guilty to the murder. Luna was sentenced to 23 years and Carrasco was sentenced to 17 years in prison. The victim's family was pleased with the outcome and Shawn's hard work helped to minimize the trauma that they experienced in the court process. The family expressed their appreciation for Shawn's hard work and dedication.

Gerda & Kurt Klein Guardian of Freedom Award - FSP Section Chief Blaine Gadow received APAAC's 2020 Gerda & Kurt Klein Guardian of Freedom Award for his prosecution of a human sex trafficking trial. The victim's testimony was necessary for the case to proceed. The victim was very anxious and worried about testifying. Instead of using the procedural tools available to prosecutors such as an arrest warrant to ensure the victim's participation at

Criminal Division

trial, he empowered her in a multidisciplinary manner through support, empathy and providing options that resulted in her choosing to testify of her own will. Thanks to Blaine and his team's ability to empower the victim to testify, justice prevailed. The jury found the defendant guilty on 11 felony counts, including Child Sex Trafficking, Conspiracy, Money Laundering and Sexual Exploitation of a Minor. After the verdict, the victim's name and location had been released on social media by acquaintances of the defendant. Her safety and well-being were a large concern for Blaine while the defendant awaited sentencing. Blaine advocated for the safety and well-being of the victim after she provided testimony. He collaborated with others in the agency to achieve a unique solution to maintain the victim's safety until her transition to Department of Child Safety (DCS) services could be obtained. Blaine is a compassionate prosecutor and is very deserving of this award.

In addition, the Criminal Division would like to recognize the additional staff members that were nominated for APAAC recognition:

Advocate of the Year - OVS Victim Advocate Evelyn Robles was the AGO's nominee for APAAC's 2020 Advocate of the Year. Evelyn has been employed as an AGO victim advocate since 2017. Evelyn has a complex case load consisting of fraud, child sexual exploitation, and human trafficking cases in both direct prosecution and appellate cases, also including death penalty cases. Her passion for meeting the needs of survivors of trafficking has positively affected the fight against predators and perpetrators on an international scale. Each victim is an individual often requiring creative advocacy and partnerships atypical for standard prosecution-based advocates. In 2019, Evelyn was integral part of the successes in the case against Robert Hood. She worked with the trafficking survivor through the investigation and prosecution phases which resulted in the survivor testifying against Hood on her 18th birthday. These efforts helped to secure a 108-year prison sentence while at the same time helping to find creative ways to serve the survivor post-conviction.

Felony Prosecutor of the Year Award - HCFA Section Chief Steve Duplissis was the AGO's nominee for APAAC's Felony Prosecutor of the Year Award. Under Steve's leadership, HCFA was recognized in 2019 as the second highest performing Medicaid Fraud Unit in the nation for filing criminal indictments. This impressive achievement is unsurprising given Steve's unwavering passion to investigate and prosecute medical professionals who defraud the government and abuse some of Arizona's most vulnerable residents. Steve inspires that same passion in his employees, and they directly benefit from his thoughtful leadership and mentoring. Steve's section oversaw over 100 cases in 2019, ranging from large-scale Medicaid billing fraud to a former doctor's murder-for-hire prosecution. Steve's leadership has made HCFA a model for similar offices across the nation. He is a dedicated prosecutor who cares about the profession, his employees, victims and Arizona's citizens. The AGO was recently informed that the Arizona MFCU was selected this year for the Department of Health and Human Services, Office of Inspector General's Award for Excellence in Fighting Fraud, Waste, and Abuse. Steve is an asset to Arizona's prosecution community.

Rising Star Award - FSP prosecutor Evan Malady was the AGO's nominee for APAAC's 2020 Rising Star Award. Evan started working in FSP in February 2019. Evan became quickly proficient in his position, developing his

Criminal Division

skills in directing and managing complex fraud and other investigations. Although only a two-year lawyer, Evan has successfully handled a wide variety of complex fraud cases. He has exceptional organizational skills, communicates well with law enforcement agents, defense attorneys and court staff and is known for working very hard. When Evan joined the Section, he immediately became involved in several high-profile and complex matters. Evan was instrumental in the Paul Petersen AHCCCS-fraud case. He was part of the initial investigation, participated in witness interviews, attended the search warrants and ultimately presented the case to the State Grand Jury. The Petersen case was extremely complex and it consisted of several different criminal investigations across multiple jurisdictions. Evan has handled the complexity of this case with skill and professional maturity. The defendant in this matter has skilled and experienced defense attorneys. Evan has diligently worked with them to move the prosecution forward and effectively represent the State's interests. In June 2020, Petersen pled guilty to Fraudulent Schemes and Artifices, Forgery and Fraudulent Schemes and Practices and is facing three to 16 years in prison.

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 FY20 DRG had 542 open cases and resolved 282 of them. DRG cumulatively charged 275 defendants with felony offenses. Total drug seizures in cases for FY20 are well in excess of 2206.602 lbs. of Methamphetamine with an approximate wholesale value of \$5,075,184; 52.17 lbs. of Heroin with an approximate wholesale value of \$611,554; 329.88 lbs. of Cocaine with an approximate wholesale value of \$3,973,554; 706.43 lbs. of Marijuana with an approximate wholesale value of \$819,458; and 527,647 pills and 17.688 lbs. of Fentanyl with an approximate wholesale value of \$8,374,593 in addition to cash seizures totaling \$1,715,161. Courts ordered defendants to pay \$1,252,460 in drug fines as a result of DRG prosecutions.

DRG seizures removed 4,011,570 potentially fatal doses of Fentanyl powder from circulation in FY20. According to the United States Drug Enforcement Administration, fentanyl is a synthetic opioid that is 80-100 times stronger than morphine and approximately two milligrams of Fentanyl is a lethal dose for most people. The picture illustrates a dose of two milligrams of Fentanyl in relation to the size of a penny.

Major Cases

State v. Oscar Bejar, et al. - Between September 2018 and April 2019, detectives from the Maricopa County Sheriff's Office (MCSO) High Intensity Drug Trafficking Area (HIDTA) investigated suspects selling Marijuana and Cannabis within the Phoenix metro area under the brand name "Just Grindin." This Drug Trafficking Organization (DTO) imported Marijuana and Cannabis products from California and then sold them to street level dealers and customers. Detectives determined that Oscar Bejar was running the organization by directing the co-defendants

Criminal Division

to transport and sell the product he imported from California. Detectives saw Bejar and Francisco Vergara Salgado mail packages that contained a total of 2.2 pounds of Marijuana, seven grams of Cannabis and Just Grindin merchandise. Detectives also observed Bejar, Paul Silva and Salgado as they unloaded a load vehicle in the parking garage of Bejar's apartment complex. Detectives searched the vehicle finding 80 pounds of Marijuana and 190 pounds of Cannabis. Inside Bejar's apartment, Detectives found 3.35 pounds of Marijuana, 8.9 ounces of Cannabis, \$43,420 in cash, ledgers, FN P90 rifle, Glock handgun, Colt 1911 handgun and Just Grindin stickers and packaging. Due to previous convictions, Bejar was prohibited from possessing firearms. In January 2020, Bejar pled guilty to Transportation of a Narcotic Drug for Sale, Attempted Money Laundering and Misconduct Involving Weapons and was later sentenced to an aggravated term of six years in prison and ordered to pay a fine of \$8,900. The aggravated term was based on the size of the enterprise, the amount of drugs trafficked, the presence of the guns and Bejar's three prior felony convictions. All other defendants were sentenced previously.



State v. Abraham Aguirre, et al. - In January 2019, Detectives from the Drug Enforcement Agency (DEA) and Chandler Police Department were investigating a DTO that transported and sold Heroin and Methamphetamine in the Phoenix metro area. Detectives observed a drug transaction between Abraham Aguirre and Jose Castro-Gastelum.



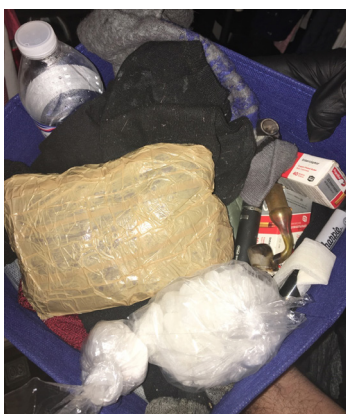
Detectives arrested Aguirre and searched his car where they found a half pound of Cocaine, 80 grams of Heroin (packaged in individual baggies) and a 9mm handgun. Detectives also executed a search warrant at Castro-Gastelum's trailer where they found a .45 caliber handgun and over 28 pounds of Methamphetamine. In July 2019, Aguirre pled guilty to Transportation of Narcotic Drugs for Sale and was later sentenced to five years in prison. In January 2020, Castro-Gastelum pled guilty to Conspiracy to Commit Possession of a Dangerous Drug for Sale and Possess/Use of Weapon in a Drug Offense and was later sentenced to 3.5 years in prison and ordered to pay a fine of \$3,560.

State v. Francisco Mendoza-Nieblas - In May 2018, Detectives from DEA and Chandler Police Department intercepted a phone call between Francisco Mendoza-Nieblas and "Cristobal," who was identified as a Mexican drug supplier. Mendoza-Nieblas agreed to transport Heroin to Salt Lake City, Utah. While in transit, Mendoza-Nieblas was stopped by the police, who later found four packages of Heroin weighing 4.6 lbs. inside a spare tire. In April 2019, Mendoza-Nieblas pled guilty to Attempted Transportation of a Narcotic Drug for Sale. In May 2019, he was sentenced to 3.5 years in prison and ordered to pay a fine of \$7,320.



Criminal Division

State v. Diego Diaz-Gamez - Investigators from the Goodyear Police Department arrested DTO courier Diego Diaz-Gamez. Police pulled over a red truck being driven by Diaz-Gomez's sister. In the back seat, they discovered Diaz-Gamez and his sister's child. Police also found a backpack containing \$44,312 in cash and two large black duffle bags which contained nine lbs. of white Heroin, four lbs. of black tar Heroin, two lbs. of Cocaine, one ounce of Methamphetamine and 1,000 Fentanyl pills. Investigators obtained a Search Warrant for Diaz-Gamez's apartment, where they found an additional two lbs. of Methamphetamine, a stolen AR-15 rifle and a shotgun. In December 2019, Diaz-Gamez pled guilty to Illegally Conducting an Enterprise and Misconduct Involving Weapons and he was later sentenced to three years in prison and ordered to pay a fine of \$7,320.



State v. Sipriano Alvarado - Investigators from the Mesa Police Department identified Sipriano Alvarado as a courier transporting drugs across the Lukeville checkpoint. Alvarado was delivering the drugs to a stash house in Phoenix. In September 2019, investigators were able to determine that he delivered ten kilograms of Methamphetamine to the house. A couple weeks later, investigators stopped Alvarado at the Lukeville Port of Entry as he crossed into the United States. During a secondary search, investigators found a hidden trap in Alvarado's gas tank which held 10.7 kilograms of Methamphetamine and 1.56 kilograms of Fentanyl powder. In January 2020, Alvarado pled guilty to Illegally Conducting an Enterprise and was later sentenced to 3.5 years in prison and ordered to pay a fine of \$10,680.



Investigation CWT-530 - Beginning in June 2019, Case Agents with the DEA and Tempe Police Department conducted an investigation targeting a group of individuals responsible for distributing illegal drugs in the Phoenix metropolitan area. Agents sought and obtained court authorization to intercept the telephonic communications of numerous individuals also involved in distributing illegal drugs and/or laundering illegal drug proceeds. Over the course of CWT-530, Agents arrested numerous suspects, obtained multiple indictments, seized approximately 1,104 lbs. of Methamphetamine, 31 lbs. of Heroin, 101.2 lbs. of Cocaine, 11 lbs. of Fentanyl powder, 323,000 Fentanyl pills, multiple weapons and \$263,000 in cash.

CWT530 – 100 lbs of Methamphetamine and 150,000 Fentanyl pills



Criminal Division

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, 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 to remove the proceeds and property gained and used in the illegal activity and to 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 CRM 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.

During FY20, FRS disrupted 109 criminal enterprises and filed 162 forfeiture actions against 1,163 in personam defendants and in rem assets. FRS obtained 11 seizure warrants authorizing the seizure of assets worth \$5.5 million dollars. FRS successfully concluded 154 cases, obtained final judgments that forfeited assets worth more than \$7.5 million dollars and distributed over \$5 million dollars to crime victims, state agencies and its law enforcement partners. FRS attorneys conducted seven forfeiture trainings attended by 226 law enforcement personnel.

Financial Remedies Section FY 2020 Metrics	
Net Distributions from Forfeited Property (\$ Million)	\$5.50
Estimated Gross Value of Seized Property (\$ Million)	\$7.60
New Cases Submitted (Actual)	141
Assets Included in New Cases Submitted (Actual)	973
<i>In Personam</i> and <i>In Rem</i> Assets Forfeited (Actual)	1163
Seizure Warrants (Actual)	11
Judgments Entered (Actual)	154

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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 ensure the rights of property owners to enter and contest cases and that protect legitimate private and commercial property interests exempt from forfeiture.

FRS continues to work with attorneys from the Civil Litigation Division (CLD) to defend against two federal lawsuits brought by special interest groups on behalf of selective plaintiffs challenging the constitutionality of Arizona's forfeiture statutes and seeking damages and declaratory and injunctive orders. The cases arose from forfeiture actions brought by Pinal and Navajo County authorities. The requested relief would have been binding on all Arizona forfeiture cases and would have significantly restricted, if not eliminated, the application of Arizona's forfeiture statutes. FRS and CLD obtained a stipulated dismissal of the Pinal County case. In 2019, FRS and CLD obtained a dismissal of the Navajo County case. The plaintiffs filed an appeal with the Ninth Circuit. In FY20, FRS and CLD teamed up again to oppose the appeal and file a cross-appeal. The appeal was fully briefed and the oral argument was held in June 2020. The parties are awaiting a decision by the Ninth Circuit.

FRS continues to chair the statewide Arizona Forfeiture Association (AFA) comprised of police and prosecutors who conduct civil forfeiture law enforcement in Arizona. AFA's purpose is to provide and promote information relating to conducting statewide forfeiture cases in a consistent, professional and ethical practice. AFA discusses case law decisions, legislative measures, investigative resources, strategies and procedures and best practices in conducting forfeiture investigations and prosecutions.

In FY20, a Senate Bill was introduced in the Arizona Legislature that would have made extensive changes to Arizona's forfeiture statutes. Arizona law enforcement stakeholders opposed the Bill as written and proposed substantial amendments that were not considered. The Bill was defeated in the House of Representatives.

Major Cases

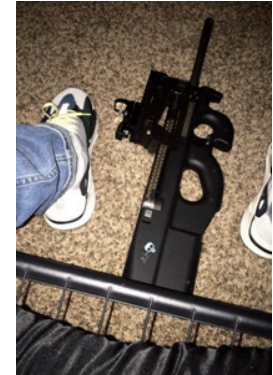
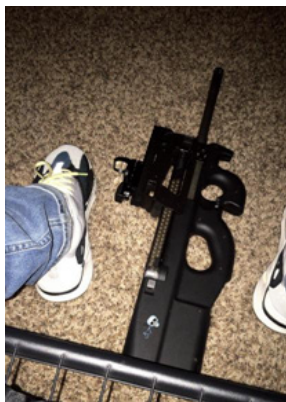
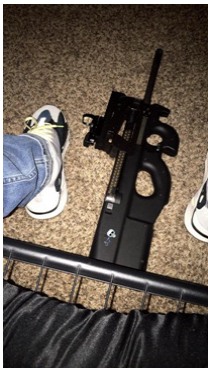
Arizona's Courts have recognized that the purpose of our racketeering statutes is "removing the economic incentive to engage in racketeering, reducing the financial ability of racketeers to continue to engage in crime, preventing unfair business competition by persons with access to crime proceeds, compensating victims of racketeering and reimbursing the State for the costs of prosecution." Drug trafficking cases continue to form the majority of FRS cases. FRS also continues to conduct civil forfeiture prosecutions against a wide range of other racketeering crimes.

Drug Trafficking Organizations

State v. Oscar Bejar & Daniel Gonzalez: -In October 2018, the MCSO Drug Suppression Taskforce began an investigation of an Arizona-based DTO led by Oscar Bejar that used social media platforms like Bejar's "Just Grindin" Instagram account to sell hundreds of thousands of dollars of high-grade Marijuana, Cannabis (THC oil and edibles products), THC vape cartridges, codeine syrup, drug paraphernalia and merchandise to customers in Arizona via hand-to-hand sales and throughout the U.S. and abroad via mail. Bejar procured duffle bag-sized

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narcotics loads in California on a weekly basis that DTO members delivered to Bejar's downtown Phoenix apartment where it was then photographed and advertised to customers with price lists via Instagram. Bejar used full-time DTO vendors, including Daniel Gonzalez to sell the drugs at the street level for a substantial profit, in part via their own Instagram accounts. In April 2019, MCSO Detectives executed six search warrants resulting in the arrest of numerous DTO members including Bejar and Gonzalez and the seizure of approximately 95 pounds of high-grade Marijuana, 190 pounds of narcotic Cannabis and other illegal drugs with a street value totaling hundreds of thousands of dollars. Detectives also impounded \$50,000 of DTO proceeds consisting of bulk cash, bank deposits and Bitcoin, seven vehicles and three semi-automatic weapons, one of which had been reported stolen. Bejar, Gonzalez and others were convicted in a criminal prosecution and received lengthy prison sentences. FRS initiated a forfeiture action against the seized property. Gonzalez and some of his family members filed claims contesting the forfeiture of the bulk cash and two luxury cars. Detectives presented evidence of financial records and analysis, purchase records, surveillance and social media as to the claimants and properties. Gonzalez's own Instagram account included a message about his purchase of one of the luxury cars at the dealership with a \$40,000 cash down payment as an "Early birthday Present from Me to Me Quick 65\$k!!" FRS obtained judgments forfeiting all of the seized property with the exception of a vehicle returned to a lien holder.



Opioid Investigations



State v. Leonard Wright, III - Drug overdose deaths are a huge problem in Arizona and throughout the country. Fentanyl is a powerful opioid linked to numerous deaths. Between June 2017 and November 2019, approximately 30,000 suspected opioid overdoses and 3,700 suspected opioid overdose deaths have occurred in Arizona alone. Law enforcement agents throughout Arizona are seizing fake Oxycodone and Xanax pills manufactured illegally in Mexico, laced with Fentanyl and smuggled into the U.S. for distribution. Individuals taking these pills are dying as a result of the Fentanyl content. These fake pills are typically sold for \$5-\$10 in the Phoenix area. Leonard Wright was selling these fake pills. In October 2018, an individual was admitted to a local hospital due to a suspected drug overdose and died

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a few days later. Special Agents with the DEA inspected the decedent's phone which revealed he was texting with Wright about getting pills before fatally overdosing. Based on this initial information, Agents initiated an investigation. DEA made a series of controlled buys of pills from Wright. In each instance Wright delivered between 10 and 100 pills. Lab tests confirmed the pills contained Fentanyl. When agents attempted to apprehend Wright through a traffic stop, he fled at a high rate of speed, running red lights. Agents called off the pursuit due to the high degree of danger caused by Wright's flight. Agents executed a search warrant at Wright's residence, where they made contact with his girlfriend. She admitted that Wright called her while fleeing the police, told her he threw pills out of his car, asked her to flush the remaining pills at their residence and that Wright had been selling pills for about a year. She convinced Wright to surrender to police and he was taken into custody. In their residence, Agents found firearms, one with a silencer attached and another reported stolen, \$33,211 in bulk cash and plastic baggies with blue residue in the toilet. This evidence showed that Wright was selling many more pills than the pills obtained by the Agents. FRS successfully forfeited the seized proceeds and firearms.

Court-Ordered Wire Interception Investigations

State v. Dixon, Gooden, et. al. - FRS completed its racketeering-based civil forfeiture action against 20 named defendants and over 150 items of seized property arising from a multi-agency task force investigation of the Dixon/Gooden DTO. The DTO engaged in an illegal enterprise and criminal syndicate involving drug trafficking, money laundering and other racketeering crimes. They sold large street level quantities of Heroin and Marijuana and smaller quantities of Cocaine in the Tucson metropolitan area. They also distributed bulk amounts of Heroin and Marijuana to DTOs in Mississippi, Maryland and Virginia. The investigation revealed a distribution of Heroin in bulk form at \$32,000 per kilogram and Marijuana at \$500 per lb. in Arizona and twice that in the destination states. The investigation also revealed tens of thousands of dollars in payments received in cash through "funnel" bank accounts and through public benefits cards. The DTO used vehicles, real properties and personal property in furtherance of the illegal enterprise and acquired assets through the profits. Because the DTO members were highly skilled and prolific in using counter-surveillance measures and after exhausting all traditional investigative methods, task force detectives obtained a court-ordered wiretap authorization. The wire interceptions revealed hundreds of relevant conversations between members of the DTO that allowed law enforcement to identify the members, their roles, their organizational structure, the locations they were using to store and distribute their products, the locations and financial institutions where they received and held their proceeds, their pricing and allowed law enforcement to track their movements and activities. This led to additional interdictions of drug loads, drug proceeds and grounds for concluding search warrants and arrests. The FRS case involved six items of bulk cash, 32 bank accounts, 13 vehicles, four real properties and over 100 items of personal property, including ten firearms. The majority of the seized items were ordered forfeited by the court.

Bulk Cash Money Laundering

In the Matter of \$353,663 in U.S. Currency - The smuggling of bulk cash proceeds of illegal drug trafficking from the U.S. into Mexico continues to be done along border area highways. In July 2019, on southbound Interstate 19 in southern Pima County, a Department of Public Safety (DPS) Trooper stopped a southbound car bearing a Sonora, Mexico plate for a traffic violation. Five people were in the car: the driver, his wife, their adult son and their two young children. The husband, wife and minor children



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live in Obregon, Sonora, Mexico. The adult son is from Obregon, but had been living recently in Phoenix. The Trooper observed several signs of criminal activity while he was conducting the traffic violation investigation. The Trooper asked for and received written consent to search the car. The trunk contained two black duffel bags with rubber-banded bundles of cash concealed inside shoes and clothes. The cash totaled \$353,663. The Trooper also found several cell phones and an iPad, which they placed into a Faraday bag. The adults executed Disclaimer of Ownership forms as to the bulk cash. The driver was placed under arrest, telling his wife, "it's OK, I messed up." The wife asserted she did not know about the cash found in the car. When interviewed, the driver claimed his adult son helped him load the luggage into the car. His adult son admitted that he picked up the cash in Phoenix from a person he does not know, placed the cash inside the duffel bags and into the car. The duffel bags belong to him and that he was transporting the cash to someone in Obregon, Mexico. He admitted he was doing this to make money and he was to be paid when he delivered the cash. Later at the DPS station, a certified drug detecting dog found and alerted on the box containing the bulk cash. FRS obtained a court-ordered forfeiture judgment for the \$353,663 in bulk cash.

Airport Proceeds Courier Interdictions

FRS has continued its partnership with the Phoenix Police Department Commercial Narcotics Investigation Unit (CNIU) to disrupt the distribution of illicit cash proceeds through air travel. Since 2018 FRS and the CNIU have conducted over 40 cases involving over \$2 million dollars in suspected drug trafficking proceeds transported and distributed through Sky Harbor Airport. Over 95% of these cases have resulted in the forfeiture of money being delivered by couriers. CNIU utilizes "ticket tip" information, consensual interviews, admissions by the couriers, criminal history records, source and destination city information, travel itineraries, financial records of the couriers, drug dog alerts, search warrants for baggage and court-ordered downloads of cell phones that reveal text messages, photos, receipts for shipping parcels and wire transfers describing illegal drug distribution and sales activity and "trophy photos" of subjects posing with large quantities of drugs and bulk cash. Nearly every case has resulted in the forfeiture of the bulk cash. Couriers are also referred for criminal prosecution.



Fraud Protection and Victim Compensation



State v. Paul Petersen - Paul Petersen was the elected Maricopa County Assessor and a practicing attorney. Petersen's law practice focused almost exclusively on facilitating adoptions. Based on information from officials of the Marshall Islands along with information from federal and other state law enforcement agencies, the AGO conducted an investigation of

adoption services being conducted by Petersen in Arizona involving women from the Marshall Islands. The investigation revealed Petersen was increasing his profits through fraud at the expense of Arizona taxpayers and citizens dependent on public benefits. Petersen brought pregnant women from the Marshall Islands to

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Arizona shortly before their due date, housed them, registered the women with the Arizona Health Care Cost Containment System (AHCCCS), in order to have AHCCCS cover their labor and delivery and medical expenses, then completed adoptions of the children to clients, charging an average of \$35,000 per adoption. Though the women were not eligible for AHCCCS coverage, Petersen directed the production of fraudulent information in applications in order to obtain coverage for the women while still charging and collecting those costs from his clients. Petersen had been conducting these adoptions for over ten years. Between November 2015 and May 2019, AHCCCS paid for at least 29 births. In a second phase of investigation against Petersen, the AGO found that Petersen had provided false information regarding birth mother fees to prospective adoptive parents and to the Maricopa County Superior Court Juvenile Division. Petersen inflated the duration of time he paid for a birth mother's living expenses to adoptive families and he included fraudulent or false information on court paperwork to ensure adoptions were approved. FRS assisted in securing a court-ordered seizure warrant to preserve cash, bank accounts and other assets acquired and used in Petersen's fraud scheme, some of which he was in the process of liquidating. FRS filed an action against Petersen and the property to recover \$650,000 for AHCCCS, \$11,000 for a family defrauded in an adoption case and \$18,000 in special investigative costs. In August 2020, Petersen entered a consent judgment for these amounts. In the related criminal case, Petersen pled guilty to four counts of Fraud and Forgery reflecting his manipulation of the Marshallese women, the adoptive families and the Arizona public benefits agency for his own profit.

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 FY20, FSP had 1,650 open cases and resolved 522 of them. FSP cumulatively charged 622 defendants with felony offenses, including Fraudulent Schemes and Artifices, Illegal Enterprise, Participating in Criminal Syndicates, Money Laundering and numerous violent crimes. The cases of Fraudulent Schemes involved losses to victims in the millions of dollars. FSP assisted approximately 3,322 victims and obtained restitution in excess of \$5 million dollars and \$307,141 in fines. In addition, 78 defendants were prosecuted for violation of their terms of probation.

Major Cases

State v. Israel Carrasco & Enrique Luna - In January 2016, Christopher Gonzales-Cummings was shot with a 40 caliber handgun when three men forced their way into his apartment while he was asleep. One suspect (unidentified to date) held two other adults and a baby that were present in the apartment at gun point in the living room. Enrique Luna and his brother Israel Carrasco entered Christopher's bedroom and shot him. After the murder, but prior to fleeing, the suspects ransacked the home and left with some of the victim's Marijuana and cash. Although the two adult victims gave a description of the three armed men, the case was unsolved for nearly a year. In 2017, Andrew Alvarado assisted the Glendale Police Department and AGO. Alvarado could not provide the name of the third suspect, but did admit to picking up Luna and Carrasco after the murder. Alvarado also provided the

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gun that was used to kill Cummings. Based on text messages, phone calls, the gun and some statements that the defendants made to Alvarado, Carrasco and Luna were charged with First Degree Murder. In 2018, Alvarado was murdered by being shot and called a “snitch,” but his murder could not be linked to the two defendants; therefore, his testimony was excluded from the trial. The two witnesses in the apartment were difficult to find; however, despite the challenges in the case, both Carrasco and Luna pled guilty to Second Degree Murder and were sentenced in November 2019. Luna, the shooter according to the evidence, was sentenced to 23 years in prison, consecutive to a prison term he was already serving for an Armed Robbery he committed after the murder. Carrasco was sentenced to 17 years in prison.

State v. Dennis Froehlich & Howard Kenneth Smith - 87 year old victim Stanley Serklew believed he was seeing a licensed dentist based on a google search and a recommendation from a dentist. Dennis Froehlich told the victim he needed approximately \$4,000 in dental work. Froehlich numbed Serklew’s mouth and began to drill and shave down his teeth as well as attempted to extract his teeth. Froehlich continued to provide numbing medicine and continued to drill into the victim’s mouth, but eventually stopped because he said that the teeth wouldn’t come out. After the procedure, Serklew’s mouth and face were horribly swollen and damaged. AGO Special Agents investigated this case and learned that Froehlich had lost his dental license in 2013. Serklew went to the media and a full news segment was released about how he was taken advantage of and injured. A cosmetic dentist saw the news segment and repaired Serklew’s entire mouth pro bono which cost over \$60,000. Froehlich was charged with Fraudulent Schemes and Artifices, Practicing without a License and Aggravated Assault. In September 2019, Froehlich pled guilty to Practicing without a License and was sentenced to 30 days in jail followed by three years of probation and ordered to pay \$20,000 in restitution. In August 2019, Howard Smith also pled guilty to Practicing without a License and later sentenced to three years of unsupervised probation.

State v. Lolita & Joseph Somera - In August 2018, 69-year old victim Jon Rager, died while at Happy Homes Assisted Living Facility in Chandler, Arizona. Lolita Somera and her husband, Joseph Somera, ran the facility. Lolita primarily ran the facility in Chandler and Joseph ran the other facility in Tempe, Arizona. The Somera’s are in the United States on work visa’s, but their visa’s had expired in 2012. The facility is a private pay facility and Rager’s wife paid \$2,500 per month for her husband to reside in the facility. The facility was licensed with the City of Chandler, but the Department of Economic Security (DES) records did not show any wages or unemployment being paid to any employees. The Chandler facility had five residents, including the victim. Officers responded to a 911 call around noon and found that Rager’s room was very hot at 100 degrees and the window was open. Although there were three fans in the room, only one was on. It was discovered that the air conditioning in the home failed two days prior to Rager’s death. The other vulnerable and elderly residents were re-located by the fire department. The only portable air conditioning unit found in the home was near the living room, where Lolita slept. The Maricopa County Office of the Medical Examiner listed the manner of death as “accident.” The Primary cause of death was listed as “end stage renal disease complicated by acute pneumonia.” The contributory cause of death was listed as “environmental heat exposure.” The lengthy investigation revealed the Somera’s hired a friend, a legal resident, to put his name on the paperwork in order to get the facilities licensed. Not only did the Somera’s delay fixing the air conditioning, but the facilities did not have enough caregivers per their contracts and requirements. Neither of them were CPR certified and the facilities had incurred several licensing violations

Criminal Division

over the years. In August 2019, the Somera's were charged with Vulnerable Adult Abuse. Both defendants were probation eligible after trial and therefore pled guilty to Vulnerable Adult Abuse. After a lengthy sentencing hearing, both defendants were sentenced to 90 days in jail, followed by three years' supervised probation and ordered to pay \$1,225 in restitution. The defendants had been in custody since August 2019, therefore each served a total of six months in jail. Both Defendants were turned over to the Immigration and Naturalization Service (INS) after their jail terms.

State v. Kenneth Miller, et al - Kenneth Miller and his co-defendants burglarized and stole guns and checks from Strop's elderly parents in Yavapai County. The checks totaled \$1,600 and the guns were valued at \$7,400. The guns were then sold on Facebook to an undercover detective from DPS and the checks were forged and cashed in Maricopa County. Yavapai County handled the burglary, but AGO Special Agents handled the investigation involving Conspiracy, Trafficking in Stolen Property, Fraud Schemes and Misconduct Involving Weapons. Miller was charged with Conspiracy, Fraudulent Schemes and Artifices, Misconduct Involving Weapons, Trafficking Stolen Property, Attempted Trafficking Stolen Property and Possession of Marijuana. Miller is a repetitive offender and had 11 prior felony convictions on six different dates. He pled guilty to Misconduct Involving Weapons, with two prior felony convictions. In September 2019, Miller was sentenced to an aggravated term of 12 years in prison. The co-defendants were sentenced previously.

State v. Timothy Jackson - During a hearing on an unrelated Maricopa County Attorney's Office (MCAO) case, a paralegal appeared for court on behalf of attorney Timothy Jackson. The court and MCAO prosecutor found this to be odd that a lawyer would send a paralegal to appear on the record. MCAO conducted an investigation and learned that Jackson was portraying himself as a criminal defense attorney and was taking money and representing clients, but was not a licensed attorney. The investigation revealed that Jackson was using the bar number of a California attorney. The detective discovered that Jackson had represented and taken money from at least two clients, but failed to ever show up in court and failed to reimburse the money. In December 2018, Jackson was charged with Fraudulent Schemes and Artifices, Theft, and Taking the Identity of Another. After these crimes occurred, but before the case was processed, Jackson was sent to prison on an aggravated assault case. In July 2019, Jackson pled guilty to Fraud Schemes and Theft and was later sentenced to 2.5 years in prison, consecutive to his other prison term, followed by a three years of probation. He was also ordered to pay the victims \$6,050 in restitution. Although Jackson had no prior criminal history, the court agreed with the State and was so offended by Jackson's actions, that the stipulated plea agreement to prison was accepted.

State v. Gabriel Dennis - In November 2018, Facebook reported that a user account belonging to a 28 year old male was communicating through Facebook messenger with a user account belonging to a 15 year old female. The conversation was sexual in nature and indicated the adult male was luring the minor for sexual purposes. Further investigation by AGO Special Agents discovered sexually exploitive images on Gabriel Dennis' cell phone. When Special Agents arrived to interview Dennis, they noticed he was strangling himself with clothing and appeared to be foaming at the mouth. Special Agents immediately entered the room and cut off the clothing to assist him. In February 2019, Dennis was charged with two counts of Sexual Exploitation of a Minor and two counts of Aggravated Luring a Minor for Sexual Exploitation. Dennis pled guilty to Sexual Exploitation of a Minor and Attempted Aggravated Luring of a Minor for Sexual Exploitation. In October 2019, Dennis was sentenced to 15 years in prison followed by lifetime probation and mandatory registration as a sex offender.

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State v. Paul Petersen & Lynwood Jennet - Paul Petersen worked as an adoption attorney in Arizona, Arkansas and Utah. Additionally, since 2014 he also was the elected Maricopa County Assessor. Petersen's adoption business involved Marshallese women placing their babies with American families. The birth mothers in his adoption practice were flown to the United States by Petersen for the purpose of giving birth. Once a birth mother gave birth, Petersen would fly them out of Arizona and give them a few thousand dollars. From June 2016 through October 2019, over 40 births took place in Arizona and each birth had medical expenses covered by AHCCCS. Petersen had Lynwood Jennet submit false AHCCCS applications claiming that the birth mothers were Arizona residents. In addition, Petersen filed false affidavits to the Maricopa County Superior Court regarding his fees for these adoptions. He did not tell many of the adoptive families that he flew the birth mothers into the U.S. after they became pregnant and often exaggerated how long each birth mother stayed. In June 2020, Petersen pled guilty to Fraudulent Schemes and Artifices, Forgery and Fraudulent Schemes and Practices. He stipulated to repay AHCCCS \$650,000, a victim family \$11,000 and the AGO \$18,000 for extraordinary investigative costs. When sentenced, Petersen is facing three to 16 years in prison. In December 2019, Lynwood Jennet pled guilty to Conspiracy to Commit Fraudulent Schemes and Theft and is awaiting sentence.

State v. Kyler Ashley - Between September 2017 and May 2018, Kyler Ashley was the Junior Varsity girls' basketball coach at Dobson High School. During that time, Ashley engaged in sexual intercourse and oral sex on multiple occasions with three members of the basketball team. Defendant solicited sex from the minor victims after basketball practice, offering to drive the victims' home. After the victims accepted Ashley's offer, he drove to a remote parking lot or alley and solicited sexual conduct from the female students. Ashley began grooming the minor victims via social media months before the sexual encounters occurred. His conduct only stopped when an undercover officer took over a female student's Snapchat account and played the role of a female player on the girls' basketball team. Ashley solicited sexual conduct from the undercover officer, who he believed to be the female student. Ashley arranged a meeting with the undercover officer, believing he was meeting up with the female student for sexual intercourse. He was subsequently arrested and charged with Sexual Conduct with a Minor, Sexual Abuse, Luring a Minor for Sexual Exploitation and Attempt to Commit Sexual Conduct with a Minor. In December 2019, Ashley pled guilty to three counts of Attempted Sexual Conduct with a Minor and Luring a Minor for Sexual Exploitation. He was sentenced to seven years in prison followed by two lifetime terms of supervised probation and registration as a sex offender.

State v. Steffan Craig Burris - In the 2016 case, Steffan Burris, fraudulently obtained \$735,000 from six individuals by misrepresenting his wealth and inducing them to invest with him in non-existent real estate transactions and/or advance him funds for expenses related to securing an \$800,000,000 inheritance that was delayed by red-tape in the United Kingdom. Each of the victims was promised repayment once the inheritance was released. To keep victims on the hook, Burris told them that he would purchase them a luxury house in addition to repayment of the loan as a "thank-you." Burris even house shopped with some of the victims by touring luxury open houses. He always met victims at a bank before a social outing claiming he had to take care of business related to the inheritance. Once victims began to suspect there was an issue, Burris bought time by claiming he had cancer.

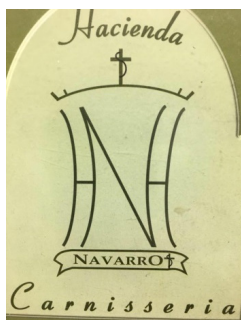
Criminal Division

Any meeting to discuss repayment was canceled due to his treatment. When Burris was arrested and held in jail, he convinced a victim to post his bail and he was released. In the 2018 case, Burris was out of jail on bond with nowhere to live, so he moved in with the family of his cell mate from jail. They generously took him in believing he was serving time for an aggravated DUI. He convinced the family that he was an expert at fixing and flipping homes. They took a \$60,000 mortgage out on their fully paid home. Burris hired a remodeling company who demoed the home in preparation for remodel; however, the check written by the homeowner to the remodeling company bounced because Burris had taken all the loan money from the account. The family, including a 90 year old grandmother, had a demolished home and was later sued by the construction company for the bounced check. The FBI's investigation traced the funds to local casinos whose records showed Burris lost over \$1.2 million dollars by gambling. Burris was charged with Fraudulent Schemes and Artifices and Theft. In June 2019, he pled guilty to Fraudulent Schemes and Artifices and Theft and later sentenced to concurrent terms of ten years in prison followed by two years of probation and ordered to pay \$75,000 in restitution. .

State v Maria Gutierrez & Jalisco, Inc. - AGO Special Agents in cooperation with the Arizona Department of Revenue (DOR) discovered used car dealership Jalisco Auto Sales had been failing to report auto sales in order to avoid sales tax. A search warrant was executed at the dealership seizing deal jackets covering over two years of sales. An analysis of the evidence showed that between January 2015 and January 2017, Jalisco only reported about half of the sales in any one month period and those reported sales were always the least expensive cars sold that month. Maria Gutierrez and Jalisco, Inc. were charged with Fraudulent Schemes and Artifices, Theft and Filing of False Return. Once charged, Gutierrez immediately paid over \$120,000 in taxes and interest owed to DOR. In September 2019, Jalisco, Inc. pled guilty to Filing a False Return and was sentenced to one year of supervised probation and ordered to pay a \$34,000 fine to the AGO.

State v. Robert Hood - In 2017, Robert Hood met his 16 year old victim on the streets in Phoenix and shortly afterward turned her out onto the prostitution track to make money for him. She worked for him for about six months, engaging in acts of prostitution at his direction and turning over her proceeds to him. Detectives from the Phoenix Police Department rescued her from a hotel where Hood and his accomplice had rented a room for her to work. Hood was charged with Conspiracy, Illegally Conducting an Enterprise, Money Laundering, Child Sex Trafficking, Receiving the Earnings of a Prostitute and Sexual Exploitation of a Minor. In November 2019, Hood was found guilty by a jury for charges including Child Sex Trafficking, Sexual Exploitation of a Minor, Illegal Control of an Enterprise and Money Laundering and was sentenced to 108 years in prison. Hood was also convicted of operating an illegal prostitution enterprise involving other adult women who were engaging in prostitution for his financial benefit.

State v. Sergio Navarro-Gonzalez, et al - In October 2019, Agents from the United States Department of Agriculture (USDA) began an investigation into Sergio Navarro-Gonzalez, owner of a small store, Hacienda Navarro Carniceria, LLC, in Phoenix. Navarro-Gonzalez would purchase Electronic Benefit Transfer (EBT) cards and exchange them for a lesser cash value. Andrew Dzuik was also involved in the scheme. The total amount charged in the indictment was \$2,250; however, according to USDA calculations, from January 2016 when the undercover operation began through the last operation in December 2018, the total amount of fraudulent transactions are believed to be \$296,141. Gonzalez and Dzuik were charged with Fraud Schemes and Artifices, Money Laundering, and Unlawful Use of Food Stamps. Navarro-Gonzales pled guilty to Unlawful Use of Food Stamps. In June 2020, Navarro-Gonzalez was sentenced to two years



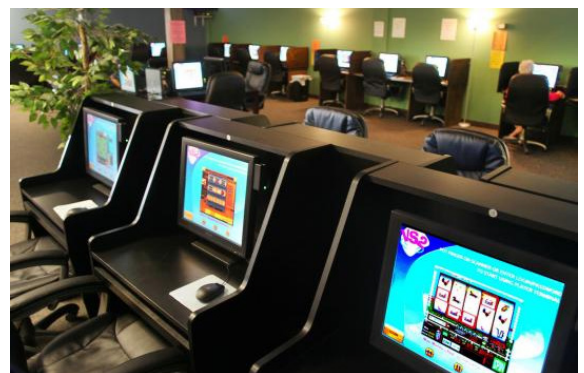
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of supervised probation, six months in jail and ordered to pay restitution to USDA in the amount of \$296,141. In May 2019, Dzuik pled guilty to Unlawful Use of Food Stamps and was later sentenced to four months in jail, followed by two years of supervised probation.

State v. Douglas Black - In March 2017, while on probation, Douglas Black contacted the victim to purchase her home. He claimed to have a trust account with over \$4 million dollars and gave her a fraudulent bank statement to support this claim. Black and the victim entered into a purchase agreement and a lease agreement. Black never purchased the home, failed to pay rent and was never in a financial position to complete the purchase agreement. In January 2019, he was charged with Fraudulent Schemes and Artifices and Forgery. When a warrant was issued for his arrest, he fled from Arizona and engaged in schemes in other states. Black has over 12 prior felony convictions, including a prior case in which he committed a similar fraud scheme, but on a much larger scale. Black pled guilty to Fraud Schemes and Artifices, with one prior conviction. In May 2020, he was sentenced to ten years in prison and ordered to pay \$22,116 in restitution

State v. Charles Mackey - Between June 2018 and July 2018, Charles Mackey entered 11 Circle K stores, went behind the counter and stole multiple cartons of cigarettes. During some of these instances, Mackey also stole Arizona State lottery scratcher tickets. On three occasions, Mackey cashed or attempted to cash the stolen lottery tickets. He pled guilty to Altering or Defrauding a Lottery Ticket and two counts of Burglary in the 3rd Degree. In January 2020, he was sentenced to two years in prison followed by three years of supervised probation and ordered to pay \$3,485 in restitution.

State v. Eric Alan Stelljes - Eric Stelljes had been previously convicted at trial of Conspiracy, Illegal Control of an Enterprise and Promotion of Gambling in connection with an illegal cyber-cafe/sweepstakes gambling operation in Flagstaff. As a part of the previous case, Stelljes' home was searched and investigators from the Department of Gaming found many more illegal gambling devices in his possession that were not in use. Stelljes told the investigators that because of the raid he would be closing another similar operation. Instead of doing that, he continued to operate it and, using associates to conceal his role, he set up two additional illegal cyber-cafe/sweepstakes gambling operations in the Phoenix metro area. Agents also learned that Stelljes and his girlfriend set up and operated a separate business which rented illegal gambling devices to non-profit fraternal organizations statewide, such as American Legion, Veterans of Foreign Wars and Elks lodges. They both also set up and operated several LLCs which held property purchased with cash proceeds from the illegal enterprises. Stelljes had been offered a plea agreement which would have resolved all of his pending criminal matters without incarceration, but he rejected that in favor of a trial on his first case. Facing a lengthy prison term if he lost the second case, he pled guilty to Illegal Conduct of an Enterprise and Promotion of Gambling. In November 2019, he was sentenced to 30 days jail, followed by three years' probation.



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State v. Rudolph John Porter - Rudolph Porter came to the attention of Detectives with MCSO when he was observed sharing images of child pornography on a peer-to-peer file trading network. Detectives obtained a search warrant where they discovered a computer that was actively downloading a file entitled “14 year old girls” and found evidence that Porter had traded some of his images to others. An expert with Phoenix Children’s Hospital determined the computer contained stored images of children who were likely less than ten years old. Porter was charged with ten counts of Sexual Exploitation of a Minor. Porter pled guilty to Sexual Exploitation of a Minor and Attempted Sexual Exploitation of a Minor. In January 2020, he was sentenced to 13 years in prison, followed by lifetime probation with sex offender monitoring and computer usage restrictions. He must also register as a sex offender.



State v. Richard John Greenfield - Richard Greenfield was charged with voting twice in the 2016 General Election – once in Pima County and once in Washoe County, Nevada. Greenfield was also charged with an additional felony for making a false declaration by signing the statement under penalty of perjury that he had not voted and would not vote in this election in any other county or state. Greenfield pled guilty to Attempted

Illegal Voting. In October 2019, he was sentenced to two years of probation, 100 hours of community restitution and ordered to pay a fine of \$2,500. As a part of his sentencing, the Court revoked his right to vote in Arizona and he will not be allowed to re-register while on he is 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 HCFA 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 October 2019, the AGO received notification from the United States Department of Health and Human Services (HHS) that HCFA continued to meet the federal requirements for operating a State Medicaid Fraud Control Unit (MFCU). The recertification process enabled HCFA to receive \$3.58 million dollars in federal funding for Federal Fiscal Year (FFY20) continued operations. In early 2020, HHS published their MFCU statistical summary for FFY19, which listed the number of indictments obtained by each of the nation’s 50 MFCUs. Adjusting for differences in staff size, Arizona’s HCFA emerged as the second most productive of the 50 MFCUs in obtaining criminal indictments. HCFA staff continues to team up with local and federal law enforcement agencies to pursue a number of criminal investigations.

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During this past year, HCFA continued to partner with other law enforcement agencies engaged in investigating prescription drug crimes: U.S. DEA, the FBI, HHS-OIG and numerous municipal law enforcement agencies. In addition to working collaboratively with federal and local law enforcement agencies, HCFA regularly receives referrals from state health care licensing agencies. These referrals have led to the filing of criminal charges against licensed health care professionals in Arizona engaged in illegal drug diversion.

HCFA continues to collaborate investigative and prosecution efforts with agents from DEA and the U.S. HHS OIG offices. For example, an experienced AGO Special Agent works under the direction of the DEA Drug Diversion Task Force supervisor and an HHS OIG Special Agent works closely with AGO Special Agents. These collaborative partnerships continue to create a seamless process for prosecutors to receive criminal case submittals from both agencies.

In FY20, the Arizona MFCU and OIG opened 17 joint investigations. HCFA also participated in last year's healthcare fraud enforcement action by effectuating the indictments of seven defendants, including licensed medical professionals, charged with defrauding the Medicaid program out of over \$1 million dollars. Through these unique arrangements, HCFA has a day-to-day collaboration with key law enforcement agencies engaged in front-line federal criminal investigative efforts working to stop the illegal distribution of prescription pain pills through corrupt health care providers.

During FY20, HCFA received 159 allegations/complaints regarding fraud, patient abuse and the financial exploitation of vulnerable adults. Of the 159 formal referrals, 133 new cases were opened for full investigation, including 113 fraud cases and 20 patient abuse/financial exploitation cases. HCFA charged a total of 100 defendants and sentenced 72 defendants. For FFY20, HCFA recovered \$7,541,098 in recoveries for civil and criminal cases combined.

A major contributor to HCFA's impressive recoveries is the participation with other states' Medicaid Fraud Control Units and the U.S. Department of Justice in 64 civil cases that have targeted national health care and pharmaceutical companies that were alleged to have engaged in improper trade practices. In FY20, six cases reached settlements and as a result of HCFA's participation, \$2,090,839 was recovered from these companies and returned to the government, with \$632,666 provided directly to the Arizona AHCCCS program and \$1,458,173 submitted to the federal government.

Major Cases

HCFA has been behind some high profile doctor and healthcare worker arrests in the last few years. Section Chief Steve Duplissis participated in an interview with ABC15 to discuss several successful HCFA operations. HCFA has arrested and convicted more than 200 healthcare workers since 2008. Not only has HCFA obtained national recognition for their efforts, they have gained statewide recognition as well.



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For the 2020 Office of Evaluation and Inspections Honor Awards Ceremony, the Arizona MFCU was nominated and received the Inspector General's Award for Excellence in Fighting Fraud, Waste, and Abuse. The nomination described that in FFY19, the Arizona MFCU obtained an impressive number of case outcomes, with 84 indictments, 70 convictions and total recoveries of over \$7.5 million dollars. HCFA also opened 239 investigations, with a particular focus on drug diversion cases, which accounted for 115 of those investigations.



State v. Glenn Gary Robertson - This case arose out of the otherwise quiet community of Benson, Arizona, due to the vigilance and concern of a local pharmacist, responsive law enforcement officers and a coordinated prosecution effort by the AGO. Over 17 months, the Arizona Pharmacy Board's Prescription Drug Monitoring Program documented that Dr. Glenn Robertson had written 3,516 prescriptions for opioids, totaling 415,665 pills dispensed. This figure includes 191,069 Oxycodone pills with a street value estimated at \$3.8 million dollars. The investigation went to another level when Dr. Robertson met with an undercover investigator and tried to hire him to kill one of his employees. In March 2019, Dr. Robertson was arrested and charged with Conspiracy to Commit First Degree Murder. He pled guilty to Attempted First Degree Murder, Illegally Conducting an Enterprise and Illegal Administration of a Narcotic Drug. In January 2020, Dr. Robertson was sentenced to 12.5 years in prison, followed by seven years of probation and ordered to pay \$15,530 in fines and fees.



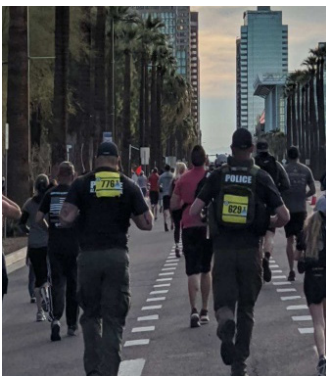
State v. Daniel Ray Stewart - In October 2018, Daniel Ray Stewart submitted an application to a Valley hospital falsely claiming that he was a registered nurse. Special Agents learned that Stewart had a previous criminal conviction in North Carolina where he was convicted of impersonating a physician. In December 2019, Stewart was arrested and charged with four counts of Taking the Identity of Another, Forgery and Fraudulent Schemes and Artifices. Stewart pled guilty to Fraudulent Schemes and Artifices. In November 2019, he was sentenced to four years in prison.

State v. Juan Hernandez - In 2019, cancer patients who had been treated at a cancer center in Tucson, Arizona were contacted by a male claiming that he was a representative of a pharmacy and that their narcotic drug prescription had either been recalled or expired and he would come to their home to pick-up the narcotic drugs. One of the patients had a doorbell camera that captured video of the subject. The doorbell camera video was shown to managers at the cancer center. Juan Hernandez was identified as their employee who worked as a scheduler. In September 2019, Hernandez was arrested and charged with Computer Tampering and Fraudulent Schemes and Artifices. In February 2020, Hernandez pled guilty to Amended Computer Tampering and was later sentenced to two years of probation and ordered to pay \$3,047 in investigative costs and restitution.



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State v. Michael DeArmond - This case began in 2016 when Michael DeArmond was prosecuted for Theft in connection with his submitting false time sheets for his work as a caregiver. As a result of his conviction, he was sentenced to 49 days in jail, four years' probation and he was ordered to pay \$22,099 in restitution to AHCCCS. In May 2018, DeArmond was released from custody, over the State's objection, and ordered to return to custody by a specific date. When DeArmond failed to return, he was charged with Escape in the Second Degree. In June 2020, he pled guilty to Escape in the Second Degree and was later sentenced to 3.5 years in prison for violating the terms of his probation in connection with his Theft conviction, along with a consecutive sentence of 1.5 years in prison in connection with his new charge.



In March 2020, AGO Special Agent Dustin Hemp honored Flagstaff Police Department's Officer Tyler Stewart who was killed in the line of duty in 2014. Agent Hemp previously worked with Officer Stewart. He ran the 3.1 miles with 35 lbs. loaded outer carrier as part of the AZ COPS Fallen Officer Memorial 5K in Phoenix.

Office Of Victim Services

The mission of the 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 city law enforcement, custodial, prosecutorial and correctional agencies, as well as courts, both adult and juvenile, who have duties and responsibilities established by Arizona's victims' rights laws.

Overview of Accomplishments:

Advocate Program

OVS provides services to victims of numerous crimes in cases investigated and prosecuted by the AGO as well as to victims in cases on direct review or under capital appeal. In FY20, the investigation-based advocates provided nearly 9,000 services to roughly 300 victims. The prosecution/appellate advocates provided over 32,000 mandated and over 88,000 non-mandated services to more than 10,000 victims.

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OVS continues to surpass expectations in terms of victims served and services provided by the Advocate Program staff. During FY20, the Advocate Program consisted of one Advocate Program Manager, six prosecution-based advocates (including an Advocate Supervisor), three investigations-based advocates and two Advocate Assistants located in Phoenix and Tucson. During the year, OVS increased the number of victims served by 2%. Advocate Program staff, despite the minimal increase in victim caseloads, persisted in providing a high number of both mandated and non-mandated services to victims. Mandated services to victims are required by the Arizona's Victims' Bill of Rights and statutes. On average a prosecution-based advocate served 1,428 victims a month, up 6% from the prior year, while the program maintained a victim satisfaction rate of 4.5/5.0. These numbers demonstrate the high level of dedication and professionalism of AGO advocates.

COVID-19 required significant changes for the advocate program staff. While being in the office less, having limited access to case files, initial technological issues and other factors, advocates continued to focus on the needs of their victims and ensuring compliance with victims' rights. Between both programs over 23,000 services were provided to victims during the quarter the advocates worked primarily from home. More than 5,000 letters were sent out including 2,852 notices of continuances sent to 1,086 victims. Advocates assisted victims with impact statements, property returns and attended virtual hearings, providing discussions before and after the virtual hearings and provided updates and empathetic listening and crisis services by phone and email.

Advocate program staff expertise was shared around the state with staff presenting about OVS' highly respected college Internship program at the Governor's Office's Summit on Volunteerism and Civic Engagement, about Restitution and Challenges in Victims' Rights at the Arizona Victim Assistance Academy and as a panel moderator at the Arizona Department of Emergency and Military Affairs (DEMA) Annual Preparedness Symposium, Serving Victims, Families, Survivors, Responders and Citizens Affected by Mass Violence Incidents.

Agency Support Team

The Agency Support Team (AST), nationally recognized for its innovative and effective work, continues to lead statewide efforts to promote uniformity and efficiency with victims' rights compliance through its various support programs to criminal justice agencies. During FY20, the AST lead and participated in 110 task forces, committees and commissions, conducted five audits, provided over 4,115 technical assistance services and conducted 66 victims' rights presentations to over 1,360 participants. The AST also reviewed 35 allegations of victims' rights violations, distributed over 300,400 victims' rights forms to 127 law enforcement agencies and dispersed over \$2.2 million dollars to 56 criminal justice agencies to support their mandated victims' rights services.

FY20 also heightened the AST's national presence as the team presented several workshops at various national conferences including the National Organization for Victim Assistance (NOVA), the National Center for Victims of Crime (NCVC) and was scheduled to present at the National Crime Victims' Law Institute (NCVLI) conference which was cancelled because of the pandemic. Further, the OVS Director was appointed to the NCVLI Post-Conviction Advisory Committee which spent time reviewing training and technical materials to aid service providers and victims in the understanding of the post-conviction process and rights. In addition to the regular presentations, staff were also invited to present locally at APAAC's Victim Law Day and at Arizona State University's Voz de las Victimas, presentation to Mexican Law School's delegation.

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As a direct result of the efforts of the entire AST, OVS has been able to identify and address systemic victims' rights issues throughout Arizona. OVS has observed positive changes and heightened awareness of victims' rights that have permeated throughout Arizona's criminal justice system. Those changes include: increased awareness of procedural issues in limited jurisdiction courts related to misdemeanor cases; victims' rights training for personnel; review and revision of agency policy and procedures; review and revision of training documents and changes in daily practices related to the provision of victims' rights.

During these unprecedented times, as we have all been learning to navigate our way through the recent challenges, we have seen many examples of resiliency and uninterrupted service to victims of crime throughout our state. As part of OVS' commitment to outreach and education of victims' rights, the AST has stepped up to the obstacles of our new working environment. OVS has swiftly redesigned its education from mostly in-person presentations to a full webinar platform. OVS is conducting high quality, engaging webinars, while meeting the requirements of those who accredit the presentations such as AZPOST and VOCA.

Major Cases:

State v. Chad Curtisi Lee - Chad Lee is currently on death row for killing three people in 1992 over a one month span. He heinously killed a pizza delivery driver in the beginning of April 1992, robbed and killed an unsuspected taxi driver a week later, then robbed and killed another victim while he was working at a local convenience store. Lee's case is currently pending appeal before the U.S. Court of Appeals for the 9th Circuit. The advocate has been working closely with one of the victim's daughters, who was just 19 at the time of the murder. The advocate and victim were going to meet in 2019 to attend an evidence viewing at the Maricopa County Superior Court; however, the victim's trip was unexpectedly cancelled. During their discussions, the victim brought up memories that she vaguely had from the trial. She also discussed that she did not remember providing a victim impact statement to the Court during Lee's sentencing. The victim was extremely disappointed that she was not given the chance to explain to the Judge what a wonderful man and father he was. The advocate found the pre-sentence report which included a statement the victim had provided to Adult Probation many years before. The advocate shared the statement with the victim and despite not remembering, she was relieved that she did provide a statement. She thanked the advocate for finding it and reading it to her. The advocate assured the victim that they would look at the trial transcripts to see if she made a statement in open Court. Through various training sessions the advocate has attended, she learned how trauma affects the brain and can cause significant memory loss. As a result of her training, she was able to explain this to the victim and provide a possible explanation why she could not remember certain trial details or providing a statement about her father and the murder. The advocate was able to reassure the victim that this is the brain's response to a traumatic event and it is completely normal. She was relieved and appreciated the knowledge the advocate provided.

State v. Travis Amaral - Travis Amaral was seventeen years old when he shot two individuals at a rest stop in 1992. He was convicted of two counts of First-Degree Murder and was sentenced to life in prison without the possibility of parole. In April 2020, the Ninth Circuit Court of Appeals granted the defendant's motion to stay the appeal proceedings pending the outcome of the Supreme Court's case, *Jones v. Mississippi*. The advocate

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notified the victim’s family and informed them of the latest development in the case. The victim’s mother was immediately upset as she has been dealing with the criminal justice process since Amarai killed her daughter. The family members wanted to know the merits of the Jones v. Mississippi case to help understand how it may affect their case. The advocate researched the Mississippi Court of Appeals rulings and briefs associated with Jones v. Mississippi and the Supreme Court docket. The advocate communicated to the victims the central argument to the case and the question going before the Supreme Court; whether the Eighth Amendment requires the authority to make a finding that a juvenile is permanently incorrigible before imposing a sentence of life without parole. The victim’s mother expressed how this process has taken a toll on the entire family. She cried and expressed her gratitude that the advocate works hard to keep them informed which has taken the burden off of family members trying to keep updated with this case. Working with the family demonstrates the value in victim advocacy on appeal cases. This family lost a family member in 1992 and twenty-eight years later still are reminded of their loss due to Amarai’s numerous appeals. As an advocate, the constant communication, victim notifications and case status, expresses to the victims that they are not forgotten and there is an advocate to help them through this difficult process.

National Crime Victims’ Rights Week

In FY20, our highly anticipated, National Crime Victims’ Rights Week events, such as the annual luncheon and in-person donation drives had to be drastically altered due to the pandemic. However, OVS created a virtual statewide event to honor victims of crime. Victim Advocates from all over Arizona participated in the #WhyWeAdvocate Victims’ Rights Awareness Campaign. Individuals and agencies involved in victim services were sent a downloadable ePhoto card and invited to display why they advocate by submitting a photo. OVS received photos from all over the state, even the K9s were included. Along with help from Community Outreach & Education, a video montage was created and added to the AGO website. We encourage you to view this [video](#),



This week our OVS Advocate's shared their why... #WhyWeAdvocate



Criminal Division

Southern Arizona White Collar & Criminal Enterprise Section (SAWCCE)

The Southern Arizona White Collar & Criminal Enterprise Section (SAWCCE) prosecutes all criminal cases under the AGO's statutory jurisdiction. SAWCCE specializes in white collar fraud investigations and prosecutions including securities and investment fraud, business embezzlement, AHCCCS and 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 prosecutors work proactively with AGO Special Agents, 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, 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 214 defendants in FY20, while managing 339 total defendants in active litigation. For criminal enterprise drug interdiction, total seizures with approximate wholesale values included: Methamphetamine – 134.45 lbs. valued at \$261,169; Heroin – 36.35 lbs. valued at \$398,392; Cocaine – 84.50 lbs. valued at \$932,683; Marijuana – 23.16 lbs. valued at \$20,762; Fentanyl – 4965 pills valued at \$49,650 and 18.25 lbs. valued at \$207,000; and LSD – 1320 sheets valued at \$396,000. SAWCCE also assisted 450 economic crime victims with court-ordered restitution of approximately \$2,533,576 and obtained approximately \$182,730 in court-ordered fines to be paid by defendants.

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Major Cases

State v. Kris Mendoza & Yolanda Chavez - In October 2017, the owner of a locally-owned Tucson business discovered that the company's accountant, Kris Mendoza, had been writing unauthorized checks to herself and to her daughter who was also an employee, Yolanda Chavez. He confronted both employees, fired them and called the police immediately. A detective with the Tucson Police Department uncovered evidence that over a three year period Mendoza had written and cashed \$138,117 in unauthorized checks to herself, which she hid in the company's accounting system as payments to vendors. Mendoza had written another \$30,492 in checks to Chavez. In 2018, Mendoza and Chavez were charged with multiple counts including Fraudulent Schemes and Artifices, Theft and Computer Tampering. Mendoza pled guilty to Fraudulent Schemes and Artifices and Theft and was later sentenced to 2.5 years in prison, followed by seven years of supervised probation. Chavez pled guilty to Theft and was later sentenced to five years of probation. In August 2019, both defendants were ordered to pay back full restitution to the victim.

State v. Kevin Roberts & Kristin Law - While executing a search warrant for another investigation, investigators with the Tucson Police Department, DPS and the U.S. Postal Inspectors Office (USPIO) entered the home of Kevin Roberts and Kristin Law to find evidence of counterfeit currency printing, drug use and a drug-exposed infant. Investigators located chemicals and equipment for scrubbing currency, a printer and half-printed counterfeit U.S. bills. Drug paraphernalia and residue were located throughout the home. Investigators called child welfare experts to take custody of the two-month-old baby who lived in the apartment and tested positive for drugs and metabolites in her hair. Law, the child's mother, pled guilty to Illegal Control of an Enterprise and Child Abuse and was later sentenced to 3.5 years in prison. Roberts, who also lived in the home, but was not related to the child, pled guilty to Illegal Control of an Enterprise and was sentenced in January 2020 to 3.5 years in prison.



State v. Phillip Johnson, et. al - Phillip Johnson orchestrated a scheme to defraud the Pima County Superior Court to obtain firearms as a prohibited possessor. In 2019, a jury convicted Johnson of Fraudulent Schemes and Artifices, Illegally Conducting a Criminal Enterprise and Conspiracy. Johnson has multiple felony convictions dating back to 1997, and as a result, he was a prohibited possessor. In early 2017, Johnson recruited his girlfriend Brittani Schwanenberger and his friend Emanuel Simpson to collect 32 guns held in Tucson Police custody that had been confiscated in a previous criminal court case. He bought Simpson a plane ticket to fly to Arizona and helped Simpson and Schwanenberger file an affidavit with the Pima County Superior Court falsely claiming Simpson's ownership of the firearms. Simpson later picked up the guns from the Tucson Police Department in a van provided by Johnson and was driving with Johnson following. The Tucson Police Department discovered the scheme and seized the firearms before Johnson took back the van. In August 2019, Johnson fled from the courthouse before the jury returned the verdicts against him. In January 2020, Johnson was arrested in Riverside, California. He

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was sentenced to concurrent prison terms of 15.75 years for Fraudulent Schemes and Artifices, 11.25 years for Illegally Controlling a Prison Enterprise and 15.75 years for Conspiracy. Both Simpson and Schwanenberger pled guilty to committing Fraudulent Schemes and Artifices and were placed on two and three years of probation respectively.

State v. Timothy Henry & Francisco Osorio-Nava: Timothy Henry was indicted as part of a DEA investigation of an illicit drug distribution network in Cochise County, Arizona. During a joint undercover operation, a DEA agent was able to purchase significant quantities of Methamphetamine and Heroin directly from Henry. Utilizing a court-authorized wire interceptions, the investigation was able to uncover, identify and arrest several sources of supply for Henry and the criminal enterprise, as well as numerous smaller players. Agents located drugs and an illegally possessed firearm during the service of a search warrant on Henry's residence. In March 2020, Henry pled guilty to Transporting Methamphetamine for Sale and Illegally Possessing a Firearm and was later sentenced to 14 years in prison. The investigation of the transnational criminal organization also targeted Henry's contacts with illicit drug dealers in Pima County. One significant stash house was identified due to intercepted communications and surveillance. Two more suspects were identified after the arrest and interview of Francisco Osorio-Nava and several co-conspirators. Osorio-Nava pled guilty to Illegally Conducting an Enterprise, Attempting to Possess Methamphetamine for Sale and Money Laundering. In July 2020, he was sentenced to 2.5 years in prison. This investigation included a total of 12 search warrants that were served on vehicles and properties. Together they netted:

- 30.15 pounds of Methamphetamine
- 1.56 pounds of Cocaine
- 13.39 pounds of Heroin
- 3,500 Oxycodone (or fentanyl) pills
- 10 pounds of Marijuana
- 17.42 pounds of Hashish oil
- 92.1 grams of Cocaine Base
- \$215,128 in cash
- 57 firearms (of which 3 had been reported stolen)
- 39 vehicles, motorcycles or ATVs (of which 11 had been reported stolen).



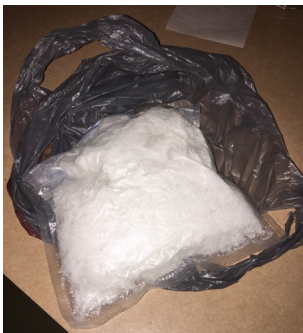
Additionally, information from this case later led to an undercover investigation and arrest of Dr. Glen Gary Robertson, for a murder-for-hire as noted above.

State v. Shalmarie Tulk - Shalmarie Tulk was a lower-level drug dealer involved in the Henry/Osorio-Nava investigation. On three dates in 2018, Tulk was intercepted discussing likely drug transactions with Henry on her cellphone. When she was later arrested, no drugs were found in her possession, although search warrants at other co-defendants' residences recovered large quantities of drugs. In January 2020, a jury convicted Tulk of Conspiracy and Criminal Enterprise charges. In February 2020, she was sentenced to seven years of probation. The conviction was largely attained through use of drug enterprise expert witness testimony provided by the DEA case agent.

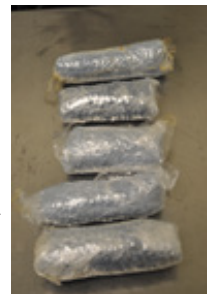
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State v. Cynthia Ortiz - Cynthia Ortiz presented herself as a caregiver to an elderly married couple. The wife sought respite care for her husband who was suffering from a number of fatal illnesses; however, he died within 60 days of Ortiz becoming their caregiver. Ortiz offered to 'assist' the widow with the estate paperwork and documentation associated with her husband's death. The wife soon suffered a disabling injury and infection that left her on the brink of death. Ortiz stole the identity of the deceased husband to rent a home, open a credit card and used a stolen credit card from the husband to charge numerous items. Ortiz also stole the wife's identity to open another credit card which she charged over \$42,000 dollars and then used the victim's funds to pay off the credit card. She then forged and stole death benefit checks owed to the victim and liquidated stocks that belonged to the deceased husband. In total, Ortiz defrauded the couple out of over \$80,000. A jury convicted Ortiz of 21 felony counts including Fraudulent Schemes and Artifices, Theft from a Vulnerable Adult, Theft, Aggravated Taking the Identity of Another, Taking the Identity of Another and Forgery. In March 2020, she was sentenced to 6.5 years in prison and ordered to pay restitution in the sum of \$40,700.

State v. Jesus Rodriguez-Valenzuela - In a month time period, Jesus Rodriguez-Valenzuela sold three pounds of Methamphetamine to undercover agents for \$7,800. Those drugs were then sold by the drug dealer to undercover officers from the Tucson Police Department's Counter Narcotic Alliance for \$2,600 per pound. In September 2019, Rodriguez-Valenzuela pled guilty to three counts each of Transportation of Methamphetamine for Sale and Second Degree Money Laundering, Conspiracy and Illegally Conducting an Enterprise. He was later sentenced to ten years in prison.



State v. Roberto Inzunza-Chavez - Roberto Inzunza-Chavez was part of a DTO that used women to body-carry bags of Heroin pills across the Mexican border to customers in the U.S. Inzunza-Chavez would meet the woman, collect the pills and deliver them either to customers or a different member of the DTO. Overall, Inzunza-Chavez was directly involved in smuggling over 5,000 Heroin pills. In September 2019, he pled guilty to Attempted Transportation for Sale of a Narcotic Drug and was later sentenced to 2.5 years in prison.



State v. Marc Anthony Hatter et al - Following a series of drive by shootings in Tucson, in December 2018, the Bureau of Alcohol Tobacco, Firearms, and Explosives (ATF), the Tucson Police Department Gang Unit and the Pima County Sheriff's Department began a joint investigation to identify the gunmen. They eventually determined the shootings were done by members of the Get Money Gang, to promote the gang's reputation for violence. The first two shootings occurred on December 15, 2018. After an argument with two victims on Facebook, Marc Anthony

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Hatter, along with brothers Isaiah and Israel Meza, committed two drive-by shootings where they believed the victims lived. The first location, on West Virginia Street, was apparently unoccupied at the time of the shooting. The second location, about one mile away on West Dakota Street, was occupied by a family. No one was injured, but multiple bullets hit the home, placing the family members in fear for their lives, with one bullet going through a living room window. On December 28, 2018, the Meza brothers shot a sixteen-year-old in the hand during a drive-by shooting precipitated by a gang dispute. In Facebook chats, Hatter asked about the shooting, writing to Israel Meza, “u shot him in the hand?” Israel responded, “He said I shot him in the chest LMFAO.” Finally, on December 29, 2018, a victim reported that shots were fired outside her Tucson-area home. Officers responded and found bullet damage to the house, including three bullet strikes in a child’s bedroom. After finding a video of the shooting on Hatter’s Facebook account, agents determined that Hatter, Isaiah Meza and Erubiel Alexis Bojorquez were the shooters. It appears the victim’s home was randomly targeted. In January 2020, Hatter and both Meza brothers pled guilty to multiple charges of Aggravated Assault with a Deadly Weapon and Illegally Conducting an Enterprise and were each sentenced to ten years in prison. Bojorquez pled guilty to Aggravated Assault with a Deadly Weapon and Illegally Conducting an Enterprise and was sentenced to 3.5 years in prison.



State v. Patrick Winkler - Patrick Winkler is a recidivist sex offender. After serving a nearly 15 year prison sentence for child molestation, Winkler was released on community supervision in March 2017. Winkler’s parole officer found concerning conversations in one of Winkler’s online accounts just over a year after his release. The parole officer then discovered that Winkler had images of underage girls and reported Winkler’s online activity to the Tucson Police Department. Detectives eventually discovered that Winkler possessed videos and images of child pornography on his cellphone that had been downloaded between November 2017 and March 2018. They also discovered that Winkler used the cell phone application “Whisper” to lure minors for sexual exploitation. In some of these conversations, Winkler had knowingly misrepresented his age in an attempt to commit sexual offenses. Winkler also did not disclose his Whisper account to Pima County Sheriff’s Department, which was in violation of his registered sex offender requirements. In September 2019, a jury convicted Winkler of ten counts of Sexual Exploitation of a Minor, two counts of Luring a Minor for Sexual Exploitation, three counts of Unlawful Age Misrepresentation and Failure to Register as a Sex Offender. Winkler was sentenced to 173.5 years in prison.

State v. Donald Edward Cobern - Donald Cobern was a registered sex offender who was previously convicted of First Degree Child Molestation in Washington. In February 2019, AGO Special Agents and investigators from the Tucson Police Department received a tip from Microsoft that a computer in Tucson had used Microsoft services to view child pornography. Based on that tip, investigators traced the computer to Cobern. When they searched his apartment, investigators found a desktop computer, two flash drives and an external hard drive. A forensic analysis confirmed that these devices collectively contained hundreds of images of child pornography. In October 2019, Cobern pled guilty to three counts of Sexual Exploitation of a Minor and was later sentenced to 15 years in prison, followed by lifetime probation and he must register as a sex offender.

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State v. Tyler Jeffrey Buntrock - Tyler Buntrock, was an account services manager for the Pima County Joint Technical Education District (JTED). In his position, Buntrock was responsible for receiving money collected from JTED students and parents, recording the funds in the accounting system and then depositing the money at the bank. Between March and August 2016, Buntrock stole over \$12,000 from the cash that he received, rather than deposit the money into the JTED's bank account. In

August 2019, Buntrock pled guilty to Violation of Duties of a Custodian of Public Monies. As part of his plea agreement, Buntrock was sentenced to two years' probation and ordered to pay full restitution to Pima JTED.

State v. Jeffrey Stebbins and Corbin Jones - Between April 2006 through September 2010, Jeffrey Stebbins and Corbin Jones received over \$1.6 million dollars from investors to develop a tankless water heater. Rather than use the money for business expenses, Stebbins and Jones used significant amounts of money for personal expenses. For example, through their company, Cellinium Group LLC, Stebbins and Jones misappropriated the following amounts: (1) \$189,000 to Cellinium's brokerage account; (2) \$564,900 in withdrawals and transfers by Jones; (3) \$133,500 in Mercedes Benz payments; (4) \$15,000 to Stebbins' custom home builder; (6) \$90,000 in rent at the Camelback Esplanade and (7) \$178,900 in transfers and payments to Stebbins. The securities sold by Stebbins and Jones were unregistered and not subject to an exemption. Both defendants pled guilty to three counts of Sale of Unregistered Securities. In December 2019, Stebbins was sentenced to 60 days in jail followed by four years of supervised probation and ordered to pay \$1.77 million dollars in restitution and a \$50,000 fine. Jones was sentenced to four years of supervised probation and ordered to pay \$1.77 million dollars in restitution along with a fine of \$10,000.

Special Investigations Section

The Special Investigations Section (SIS) provides investigative support to prosecutors in the Criminal Division as well as law enforcement agencies throughout the State. SIS provides expertise in specialized areas of the law covered under the AGO's statutory criminal jurisdiction, that are not usually available at other law enforcement agencies. Those areas include 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 other countries. The Special Investigations Section works closely with federal law enforcement partners, including having Special Agents assigned to federal taskforces that combat racketeering offenses at the state and federal levels.

Overview of Accomplishments:

In FY20, SIS opened 209 cases. SIS Major Fraud Units devoted resources to advance public corruption cases this year. Special Agents work with Criminal Division prosecutors in the FSP, FRS, HCFA and SAWCCE and successfully met unprecedented investigative demands. In addition, Special Agents work with other AGO attorneys assisting with Consumer Fraud litigation.



AGO initiatives continue to target the dismantling of the financial structures of DTOs and have resulted in record-setting increases in asset forfeitures. Statistics also indicate calls for assistance from the public and other

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law enforcement agencies were at high levels in FY20.

Law Enforcement Assists - 65

TRAC – Financial Inquires - 3893

Duty Agent Contacts - 3,674

Major Cases

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

Arizona Financial Crimes Task Force (AFCTF)

State v Paulino Osornio, et al - In May 2015, members of the AFCTF initiated a complex wire interceptions into the money laundering and drug trafficking activities of an international organization supplying Heroin, Methamphetamine, Cocaine and Marijuana from Mexico into Phoenix. Within hours of receipt, the drugs were transported to Southern California and Las Vegas, Nevada; then to demand cities in the Midwest and East Coast. Once the illegal drug proceeds are earned, the cash is funneled back to the suspects by using several bank accounts and then carried in bulk cash across the border into Mexico. During the course of the investigation, AFCTF investigators served thirteen search warrants and seized over \$1,000,000 cash and assets, over three pounds of Heroin, seven pounds of Methamphetamine, over seventeen pounds of Cocaine, 3,000 pounds of Marijuana, six vehicles, three handguns, two assault rifles and arrested thirteen suspects. All the individuals arrested were indicted and later convicted.



State v. Erica Simmons - Erica Simmons posed as a part-time tax professional and offered her services to two co-workers. She completed their tax refunds, lied on the tax forms in order to receive a larger return, diverted their refunds to an account she controlled and then spent the money. In July 2019, she was charged with Fraud Schemes & Artifices, Theft, Money Laundering and Forgery. In March 2020, she pled guilty to Fraudulent Schemes & Artifices and was later sentenced to 12.5 years in prison and ordered to pay \$190,964 in restitution.

Major Fraud Units (MFU1 & MFU2)

State v. William Gilbert - William Gilbert was appointed to be the power of attorney of his ex-father-in-law who was in an Alzheimer's facility. The investigation revealed that once Gilbert took control of the victim's bank accounts, he used the victim's money for gambling and his own living expenses. Gilbert failed to pay the victim's monthly \$6,000 facility bill to the point the victim was almost evicted on several occasions before he passed away with an empty bank accounts. In November 2019, Gilbert pled guilty to Theft and was later sentenced to 180 days in jail, followed by two years' probation and ordered to pay full restitution.

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State v. Randy Jumper - Randy Allen Jumper voted in Arizona and Nevada during the 2016 General Election. Jumper had voted by mailing in early ballot envelopes, signed under penalty of perjury and voted in each county. In October 2016, Jumper executed and mailed a Washoe County, Nevada ballot envelope that was postmarked Reno, Nevada. He also executed and dated a Pima County Early Ballot Affidavit ballot envelope, including his phone number. Both jurisdictions showed the ballots were received and counted toward the election. In July 2020, Jumper pled guilty to Attempted Illegal Voting and was sentenced to three years' probation, 300 hours of community service and a \$5,000 fine.

State v Matthew Valdez - Matthew Valdez was arrested by AGO Special Agents assigned to the Internet Crimes Against Children Task Force (ICAC TF) for charges pertaining to the sexual exploitation of minors after Google submitted three cyber tips to the National Center for Missing and Exploited Children. Through the course of the investigation, the identification of the owner of these accounts was identified. Additionally, these cloud based storage accounts contained numerous images depicting the sexual exploitation of minors, along with various images that showed Valdez working on cars and completing various recreational activities. Special Agents located Valdez through the issuance of a Ping Order. Valdez was later located and arrested at his home. A subsequent residential search warrant was executed at his home where various items of evidence were recovered. During the interview, Valdez admitted to downloading child exploitation material and storing it in his Google drive accounts. In May 2020, Valdez pled guilty to two counts of Sexual Exploitation of a Minor and was later sentenced to six years prison, followed by lifetime probation and mandatory registration as a sex offender.



Consumer Fraud Unit (CPA)

Pro Solutions, LLC - Ruben Diaz owned Pro Solutions, Inc., a real estate business who marketed to Spanish speaking clients and promoted services offering to assist consumers with short sales and assisting in obtaining investor loans for the purchase or refinance of residential real property. Diaz routinely took his clients' service fees and earnest money down payments and did not apply the earnest money deposits to home purchases nor refunded payments as promised. The AGO obtained a \$525,313 consent judgment against Ruben Diaz and Pro Solutions LLC.

Island Don, Inc., d/b/a Bright & Shiny Kirby Company - From September 2017 to July 2018, Bright & Shiny Kirby Company made thousands of calls in violation of the National "Do Not Call" Registry. The company sells Kirby vacuums to consumers throughout Arizona through in-home sales presentations. They allegedly solicited consumers over the telephone and gained access to their homes by promising complimentary carpet and furniture cleaning without disclosing those cleanings were part of a sales presentation which sometimes lasted from three to five hours. The AGO obtained a \$600,000 consent judgment against a vacuum sales business and its owners.



Dependable Auto, Inc.: An investigation revealed that Dependable Auto, Inc. charged consumers for third-party

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service contracts, but failed to actually purchase the service contracts; requiring consumers to sign a disclaimer stating their vehicles were sold “as is” and had no warranty, even though Arizona law says otherwise; failing to make repairs to vehicles in accordance with the warranty required by Arizona law; representing consumers were receiving “free labor maintenance” when the sales contract required consumers to pay over \$1,200 for a service contract; and failing to disclose salvage titles to consumers. The AGO obtained a consent judgment providing for \$90,000 in restitution for consumers of the used car dealer to resolve allegations that the dealership engaged in unfair and deceptive practices in the course of its sales.



DIY Neurocare of America, LLC: From approximately 2015 to 2016, Lyle Day and DIY Neurocare of America, sold LED light pads which it claimed could treat symptoms of peripheral neuropathy and other ailments. The company allegedly offered a 12-month “No Risk 100% Money Back Guarantee” to induce consumers to purchase their products and services in packages that were sold for \$2,000 to \$4,500. However, the company then went out of business leaving consumers with no way to get their money back despite the company’s promises or guarantees made. The AGO obtained a \$115,000 consent judgment against Lyle Day and the company. The State previously obtained a default judgment against the company for \$720,826.

Youth Tobacco Compliance Program:



In FY20, the program conducted 2,434 undercover inspections of tobacco retailers overall, resulting in 527 citations issued to clerks and businesses who sold tobacco products to underage youth volunteers. Due to the pandemic, AGO Special Agents were limited in the number of inspections they were able to conduct. It is anticipated that Special Agents will begin conducting more inspections in the future when the limitations imposed by the pandemic subsides.

Financial Remedies Unit (FRU):

Special Agents in FRU not only assist prosecutors in civil forfeiture, they also are assigned to various task forces to collaborate efforts with law enforcement agencies at the local and federal levels. Special Agents assigned to FRU completed follow-up assignments to support civil forfeiture case litigation along with completing criminal investigations to include Fraud Schemes, Vulnerable Adult, Food Tampering, Gambling and Social Security Fraud.

In February 2020, an AGO Special Agent was assigned to work with the DEA Task Force (DEA TF) to assist with drug trafficking and money laundering organizations. Between February and July 2020, the DEA TF investigated

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and arrested 18 drug traffickers and seized 13 lbs. of Heroin, 300 lbs. of Methamphetamine, 67 lbs. of Cocaine, 10,450 Fentanyl pills, 4.4 lbs. of Fentanyl powder and \$97,515 in cash.

AGO Special Agents continued to participate in the High Intensity Drug Trafficking Area Taskforce (HIDTA TF) assisting multiple agencies with drug trafficking investigations. The HIDTA TF investigated and arrested 91 suspects and seized 4,715 lbs. of Marijuana, 613 lbs. of Methamphetamines, 227 lbs. of THC Resin, 40 lbs. of Heroin, 67 lbs. of Cocaine, 4,743 PCP pills, 827 Xanax pills, 60,000 Fentanyl pills, 80 weapons, 45 vehicles and \$424,182 in cash.

The AGO also continued to partner with the FBI Joint Terrorism Task Force (JTTF). During FY20, the AGO Special Agent assigned to the JTTF assisted with 11 criminal investigations, prosecuting five defendants and assisted 18 fraud victims with the recovery of \$206,888.

State v. Khwaja Majib Haque - In 2015, two individuals from Phoenix traveled to Garland, Texas to conduct a terrorist attack at a Mohammad Art Exhibit and Contest. Upon arrival at the exhibit, the suspects engaged the on duty security guard with gunfire from two AK-47 rifles. The security guard was wounded in the exchange before the police arrived and eventually shot and killed the shooters. During the course of the investigation, it was discovered that Khwaja Majib Haque provided money to one of the suspects in order to travel to South Africa to study religion. Haque was questioned by investigators on three occasions and denied providing the money. In early 2018, an AGO Special Agent spent approximately one year preparing the case for prosecution. In 2019, the case was presented to a Federal Grand Jury where Haque was indicted for providing False Statements to the FBI. In August 2019, Haque pled guilty to the charge and was later sentenced to three years supervised probation and ordered to pay a fine of \$5,100.

During FY20, AGO Special Agents assigned to the Social Security Taskforce (SSA TF) were assigned 151 disability investigations. SSA TF investigations start at an administrative-level and involve physical surveillance of individuals suspected of filing false disability claims. Suspects file claims related to a medical disability preventing them from working. As a result of investigative resources, many suspects are observed conducting activities previously reported to doctors that they could no longer do because of their medical disability. This evidence allows the SSA to revoke disability benefits obtained fraudulently. Of those investigations, they were able to administratively work cases saving the SSA and State of Arizona approximately \$3,938,662 in tax payer dollars.

Tucson Major Fraud Unit (TUC):

State v. Donald T Diaz, Jr - Between December 2011 and April 2018, Donald Diaz entered into contracts with 12 Arizona victims to purchase and install audio, video and security equipment. He received advanced payments from the victims and did not fulfill the contracts. Diaz was indicted with eight counts of Fraudulent Schemes and Artifices and Theft. The investigation revealed that Diaz stole \$31,522 in down payments from his victims. In June 2020, Diaz pled guilty to Theft and Fraudulent Schemes & Artifices and was later sentenced to 90 days in jail, followed by five years of probation and ordered to pay full restitution to his victims.

