



**Attorney General
Mark Brnovich**

2022 Annual Report

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ABOUT US

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 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 handled by this Office.

The Arizona Attorney General's Office, through 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 Attorney General's Office 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.

The Attorney General's Office 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.

ABOUT OUR EMPLOYEES

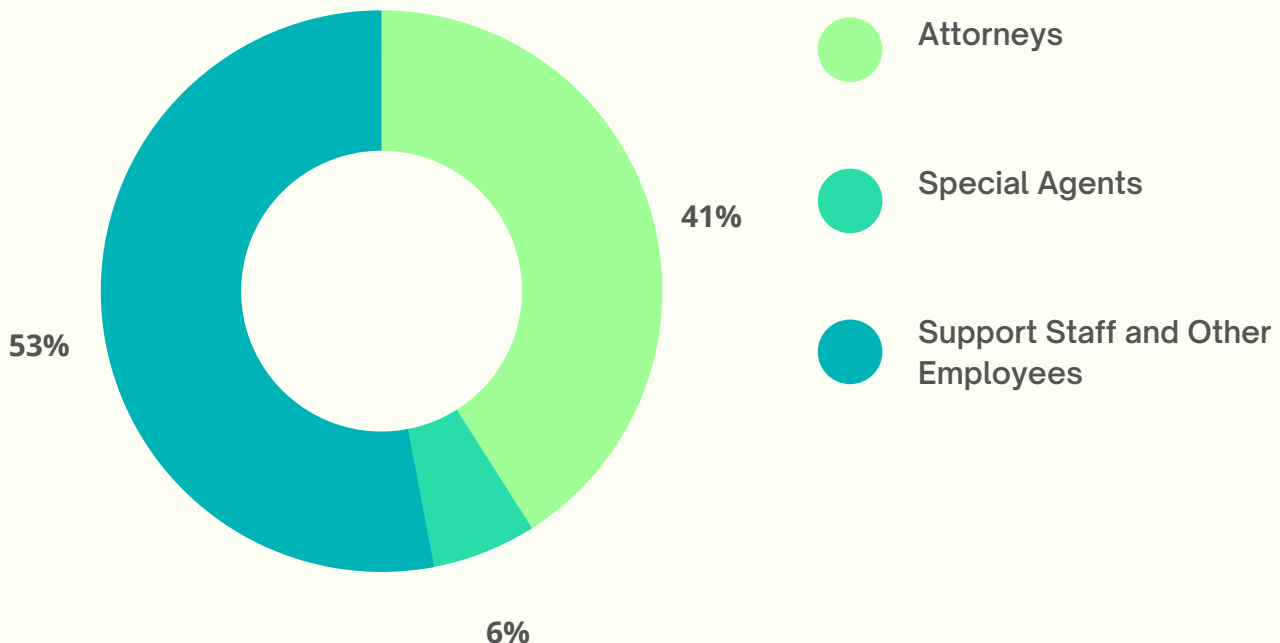
The Attorney General's Office is the largest law office in the State. The Office is divided into:

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

The office is comprised of a wide variety of employees including attorneys, special agents, and legal support staff, among others.



AGO EMPLOYEES



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It has been a great honor to serve as attorney general for the state I love. The past eight years have brought tough challenges and momentous victories. As the Grateful Dead once sang, “What a long, strange trip it’s been.”

ATTORNEY GENERAL MARK BRNOVICH



It has been a great honor to serve as attorney general for the state I love. The past eight years have brought tough challenges and momentous victories. As the Grateful Dead once sang, “What a long, strange trip it’s been.”

One of my top priorities as attorney general has always been consumer protection. Recently, we announced an \$85 million settlement with Google LLC for tracking users’ location data without their knowledge and consent. I am proud of this historic settlement, one of the largest in these types of cases, proving no entity is above the law.

Our office has secured record consumer protection recoveries since 2015. Some of those include a \$14.5 million settlement with JUUL Labs, Inc. for marketing their products to young people; a \$40 million settlement with Volkswagen to resolve false advertising claims involving so-called “clean diesel” cars; and a \$5 million settlement over allegations of safety issues related to defective Takata airbag systems. In addition, Arizona is the only state to get full refunds for every Arizonan who purchased a Theranos blood test.

As the crisis continues to ramp up at the southern border, it’s brought an influx of drugs into Arizona communities, putting everyone in danger. Our agents are working every day to keep our streets safe, seizing more than 1.5 million fentanyl pills just this fiscal year.

Our office is also the leader on national legal battles. From fighting to secure our southern border to filing the first lawsuit over unconstitutional vaccine mandates, we’ve consistently fought to protect federalism and uphold the rule of law. One of the highlights of my career was successfully arguing *Brnovich v. DNC* at the U.S. Supreme Court.

From seniors to students, thousands of Arizonans have received vital information through presentations, events, and community outreach. In a continuing effort to reach more people, the office launched AGTV this year, a first-of-its-kind video channel, giving people another platform to get educational information.

Being a prosecutor is about ensuring justice, and that’s why resuming executions was so important. Those who commit the ultimate crimes should receive the ultimate punishment.

Not everyone agreed with all of the positions we took or the battles we fought, and that’s okay, but I always did what the law required and what I felt in my heart was right. We are leaving this office better than when we found it. And just like in that same Grateful Dead song, we’re going to “Hang it up and see what tomorrow brings.”

“

Our office is leaving a positive mark on the state of Arizona, and I believe that history will judge us accordingly. Thank you for everything you've done. It has been an honor and a privilege to serve alongside each and every one of you.



Joseph Kanefield
Chief Deputy/Chief of Staff

What a run. We are capping off our eight years with some historic settlements and huge wins thanks to the hard work and dedication of all AGO employees.

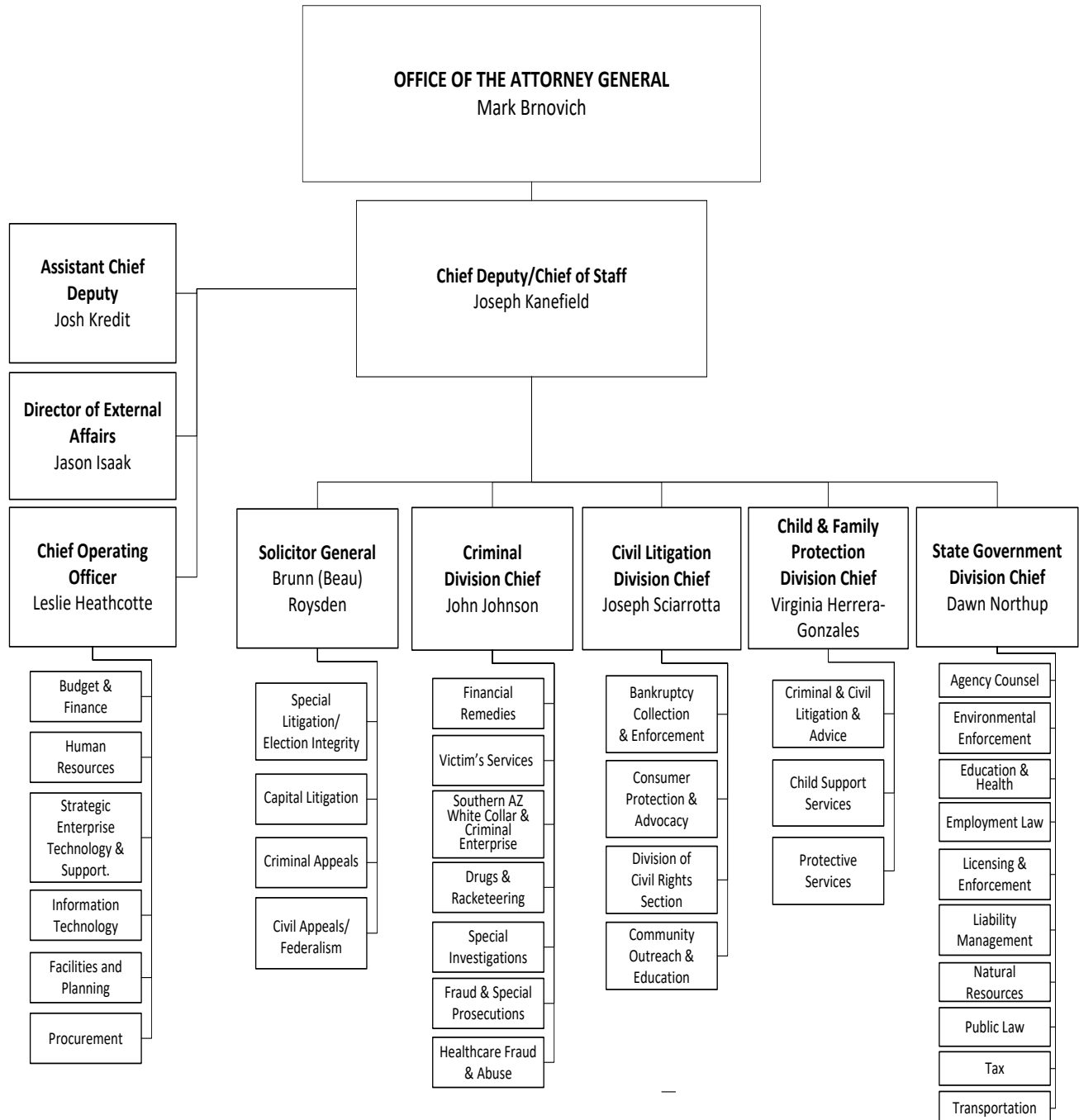
One of our big highlights this fiscal year was when we received the Consumers' Champion award for the first-in-the-nation settlement with Ticketmaster that returned more than \$71 million in refunds for consumers who purchased tickets to Arizona live events that were impacted by the COVID-19 pandemic.

The crisis at the southern border continues to get worse. The increase in illegal drugs means opioid use, addiction, and deaths are on the rise, and our office is dedicated to trying to put a stop to it. This year, we will issue at least \$16 million in grants to community organizations and government agencies to help them combat the impact.

Also, on the opioid front, we secured consent judgments finalizing two historic multistate settlements totaling \$26 billion with four pharmaceutical companies for their roles in the opioid crisis. That's in addition to the previous \$573 million multistate settlement with McKinsey & Company and more than \$11 million resulting from the case against Chandler-based opioid manufacturer Insys Therapeutics, Inc.

Our office is leaving a positive mark on the state of Arizona, and I believe that history will judge us accordingly. Thank you for everything you've done. It has been an honor and a privilege to serve alongside each and every one of you.

ORGANIZATIONAL CHART



ARIZONA PEACE OFFICERS MEMORIAL

The 48th Annual Peace Officers Memorial Service was held on Monday, May 2, 2022. Attorney General Brnovich, who serves as the Chairman of the Arizona Peace Officers Memorial Board, addressed the attendees and helped honor the 26 members of Arizona law enforcement who perished while serving in the line of duty in 2021. Sadly, this was a record for the number of law enforcement officers added to the Memorial in a single year.

The Arizona Peace Officers Memorial is located in Wesley Bolin Plaza and honors approximately 400 fallen officers from federal, state, and local departments, going all the way back to territorial days, who have paid the ultimate sacrifice.

In his address, Attorney General Brnovich remarked:

This Memorial is a reminder of the dangers each officer faces every time they put on the uniform, but it recognizes far more than that.

We know that behind every badge is a child, a spouse, a parent, a sibling who is loved, cherished and irreplaceable, not only to their friends and families, but to our entire community.

What we can do is our best to express our feelings. We can strive for a deeper understanding and appreciation of these incomparable sacrifices, and together we will do our part to ensure that our heroes are never forgotten.

The following officers were engraved into the Memorial and honored at this year's ceremony:

Officer L. Tyler Britt

Chandler Police Department

End of Watch: January 11, 2021

Officer Joseph H. Montgomery

Arizona State University Police Department

End of Watch: January 14, 2021

Officer Byron Don Shields

U.S. Customs and Border Protection

End of Watch: January 20, 2021



Special Agent Jimmie John Daniels

U.S. Department of Justice - Federal Bureau of Investigation

End of Watch: February 1, 2021

Probation Officer John A. Gilbert

Maricopa County Juvenile Probation

End of Watch: February 21, 2021

Officer Christopher Farrar

Chandler Police Department

End of Watch April 30, 2021

Officer Jeremy Allan Brinton

Nogales Police Department

End of Watch: May 21, 2021

Officer Ginarro A. New

Phoenix Police Department

End of Watch: May 31, 2021

Officer Ruben "George" Facio

U.S. Customs and Border Protection

End of Watch: July 17, 2021

Supervisory Agent Danny Paul Cox

U.S. Border Patrol

End of Watch: July 31, 2021

Officer Mathew A. Hefter

Phoenix Police Department

End of Watch: August 7, 2021

Detention Officer Alicia Dawn Carter

Maricopa County Sheriff's Office

End of Watch: August 9, 2021

Agent Chad E. McBroom

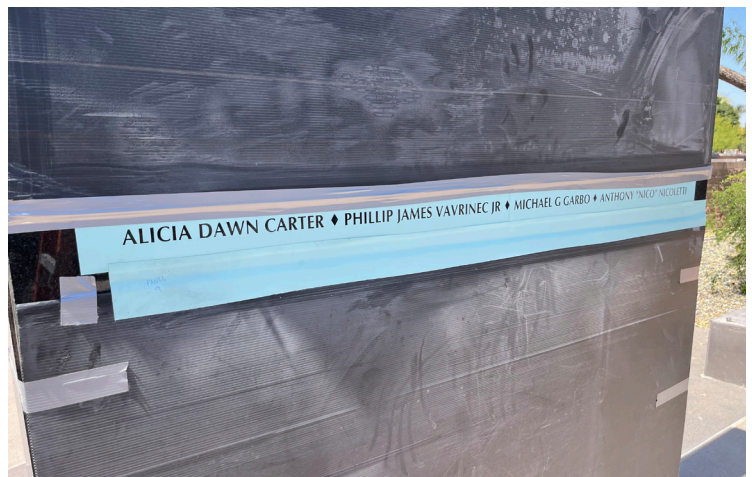
U.S. Border Patrol

End of Watch: August 29, 2021

Sergeant Thomas Crawford Craig

Phoenix Police Department

End of Watch: September 3, 2021



ARIZONA PEACE OFFICERS MEMORIAL

Detention Officer Kendall L. Thomas
Maricopa County Sheriff's Office
End of Watch: September 10, 2021

Officer Phillip James Vavrinec, Jr.
Phoenix Police Department
End of Watch: September 22, 2021

Agent Luis "Louie" Dominguez
U.S. Border Patrol
End of Watch: September 23, 2021

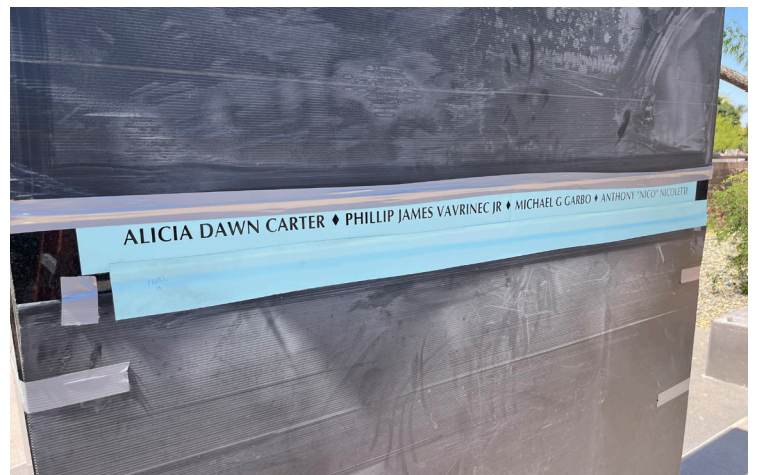
Agent Alfredo M. Ibarra
U.S. Border Patrol
End of Watch: September 27, 2021

Group Supervisor Michael G. Garbo
U.S. Department of Justice - Drug Enforcement Administration
End of Watch: October 4, 2021

Detention Officer Anthony "Nico" Nicoletti
Mohave County Sheriff's Office
End of Watch: October 11, 2021

Deputy Sheriff Sergeant Michael D. Rudd
La Paz County Sheriff's Office
End of Watch: October 11, 2021

Deputy Sheriff Juan Miguel "Johnny" Ruiz
Maricopa County Sheriff's Office
End of Watch: October 11, 2021



Supervisory Agent Anibal Antonio Perez

U.S. Border Patrol

End of Watch: November 5, 2021

Lieutenant Chad Owen Brackman

Maricopa County Sheriff's Office

End of Watch: November 10, 2021

Supervisor Agent Martin Barrios

U.S. Border Patrol

End of Watch: November 29, 2021

Officer Jeremy Wilkins

Chandler Police Department

End of Watch: December 17, 2021



OPERATIONS



Leslie Heathcotte
Chief Operating Officer

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, Information Services, and the Strategic Enterprise Technology Section.

HUMAN RESOURCES

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 Office 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.

Employee Relations

As part of our efforts to create and maintain positive relationships with agency employees, the Human Resources team members help employees navigate workplace and personal changes, resolve conflicts, facilitate conversations regarding workplace conduct and performance management and contribute to employee recognition programs. In tandem with division leadership, the Human Resources team supports agency employee engagement and success.

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.

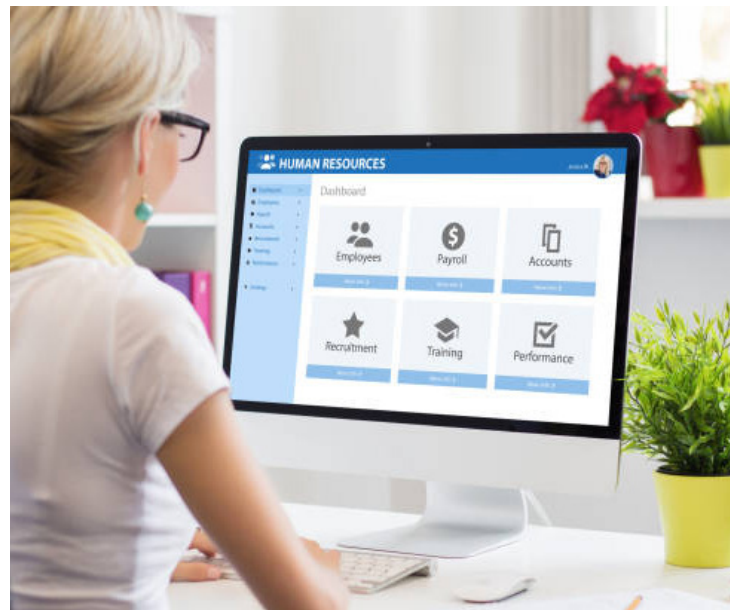
In Fiscal Year 2022, there were 21 new requests for an accommodation.

Medical Leave Requests

The FMLA entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons with the 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;



OPERATIONS

HUMAN RESOURCES

employee time entry; benefit premium billings; return to work certifications; on-going intermittent leave; accommodation requests upon return from medical leave).

- Closure of leave request records upon completion.

In Fiscal Year 2022, there were approximately 193 requests for medical leave. Management of approximately 100 continuous leave requests and 93 intermittent leave requests. Approximately 10-15% of the medical leave requests also included a temporary or interim accommodation.

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.

Current Best Practices:

- Follow CDC updates
- Intake process for employee requests
- Monitoring and ongoing assistance for COVID-19 related requests
- Verbal and written communications with employees and supervisors
- Creation and updates to communication templates
- Questionnaire for potential exposure and COVID-19 diagnosed cases
- Collaboration between sections within the Operations Division in response to COVID-19 related requests

Between July 2021 -June 2022, HR managed more than 216 matters from employees related to COVID-19, as well as approximately 42 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 and attended by 335 employees:

- Mammography Onsite Mobile Screenings
- Prostate Cancer Screenings
- Mini Health Screenings
- Blood Drives in coordination with American Red Cross and Vitalant
- Flu Shot Clinic

Remote Work Program

Development and implementation of the agency's Remote Work Program offering benefits of balance, flexibility and increased retention for eligible employees. Approximately 72% of the AGO workforce participates in the remote work program.



Workers' 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. In Fiscal Year 2022, we managed 20 workers' compensation claims for our AGO office locations throughout the state. A Workers' Compensation Educational Pamphlet was created to assist employees and supervisors from the claims process through recovery.

Annual Accomplishments

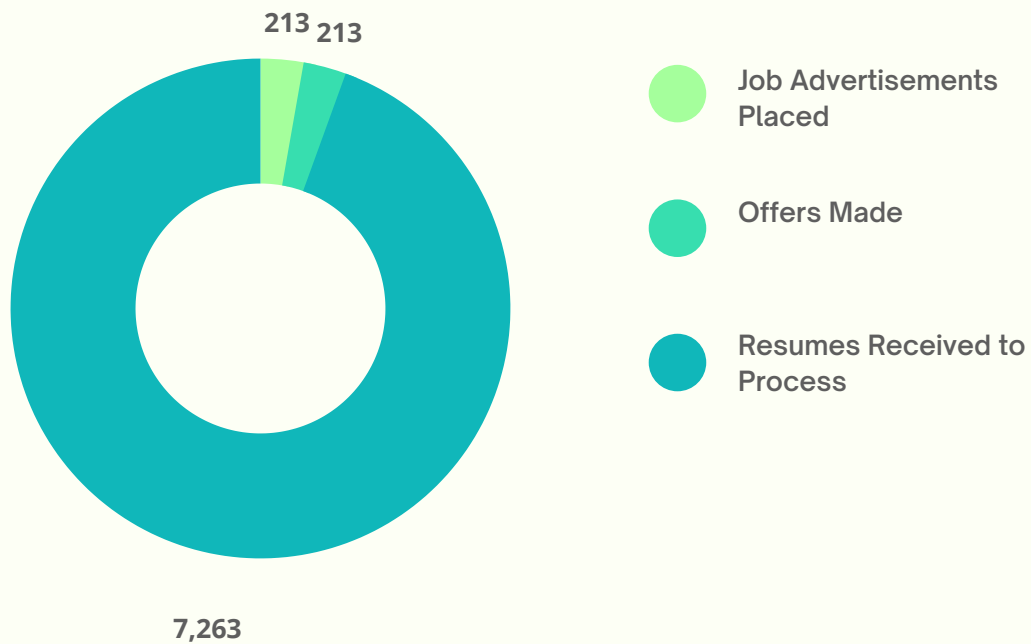
- ASRS Employer Conference
- Annual Performance Review
- Benefit Open Enrollment
- Child and Family Protection Division Critical Service Stipend
- EEO Plan
- Fitness to Return to Work Certificate updates capturing important information related to temporary telework requests
- FMLA communication template updates
- Grant Compliance
- Intern Program
- Merit Incentive Program for FY2022
- New Employee Orientation Benefit Presentation
- OSHA Report
- PSPRS Cancer Insurance Program for FY2022
- Public Records Requests
- Paid Law Clerk Program in collaboration with the Child and Family Protection Division/Protective Services Section
- Worker' 'Compensation Tool Upgrade

OPERATIONS

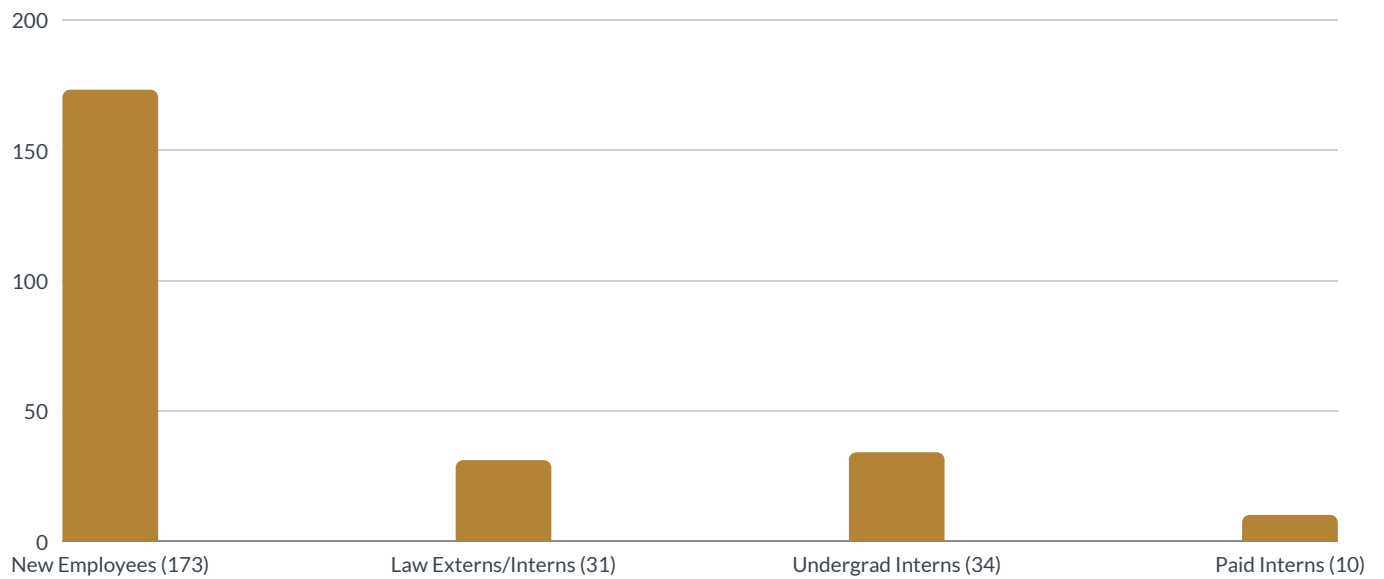
HUMAN RESOURCES



RECRUITMENT



NEW EMPLOYEES



OPERATIONS

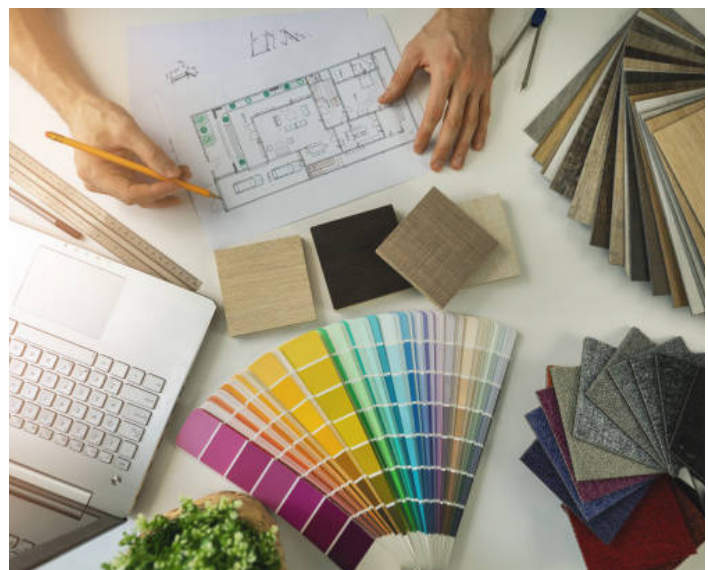
FACILITIES

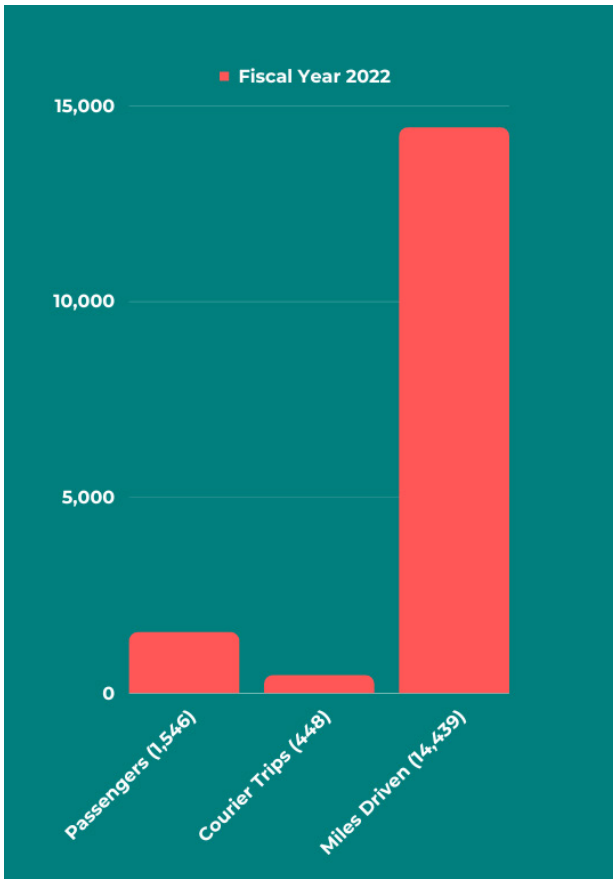
The Facilities Management and Planning Section manages the day-to-day operations and maintenance of the agency's occupied buildings and office spaces. Primary areas of focus include:

- **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, badging, main building receptionist functions, electronic imaging, and copy center services that support the needs of the agency.

Fiscal Year 2022 Accomplishments

- Enhanced cleaning and sanitization practices throughout all areas
- 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 workspace efficiency
- Managed hundreds of furniture remodel projects including design and installation
- Conducted a fixed asset inventory for the Facilities Section





FACILITIES SHUTTLE

- NUMBER OF PASSENGERS
- COURIER TRIPS
- MILES DRIVEN

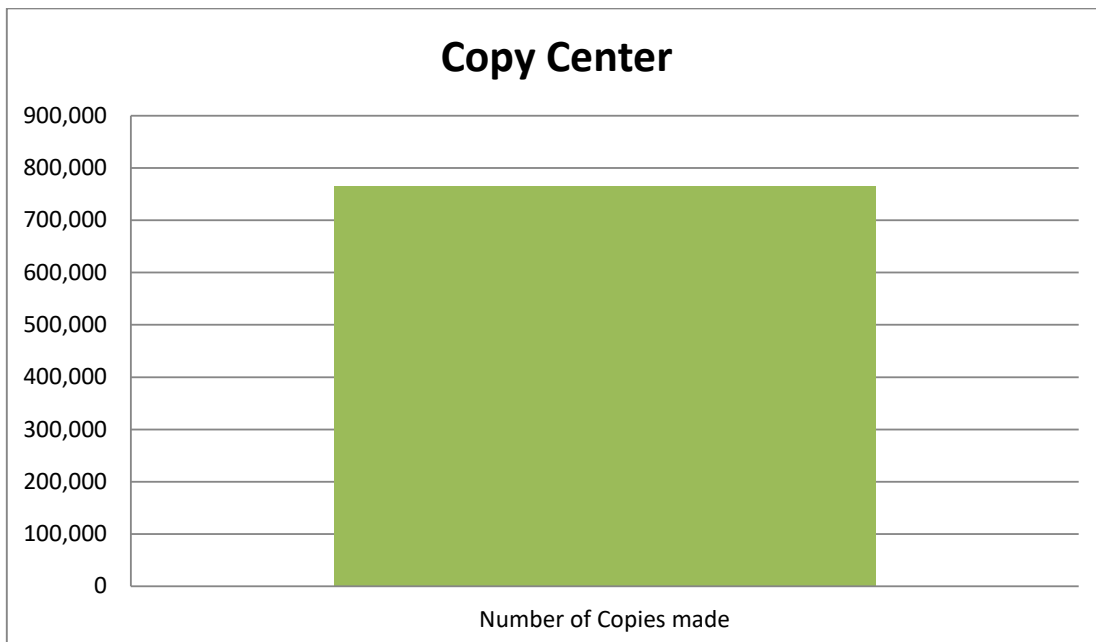
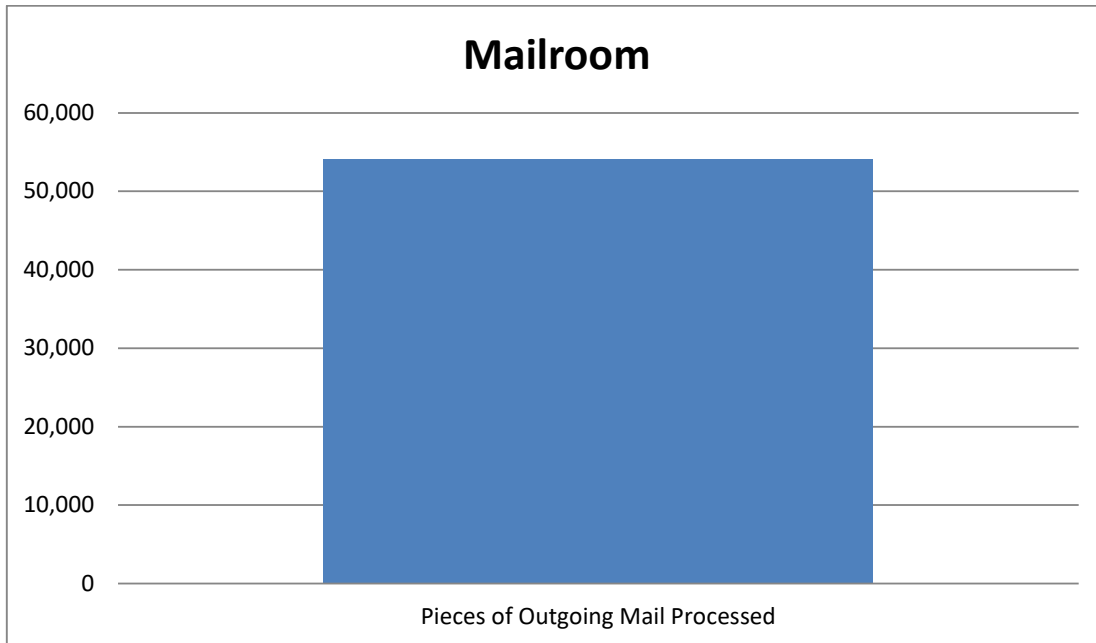
In Fiscal Year 2022, there were 79,575 copy jobs processed by the AGO Copy Center.

AGO Reception received over 7,600 calls.

51,883 pieces of outgoing mail were processed by AGO Facilities staff.

OPERATIONS

FACILITIES



OPERATIONS

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

ISS has added a new AI-driven email security solution to our protection portfolio. This solution uses multiple indices to determine if an email is SPAM, malicious, and potentially dangerous. The solution can read web links to determine if the code behind the human readable text is appropriate and act when necessary. As email trends are monitored, the AI engine becomes more accurate and is better able to protect our systems. This does not replace the need to remain vigilant when using email but does aid greatly in identifying and filtering threats.

The engineering team has a new junior engineer, Wiley Stewart. Wiley comes to us from a sister agency and is eager to learn and aid in the growth of our datacenter. He has been working on some systems management cleanup and is about to begin configuration of a security event monitoring solution that will give us more insight into the desktop event logs.

Our software team is gearing up for more DM to Legal Files Web conversions. The conversions have been on hold during COVID and in that time, upgrades to Legal Files and the supporting database have become available. In preparation for the return of conversions, our teams are running simulations that will test compatibility of the upgrades with our current and future versions.

ISS has started the replacement and upgrade of our aging storage systems. The new storage will be flash based and offer longer life and better performance. The latest round of replacement storage should be installed and active by the end of the year. We plan to continue replacements into FY24.

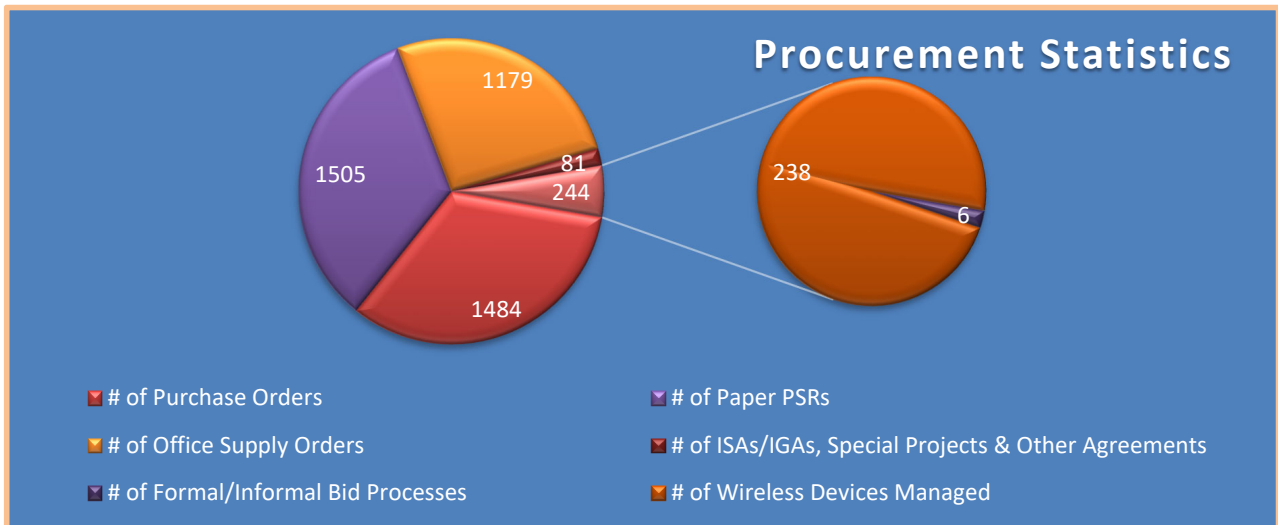
OPERATIONS

PROCUREMENT

The Procurement Section (PRS) is responsible for establishing contracts and overseeing the purchase of all goods and services on behalf of the AGO. The PRS strives to be a valued resource to the AGO providing direction and guidance on procurement policies, regulations and procedures. Effective procurement strategies support AGO goals and maximize the value of public monies and equitable treatment of all vendors.

Responsibilities Include:

- Arizona Procurement Portal (APP) Administrator
- Certificate of Unlimited Delegated Procurement Authority from ADOA; Office Supply Account Administrator (including Wist, Office Depot, BCT, etc.)
- P-Card Administrator
- Procurement Services:
 - o Advise internal customers on the most efficient means to procure goods and services;
 - o Approve All AGO purchases via APP or purchase requisition forms
 - o Develop specifications and solicits Request for Quotations (RFQ), Requests for Proposals (RFP) & Requests for Grant Applications (RFGA)
 - o Post-award contract management
 - o Review and sign all contracts and agreements for the AGO



Overview of Accomplishments

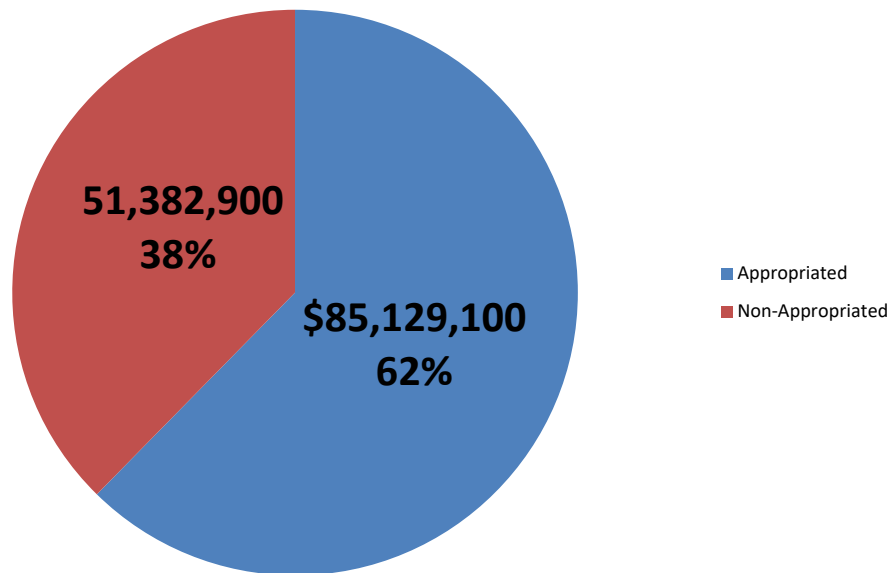
- Solicit and award 32 new contracts for General Outside Counsel Services for Calendar Year 2022
- Extend 58 existing contracts for General Outside Counsel Services for Calendar Year 2022
- Award and distribute \$3,000,000 in Local and Tribal Government Opioid Abatement Grants. Funding for this grant program is intended for the purposes of eliminating opioid addiction and reducing recidivism for inmates and/or individuals currently or recently involved in the criminal justice system with opioid-related substance abuse disorders (three Counties)
- Award and distribute \$3,000,000 in Non-Profit Opioid Abatement Funding to Small Counties. Funding is intended to support treatment of Opioid Use Disorder (“OUD”) and any co-occurring Substance Use Disorder or Mental Health (“SUD/MH”) conditions, co-usage, and or co-addiction through evidence-based, evidence-informed, or promising programs or strategies (three Nonprofits)
- Award and distribute \$600,000 in funds from the new Child and Family Advocacy Centers Fund. Grant funds support the Centers for all victims served in Calendar Year 2020 (21 organizations)
- Solicit and award contracts for Data Analysis for Civil Litigation Matters. Firms will process and analyze data and other information in complex civil litigation matters on an “as needed, if needed” basis. Firms have expertise and capabilities in custodian interviewing, data collection, data processing, data analysis, document review, and forensic analysis (three firms)
- Solicit and award contracts to Analyze and Identify Fake Business Reviews on behalf of CPA. Firm will analyze and identify fake reviews and scam websites on an “as needed, if needed” basis (one Firm)
- Solicit and award contracts for Outside Counsel for Dependency Contract Attorneys to primarily litigate juvenile dependency and severance cases (five Firms)
- Solicit a Request for Information (RFI) for a Post-Conviction/Adjudication Victim Portal to obtain cost and ability to create a statewide portal to include app development to assist victims statewide in opting in for post-conviction rights and services with multiple agencies and maintaining their contact information
- Negotiate multiple Outside Counsel Agreements to support special needs of other Agencies; (13 Agreements)
- Negotiate multiple Governmental Agreements to coordinate AGO with Federal, County and City Agencies
- Continued management and training for the Source to Pay (S2P) e-procurement system: Arizona Procurement Portal (APP)

OPERATIONS

BUDGET & FINANCE

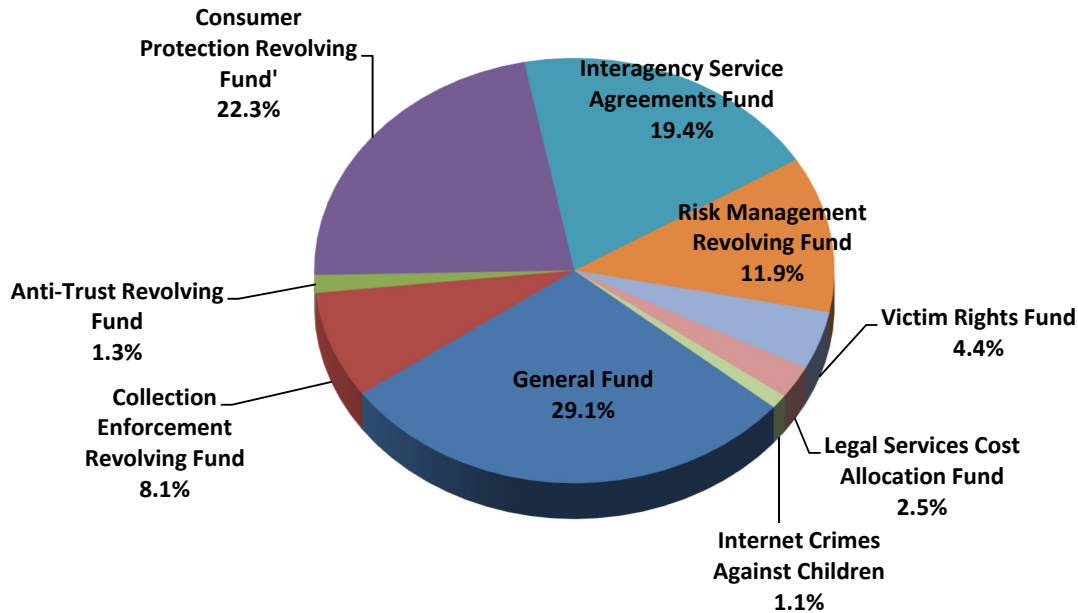
The FY22 Attorney General’s Office budget totaled \$136,512,000. The fund sources consisted of 62% appropriated funds and 38% non-appropriated funds. Appropriated funds are subject to legislative appropriation and must be approved on the annual budget bill signed by the state governor. Non-appropriated funds are controlled by statute and the amount of cash that is available to support expenditures. Non-appropriated funds are state funds and must be used for a valid public purpose.

AGO FUND TYPE FY22



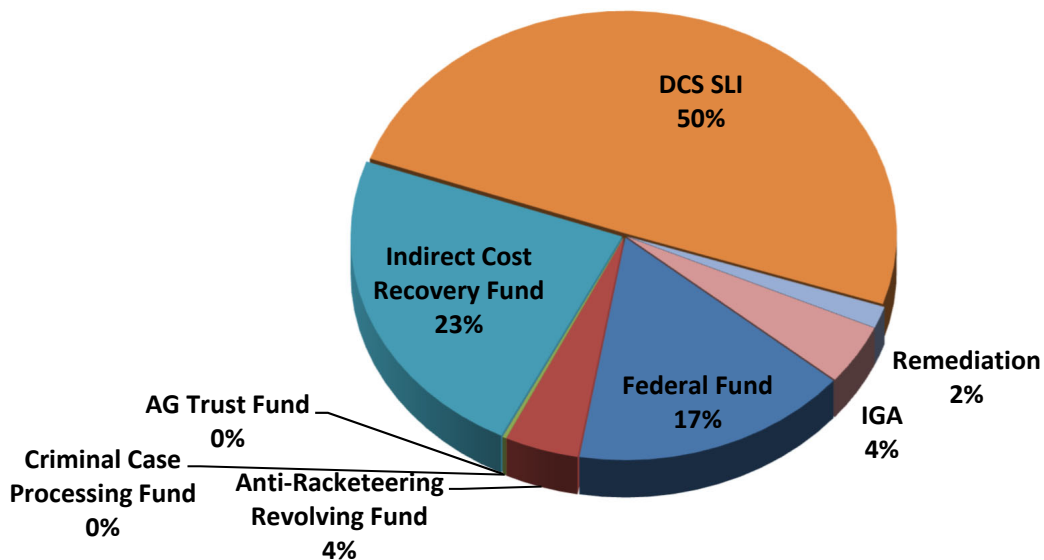
In FY22, the AGO was appropriated \$85,129,100 deriving from nine appropriated fund sources consisting of the State General Fund, Collection Enforcement Revolving Fund, Anti-trust Revolving Fund, Consumer Protection Revolving Fund, Interagency Service Agreement Fund, Risk Management Revolving Fund, Victim Rights Fund, and the Legal Services Cost Allocation Fund, Internet Crimes Against Children Fund.

SOURCES OF APPROPRIATED FUNDING \$85,129,100



In FY22 the AGO non-appropriated expenditure plan totaled \$51,382,900, deriving from eight fund sources. These are Federal Fund, Anti-Racketeering Revolving Fund, Criminal Case Processing Fund, AG Trust Fund, Intergovernmental Agency Fund, Indirect Cost Recovery Fund, Consumer Restitution and Remediation Fund, & Department of Child Safety SLI.

SOURCES OF NON-APPROPRIATED FUNDING \$51,382,900

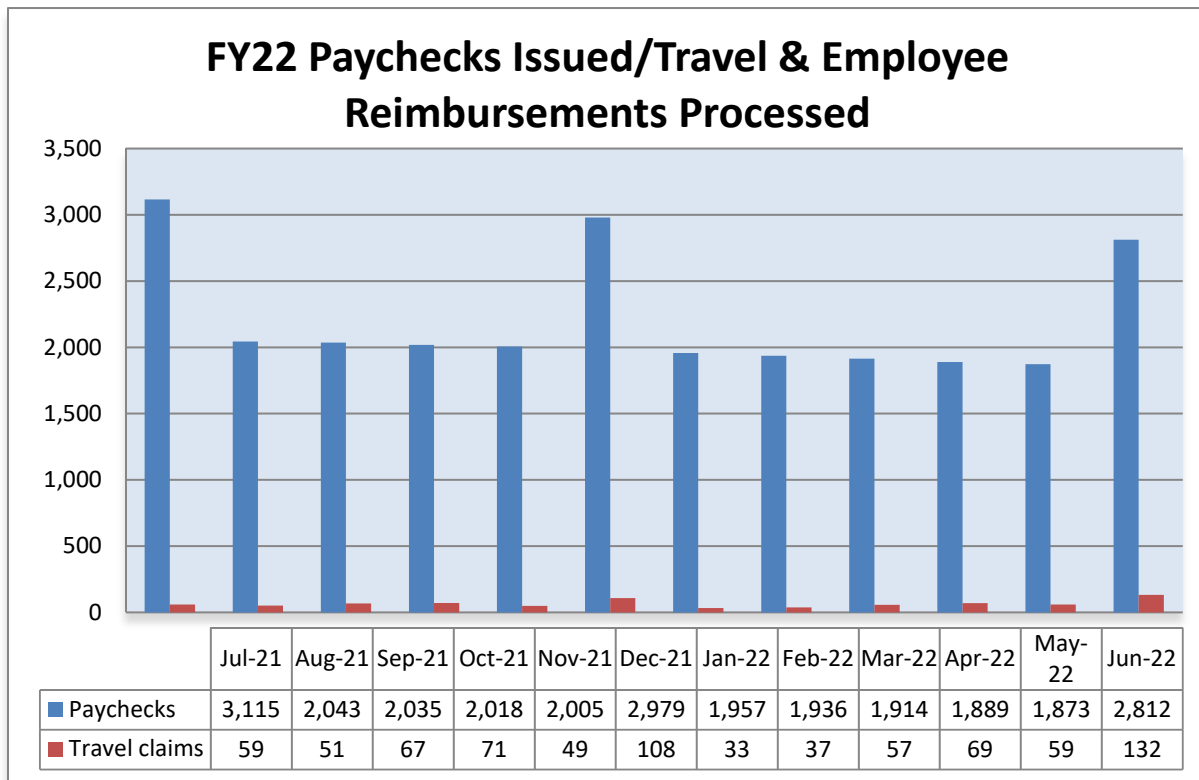


The AGO also has pass-through fund sources where monies are passed to other state agencies and municipalities. These funds are the Anti – Racketeering Revolving fund – Pass through, Prosecuting Attorney’s Advisory Council Training Fund, Child & Family Advocacy Center Fund, & the Attorney General CJEF Distributions Fund.

OPERATIONS

BUDGET & FINANCE

- Payroll issued 26,576 paychecks to employees as well as 792 travel & employee reimbursements
- Delinquent travel claims received were down 38%
- Accounts Payable paid out 1,400 claims to vendors in FY22 totaling \$25.4 million dollars
- 1,055 transfers were completed between the AGO and other state Agencies
- 540 deposits processed totaling more than \$30 million dollars



OPERATIONS

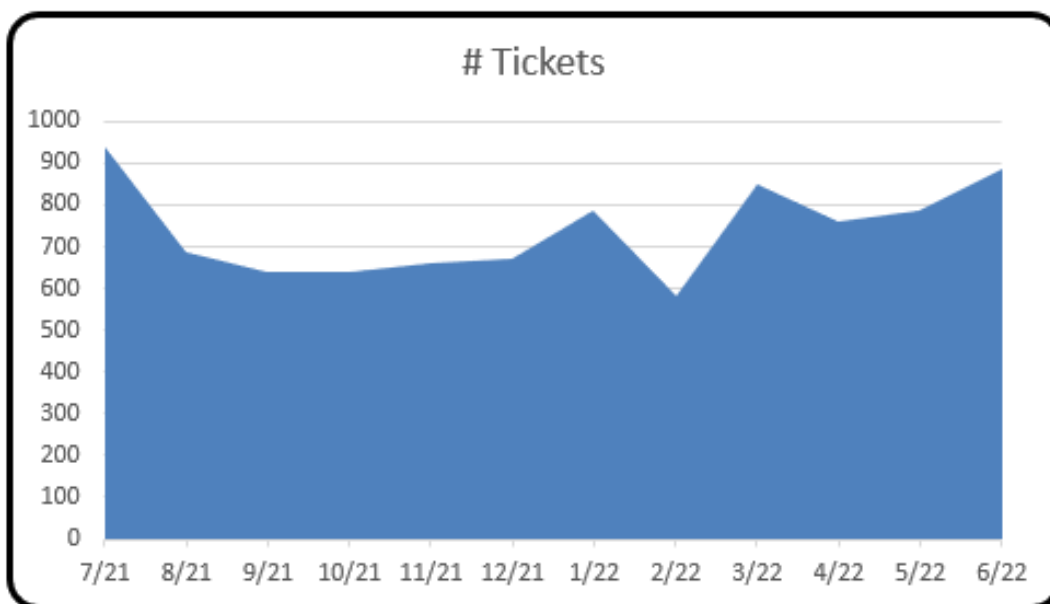
STRATEGIC ENTERPRISE TECHNOLOGY SECTION

Strategic Enterprise Technology & Support (SETS) focuses on providing technology support to AGO staff and leading strategic and critical projects for the AGO. This team troubleshoots reported issues and is responsible for resolving items within our span of control. Enterprise items that involve infrastructure, applications and Outlook are escalated to Information Services for resolution. The two teams work hand-in-hand to ensure that AGO technology issues are resolved as quickly as possible.

Enterprise Technology Support Team

The Enterprise Technology Support (ETS) team (a.k.a. Helpdesk) is tasked with solving Desktop-related issues for AGO staff. They are also tasked with distribution of hardware ordered by the divisions. This team handles issues from all of the Attorney General offices around the state. The team is divided into two regions – North and South. Physically, the ETS team members are located in (North Region) Palm and CAP buildings and (South Region) Tucson Congress office. The North team was understaffed by two technicians and a supervisor for almost the entire fiscal year.

Support Provided to AGO Staff

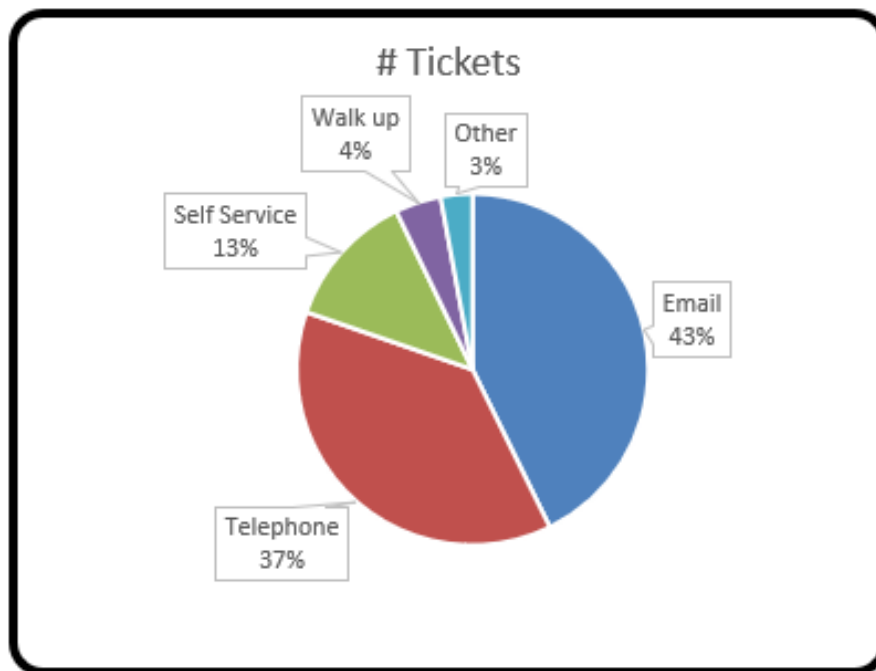


During FY2022, 8,885 issues were recorded in the Footprints issue tracking system.

OPERATIONS

STRATEGIC ENTERPRISE TECHNOLOGY SECTION


The Enterprise Technology Support (ETS) team receives issues via several input streams: Email, Telephone call, Direct input into Footprints by AGO staff and Walk-up requests for assistance. Our recommendation is that all non-urgent issues are communicated by email and that staff only use the telephone when they cannot perform work. The chart below illustrates all of the input streams and the AGO staff usage of those streams. In FY 2022, email was the most popular reporting method with telephone contact running a close second. This breakdown illustrates that staff often prefer to call ETS even for non-urgent issues.



PC Imaging and Deployment – Process Improvement

AGO IT is working to replace our oldest PCs and simultaneously move staff forward to a newer operating system. The beginning of that work is the creation of appropriate images for placement on the PC. Since SETS has been short-staffed, Anthony Steed (ISS Manager) has taken on the creation and maintenance of images to be used for PCs, Laptops and other mobile devices. The ETS team places those images on devices to begin any PC replacement/mobile device deployment.

With Anthony's imaging revamp working well, we wanted to streamline our PC Deployment process



to reduce the amount of time a user is unable to use their current AGO PC. We developed a new repeatable process with distinct phases. This process includes remote setup that enables the user to continue working on their current PC while the team completes items like printer setup, software installation, shared email box setup, etc. on their new/replacement PC. This also minimizes the time the technician spends at the user's desk for the actual deployment. When the new PC is ready to deploy, the technician removes the old hardware and connects the new device. The user completes a quality review to confirm that all expected software works on the new PC and then they are on their way.

Inventory Support – Process Improvement

ADOA requires that all IT items that cost \$250 or more are tracked. At the beginning of FY2022, monitors hit this threshold. This meant that AGO staff would need to be able to easily distinguish between older monitors and those they are required to inventory. In addition, the service tags required to inventory Dell PCs/laptops are not easy to access/read. In order to support inventory going forward, ETS decided to implement a labeling procedure for all inventoriable PCs, mobile devices and monitors. Anthony Steed (ISS Manager) researched available label makers and developed labelling workstations to be used by ETS staff. These workstations are deployed to Palm, CAP and Congress (Tucson). As the new inventoried equipment is received, the first step by ETS staff is to create and apply barcoded (scannable) labels on the devices. The AGO Fixed Asset Transfer form is also created at that time for future use during deployment.

Hardware Preparation and Deployment

Almost all IT devices and peripherals received by AGO require ETS team involvement. Increased support for remote work resulted in laptop purchases by most of the AGO divisions. Highlights of the FY 2022 hardware throughput are listed below:

- Over 330 devices (PCs and Laptops) imaged.
- Approximately 140 PCs deployed.
- Approximately 200 Laptops deployed.
- Approximately 30 Surface Pros imaged and deployed.
- Monitors – 500 ordered/labeled with approximately 400 distributed to AGO Divisions.
- Printers – approximately 30 printers deployed.

SOLICITOR GENERAL'S OFFICE



Solicitor General Beau Roysden

MISSION:

The Solicitor General's Office (SGO) provides leadership in 1) special litigation and election integrity, 2) civil appeals and federalism, 3) capital litigation, and 4) criminal appeals. The SGO also provides leadership on Attorney General legal opinions, ethics, and library and research services. The SGO is led by Solicitor General Beau Roysden and Deputy Solicitors General Jeff Sparks, Linley Wilson, Drew Ensign, and Mike Catlett. 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's Office with respect to ethics and professionalism issues*
- *Management of the Attorney General's Office Law Library*

SOLICITOR GENERAL'S OFFICE

SPECIAL LITIGATION SECTION & ELECTION INTEGRITY

The Special Litigation Section continued to fight for government accountability and for Arizona voters and consumers during the past fiscal year. The section scored major victories at both the state and federal levels. This included important victories in defense of the state's laws. Most significantly, *Isaacson v. Brnovich* resulted in the U.S. Supreme Court lifting a preliminary injunction of several Arizona abortion regulations. The Special Litigation Section also coordinated amicus briefs, appeared in federal and state appellate courts, and led the fight against class action settlement abuse.

Major Accomplishments – Special Litigation Section

Isaacson v. Brnovich – The Special Litigation Section successfully defended a request for a preliminary injunction of a new Arizona law that prohibits a doctor from performing an abortion knowing that the sole reason for the abortion is a genetic abnormality of the child. After the district court preliminarily enjoined the law, the Special Litigation Section asked the Ninth Circuit for an emergency stay of the preliminary injunction. After the Ninth Circuit refused to stay the preliminary injunction, the Special Litigation Section filed an Application for Stay with the U.S. Supreme Court. Following issuance of the Dobbs decision, the U.S. Supreme Court construed the Application for Stay as a petition for certiorari, granted the petition, vacated the preliminary injunction and remanded for further proceedings. This is believed to be the first time that the U.S. Supreme Court has upheld an Arizona abortion regulation.

State ex rel. Brnovich v. Arizona Board of Regents – The Special Litigation Section engaged in briefing that scored a victory at the Arizona Supreme Court in the State's ongoing public monies litigation against the ABOR. The Arizona Supreme Court reversed lower court rulings, concluding that the State's public monies claim is not barred by the statute of limitations and that the Attorney General has statutory authority to bring a quo warranto claim against ABOR. The State ex rel. Attorney General is now being represented by outside counsel.

Arizona Free Enterprise Club v. Hobbs – In 2021, the Legislature passed SB 1828, creating a flat tax of 2.5% on taxable income that would become effective if state revenues reached certain targets. Invest In Arizona ("IIA") sought to prevent implementation of SB 1828 by referring the bill creating the tax to the ballot in November 2022. The trial court rejected plaintiffs' argument that the Constitution exempted SB 1828 from referendum. Plaintiffs appealed that ruling to the Arizona Supreme Court. In the Arizona Supreme Court, the Special Litigation Section submitted an amicus brief on behalf of the Attorney General arguing that the text of the Constitution, case law from other jurisdictions, and a prior Attorney General opinion supported that tax measures like SB 1828 are exempt from referendum. In April 2021, the Supreme Court issued a decision order reversing the trial court and concluding that SB 1828 is exempt from referral.

SOLICITOR GENERAL'S OFFICE

SPECIAL LITIGATION SECTION & ELECTION INTEGRITY

Kennedy v. Bremerton School District – The issue in this case was whether the Bremerton School District violated the First Amendment rights of Joseph Kennedy, who was a football coach at Bremerton High School. The School District terminated Coach Kennedy for kneeling at midfield after games to offer a quiet prayer of thanks. The School District believed that allowing Coach Kennedy to offer a private prayer could result in violation of the Establishment Clause. After the U.S. Supreme Court granted certiorari, the Special Litigation Section drafted a brief on behalf of twenty-seven states urging the Court to rule in favor of Coach Kennedy. The brief argued that Coach Kennedy's quiet prayer constituted private, and not government, speech and was therefore not exempt from the First Amendment. The brief also argued that the Court should not allow the School District to use an Establishment Clause justification to discriminate against private religious speech. Finally, the brief argued that the Ninth Circuit's curtailment of First Amendment liberties would be detrimental to the State's ability to recruit qualified individuals into public service. In June 2022, the Court concluded 6-3 that the School District's actions violated Coach Kennedy's First Amendment rights.

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. On October 4, 2022, the Attorney General announced a historic \$85 million settlement with Google LLC for deceptively obtaining users' location data to make billions of dollars in profit. This is one of the biggest consumer fraud lawsuits in Arizona history, and the settlement represents the largest amount per capita the internet giant has paid in a privacy and consumer-fraud lawsuit of this kind.

Elections Integrity Unit

The Elections Integrity Unit (“Unit”) is responsible for the Office’s civil enforcement of state election law. Further, where appropriate, the Unit works in conjunction with and refers election integrity matters to the Criminal Division for prosecution. The Unit 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 civil side of the Unit is responsible for supporting the Office’s review of the biennial Elections Procedures Manual, supporting the defense of Arizona’s election integrity laws in state and federal court, ensuring compliance by Arizona election officials with Arizona law, and managing, reviewing, and responding to election-related complaints submitted through the Unit’s online election complaint form.

On October 1, 2021, the Secretary of State (“Secretary”) submitted her Draft 2021 Elections Procedures Manual (“EPM”) for review and approval by the Attorney General. After identifying more than a hundred pages of procedures that either exceeded the scope of the Secretary’s authority or contravened an election law or its purpose, the Office withheld approval of the 2021 EPM absent the Secretary conforming the EPM with Arizona law. When she failed to do so, the Office filed suit. The court eventually agreed that there were many instances where provisions of the draft EPM exceeded the Secretary’s authority or were inconsistent with Arizona election laws. The Court refused, however, to order the Secretary to provide an updated draft EPM, believing that there was insufficient time to resolve the issues prior to the 2022 elections.

The Unit also provides support and subject matter expertise to the Office in election-related lawsuits. This past fiscal year, the Office prevailed against the Arizona Democratic Party’s attempt to upend Arizona’s 100-year-old election day deadline for voters to sign and return early ballots. In *Arizona Republican Party v. Hobbs*, the Office submitted a brief supporting plaintiff’s concerns over the operative EPM for the 2022 elections, the lack of uniform and statewide signature verification procedures, and counties’ utilization of unstaffed ballot drop boxes. In *Arizona Republican Party v. State of Arizona* (pertaining to HB2839’s attempt to abolish PC elections for 2022), the Office filed a brief agreeing that the law was an impermissible “special law.” Further, after notifying the Secretary that taking down the E-Equal system for candidates to obtain nominating petition signatures for the final four weeks of the signature gathering-period would violate Arizona law, the Unit successfully defended against the Secretary’s request for an injunction to prevent the Office from enforcing Arizona law. As a result, the Secretary’s planned four-week outage was reduced to just days.

The Unit also supported (and continues to support) the Office’s defense of Arizona election laws against legal challenges, including challenges of SB 1003 (signature cure deadline), SB 1485 (removing voters who have not voted by early ballot from the automatic early voting list), and HB 2492 (proof of citizenship).

In the last year, the Unit has received over 500 election-related complaints. While the vast majority continue to contain generalized grievances about the conduct of the 2020 election, complaints containing credible allegations of criminal conduct were forwarded to the criminal division for review. Many have resulted in criminal charges, and others are still under investigation.

SOLICITOR GENERAL'S OFFICE

SPECIAL LITIGATION SECTION & ELECTION INTEGRITY

In addition to citizen complaints, the Unit received approximately 100 referrals of potential voter fraud from the Secretary of State and various county recorders. Criminal allegations were forwarded to the criminal division for investigation.

Open Meeting Law Enforcement Team (“OMLET”)

The OMLET received 168 open meeting law complaints, closed 189 complaints, and issued 21 violation letters.

In May 2021, OMLET submitted an amicus brief on behalf of Attorney General Brnovich in the Arizona Supreme Court in *Welch v. Cochise County Board of Supervisors*. The amicus brief discussed issues relating to private citizen standing under the Open Meeting Law and the legal effect of ratification. On June 3, 2021, OMLET participated in oral argument at the Arizona Supreme Court. In September 2021, the Arizona Supreme Court issued an opinion that largely agreed with OMLET's position on standing and ratification under the Open Meeting Law.

In June 2022, the OMLET filed a complaint in Maricopa County Superior Court against the Scottsdale Unified School District and one of its board members relating to conduct during open calls to the public. The litigation raises important issues about the ability of a public body to limit constituent speech during an open call to the public.

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

GAU received 91 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, 41-1232.02, and 41-1232.03. Of those, GAU sent 81 notices of violation, and 23 ultimately resulted in final orders imposing civil penalties.



S.B. 1487 Investigations

The GAU received three requests for an investigation from legislators under A.R.S. § 41-194.01. The Office's statutorily-required investigations led to a settlement between the Maricopa County Board of Supervisors and the Legislature relating to the audit of certain materials from the 2020 election and the Town of Paradise Valley amending portions of its ordinances relating to short-term rentals.

Class Action Fairness Effort

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.

Class Action Fairness Effort Highlights

The team continued its efforts in *In re: Google LLC Street View Electronic Communications Litigation* by drafting and filing an amicus brief with the United States Supreme Court. The case, now titled *Lowery v. Joffe*, involves a class action settlement that would send \$13 million cash to select cy pres recipients and class counsel while sending none to the class members. The brief urged the Court to grant certiorari and review the Ninth Circuit's opinion which affirmed approval of the settlement. The brief highlighted the dangers of cy pres class action settlements, which, like in this case, divert settlement funds away from class members. SLS has previously been involved in this case by filing amicus briefs and participating in oral arguments before the United States District Court for the Northern District of California and the Ninth Circuit.

SOLICITOR GENERAL'S OFFICE

CIVIL APPEALS SECTION & FEDERALISM UNIT

Civil Appeals Section And Federalism Year in Review

The Civil Appeals and Federalism Section, which is led by Deputy Solicitor General Drew Ensign fought for Arizona and Arizonans during the past fiscal year, scoring major victories at both the state and federal level. This included substantial victories in the defense of the state's laws, successfully invalidating federal statutes and agency actions that violate the Constitution and/or federal law, and major regulatory reform victories that will benefit Arizonans. The Section 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.

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 2021–2022 fiscal year, the federalism team took part in high-profile litigation in both state and federal court.

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 2021–2022 fiscal year, the federalism team took part in high-profile litigation in both state and federal court, challenging federal overreach by the Biden Administration and defending state election law.

Arizona v. Yellen, 34 F.4th 841 (9th Cir. 2022) - The unit obtained a unanimous reversal from the Ninth Circuit of a decision of the district court that the state lacked Article III standing to challenge the "Tax Mandate," a provision that Congress enacted to prohibit the states from cutting taxes from 2021-24.

Arizonan Democratic Party v. Hobbs, 18 F.4th 1179 (9th Cir. 2021) - The unit obtained a reversal of a district court injunction, which had enjoined the state's law requiring voters either to sign their mail-in ballots when they send them in or to cure failures to sign by election day as unconstitutional.

Brnovich v. Biden, 562 F. Supp. 3d 123 (D. Ariz. 2022) - The state successfully challenged the Biden Administration's sweeping vaccine mandate on federal contractors, which would have applied to roughly one-fifth of the U.S. workforce, including many state employees.

Berger v. North Carolina State Conf. of the NAACP, 142 S. Ct. 2191 (2022) - The unit led a multi-state amicus brief on behalf of nine states supporting the right of the North Carolina Legislature to intervene to defend state law when other state officials were not adequately doing so, which culminated in an 8-1 victory.

Brnovich v. DNC, 141 S.Ct. 2321 (2021) - The state then obtained a 6-3 landmark victory in the U.S. Supreme Court, which reversed a Ninth Circuit decision striking down Arizona's ban on ballot harvesting and regulation of out-of-precinct voting under Section 2 of the Voting Rights Act.

Cameron v. EMW Women's Surgical Ctr., P.S.C., 142 S. Ct. 1002 (2022) - Arizona led multi-state coalitions supporting certiorari (20 states) and petitioners on the merits (23 states) in a case involving the right of attorneys general to intervene to defend state law when other state officials are unwilling to do so. The Supreme Court granted review and accepted the states' arguments in an 8-1 decision.

Louisiana v. CDC, ___ F. Supp. 3d ___, 2022 WL 1604901 (2022) - Arizona led, with Louisiana and Missouri, a 24-state challenge to the CDC's attempted termination of the "Title 42" system. If the termination had become effective, DHS projected that the number of migrants crossing the border would have increased from around 7,000 per day to as many as 18,000 per day. The states successfully obtained a nationwide injunction and defeated a request for a stay pending appeal. Arizona then led briefing defending that preliminary injunction in the Fifth Circuit.

Mi Familia Vota v. Hobbs, F. Supp. 3d ___, 2022 WL 1604901 (2022) - The unit successfully obtained dismissal of three of four claims in an election case, which challenged Arizona's laws that (1) required missing signatures on ballot affidavits to be cured by poll-close time on election day and (2) required voters either to vote once every four years or respond to a mailed notice if they wish to remain on the early voter list.

New York Rifle & Pistol Association, Inv. v. Bruen, 142 S. Ct. 2111 (2021) – Arizona co-led, with Missouri, an amicus brief on behalf of 26 states in support of petitioners in a landmark Second Amendment case. The Supreme Court agreed, 6-3, with the petitioners and states that New York's law that prevented most citizens from carrying firearms outside the home was unconstitutional.

NFIB v. OSHA, 142 S. Ct. 661 (2022) - The state, along with several other states and business groups, successfully challenged the Biden Administration's sweeping workplace vaccination mandate.

Vega v. Tekoh, 142 S. Ct. 2095 (2022) -- The unit led multi-state coalitions supporting certiorari (16 states) and petitioners on the merits (22 states) in a case involving civil liability for alleged Miranda violations. The Supreme Court granted review and accepted petitioners/the states' arguments in a 6-3 decision.

SOLICITOR GENERAL'S OFFICE

CIVIL APPEALS SECTION & FEDERALISM UNIT

Civil Appeals Section

For the Civil Appeals Section, appellate briefing continued at a rapid pace in fiscal year 2022. SGO attorneys reviewed and/or drafted more than 359 appellate briefs in fiscal year 2022, including nearly 325 in the Arizona Court of Appeals and 34 in the Ninth Circuit. SGO civil appellate attorneys also participated in over 34 moot court exercises.

Pima County v. State, 252 Ariz. 63 (Ct. App. 2021) – State successfully obtained reversal of tax court decision that had held a budget statute unconstitutional. That statute ended the state's reimbursement of some expenses of Tucson Unified School District, which had spent nearly four decades attempting to achieve unitary status and free itself of a desegregation order without success.

Redgrave v. Ducey, 251 Ariz. 451 (2021) – State prevailed 7-0 in the Arizona Supreme Court in a case involving state sovereign immunity against private federal employment suits.

Capital Litigation Section

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 Capital Litigation Section has assisted the Office with criminal issues that affect other sections of the Attorney General's Office.

SOLICITOR GENERAL'S OFFICE

CAPITAL LITIGATION SECTION

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 abates. However, this decline has resulted in an increase in federal habeas petitions, which are 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 the Ninth Circuit to permit liberal evidentiary development of those claims. However, in May 2022, the United States Supreme Court held in *Shinn v. Ramirez*, 142 S. Ct. 1718 (2022), that the *Martinez*'s exception to a procedural defense does not include an exception to a habeas statute limiting federal evidentiary hearings. That decision will significantly curtail evidentiary development in federal court going forward. However, in the short term, it has resulted in the Ninth Circuit ordering (over the Section's objection) several pending cases to be re-briefed, which will add months of delay to the affected cases.

The COVID-19 pandemic also continues to result in some case delay, though this delay is resolving. 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. Now that vaccinations are available and the prison has reopened to visitation, capital cases have gradually begun to move forward.

Finally, as noted in last year's report, the United States Department of Justice (DOJ) certified Arizona for expedited capital review procedures pursuant to Chapter 154 of the Anti-terrorism and Effective Death Penalty Act. The 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). The Federal Defender's Office and certain death-sentenced inmates challenged this determination in the United States Court of Appeals for the District of Columbia Circuit, and DOJ vigorously defended its ruling. But immediately before oral argument, the new presidential administration successfully moved to stay the case and thereafter successfully moved to remand it to DOJ to reconsider Arizona's certification. DOJ asked Arizona for additional information as part of that remand. The Section provided that information to DOJ in June 2022. As of this moment, Arizona remains certified for expedited capital review procedures.

Execution Update

The Arizona Department of Corrections, Rehabilitation and Reentry successfully acquired chemicals for use in lethal-injection executions and secured the assistance of a compound pharmacist to prepare those chemicals for execution. The chemicals underwent specialized testing to determine their precise beyond-use date, after which the State sought execution warrants for two inmates, Clarence Dixon and Frank Atwood.

The execution of Clarence Dixon was successfully carried out on May 11, 2022 using compounded pentobarbital. Dixon unsuccessfully claimed that he was incompetent to be executed. He also brought a challenge in district court to the adequacy of the specialized testing to establishing the execution chemical's beyond-use-date. However, Dixon agreed to dismiss that challenge in exchange for ADCRR mixing a new batch of chemicals three days before the execution.

The execution of Frank Atwood was successfully carried out on June 8, 2022 using compounded pentobarbital. Atwood brought a number of legal challenges in the weeks before the execution. He unsuccessfully sought to file a second-or-successive habeas petition and filed a Rule 32 petition in Pima County Superior Court. Atwood also filed a lawsuit in district court under RLUIPA asserting the right to have his spiritual advisor present in the execution chamber, and another lawsuit in district court alleging various constitutional violations regarding his spinal condition and the adequacy of the specializing testing that established the execution chemical's beyond-use-date. And on the day before his execution, Atwood filed an ultimately unsuccessful original petition for habeas corpus in the United States Supreme Court. Although Atwood won a partial victory in the RLUIPA challenge which resulted in ADCRR accommodating his religious requests, his attempts to obtain a stay of execution did not succeed.

On August 26, 2022, the Attorney General filed a motion to issue a Warrant of Execution for Murray Hooper, who was sentenced to death in 1983. On October 12, 2022, the Arizona Supreme Court granted the Warrant, and set November 16, 2022 as the date for execution.

Currently 22 inmates have exhausted their of-right appeals and are statutorily eligible to be executed.

Significant Cases

United States Supreme Court

Shinn v. Ramirez — David Ramirez was convicted of two counts of first-degree murder and sentenced to death for murdering Mary Ann Gortarez and her 15-year-old daughter. Barry Jones was convicted of first-degree murder and sentenced death for murdering his girlfriend's 4-year-old daughter. In Ramirez's federal habeas proceeding, the Ninth Circuit remanded the case back to the district court for evidentiary development on Ramirez's procedurally defaulted ineffective-assistance-at-sentencing claim under *Martinez v. Ryan*. In Jones' habeas proceeding, the Ninth Circuit affirmed the district court's grant of relief after a lengthy *Martinez* hearing on Jones' procedurally defaulted guilt-phase ineffective-assistance claim. Arizona filed a joint petition for writ of certiorari arguing that 28 U.S.C. §

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CAPITAL LITIGATION SECTION


2254(e)(2) precluded the federal courts from considering any evidence outside the state court record on the ineffective-assistance claims because both petitioners had failed to develop those claims in state court. The Supreme Court granted cert and agreed with Arizona, holding that a federal habeas court may not conduct an evidentiary hearing or otherwise consider evidence beyond the state court record even when the petitioner's failure to develop the claim was caused by the ineffective assistance of state postconviction counsel.

Cruz v. Arizona—Cruz murdered a Tucson Police Officer in 2003. His case was affirmed on appeal and a judge denied post-conviction relief. Cruz thereafter filed a successive post-conviction relief petition, alleging that the trial court had erroneously instructed the jurors on his parole eligibility and that the United States Supreme Court's decision in *Lynch v. Arizona*—which held that, in capital cases, Arizona juries must be instructed that parole is unavailable to a defendant—was a significant change in the law that applied retroactively to his already-final sentence, entitling him to a new sentencing trial. The post-conviction judge rejected this argument, and the Arizona Supreme Court granted Cruz's subsequent petition for review. The court ruled in favor of the State, finding that *Lynch* does not constitute a significant change in the law. As a result, defendants with long-final death sentences can no longer invoke *Lynch* in their efforts to obtain new sentencing trials. Cruz filed a petition for writ of certiorari arguing that the Arizona court was required to apply *Lynch* to his case. The Supreme Court granted certiorari, but not on the question Cruz sought to present. Instead, the Court granted certiorari on whether the Arizona Supreme Court's holding that *Lynch* is not a significant change in the law is an adequate and independent state law ground for the judgment. The case is expected to be argued during the October 2022 term.

Arizona Supreme Court

The Section's attorneys successfully defended two death sentences in the Arizona Supreme Court this fiscal year. These cases are:

State v. Kenneth Thompson — Thompson murdered his sister-in-law and her fiancé in Prescott Valley in 2012. Thompson raised numerous issues on appeal, including assertions of prosecutorial error, the admission of expert testimony regarding the victims' injuries, preclusion of evidence that one of the victims may have molested children, and whether police had reasonable suspicion to stop his vehicle and probable cause to search it. Thompson was murdered in prison after the case was argued but before the Arizona Supreme Court issued its opinion. The Arizona Supreme Court nonetheless issued a decision affirming Thompson's convictions and death sentences.



State v. Dwandarrius Robinson — Robinson murdered his nine-months-pregnant girlfriend and her unborn child by binding and asphyxiating his girlfriend and then setting her on fire. Robinson raised numerous issues on appeal, including Batson challenges to several of the prosecution’s peremptory strikes, a challenge to the especially heinous or depraved aggravating factor based on the novel arguments that biological parenthood is insufficient to establish a parent-child relationship and that an unborn child cannot be included in the parent-child relationship, and that the prosecutor made inappropriate statements while questioning witnesses and during closing argument. The Arizona Supreme Court found no reversible error and affirmed Robinson’s convictions and death sentences.

Ninth Circuit

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

Leroy McGill v. Shinn — In 2002, McGill murdered Charles Perez and severely burned Nova Banta when he doused the pair with gasoline and threw a lit match at them. McGill was angry because he had been kicked out of their apartment after Perez accused McGill of stealing property. A jury sentenced McGill to death for Perez’s murder and the Arizona Supreme Court affirmed his sentence. The Ninth Circuit rejected McGill’s arguments that the state courts had unreasonably applied *Strickland v. Washington* and made unreasonable factual findings in denying his claim that counsel was ineffective at sentencing. The court also found that McGill failed to excuse the procedural default of a claim that trial counsel was ineffective for failing to call an arson expert in the guilt phase. Finally, the court rejected McGill’s novel argument that his death sentence violated the Ex Post Facto Clause because he committed the murder during the brief period between the Supreme Court’s decision in *Ring v. Arizona*, which invalidated Arizona’s death penalty sentencing statute by allowing a judge, rather than a jury, to find aggravating factors, and Arizona’s amendment of its statute to comply with the *Ring* decision.

Theodore Washington v. Shinn — In 1987, Washington, along with at least one other assailant, forced his way into the Yuma home of Ralph and Sterleen Hill, made them lie face down, bound their hands, and shot them both in the head. Ralph survived the shooting, but Sterleen did not. A judge sentenced Washington to death and the Arizona Supreme Court affirmed Washington’s death sentence. Because Washington had filed the habeas petition that was under review prior to AEDPA, the court reviewed his claims de novo. The Ninth Circuit found that Washington’s trial counsel was not ineffective at sentencing for failing to obtain and review Washington’s education and incarceration records, present evidence of substance abuse, and seek a psychological evaluation.

Clarence Dixon v. Shinn — Clarence Dixon was convicted of murder and sentenced to death for the 1978 murder of 21-year-old ASU student Deana Bowdoin. Just over a month before his scheduled execution, he filed a challenge to his competency to be executed in superior court. After an evidentiary hearing, the superior court found him competent to be executed and the Arizona Supreme Court affirmed. Dixon then filed a habeas petition in district court challenging the state courts’ denial of his competency claim. The district court denied habeas relief and Dixon appealed to the Ninth Circuit. The Ninth Circuit affirmed the district court’s decision, holding that the state courts’ rejection of his incompetency claim was not objectively unreasonable under the habeas statute.



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CRIMINAL APPEALS SECTION

Frank Atwood v. Shinn – Frank Atwood was convicted of kidnapping and first-degree murder and sentenced to death for murdering an 8-year-old girl in Tucson in 1985. He filed a motion in the Ninth Circuit for an order authorizing the district court to consider a successive habeas petition raising three claims: (1) that the use of his 1975 California conviction for lewd and lascivious conduct with a child under 14 as an aggravating factor violated the Eighth and Fourteenth Amendments; (2) the State withheld exculpatory evidence; and (3) he is actually innocent. The court denied his request, finding that Atwood failed to meet the statutory requirements for filing a successive habeas petition and that he failed to make a prima facie showing in support of his actual innocence claim.

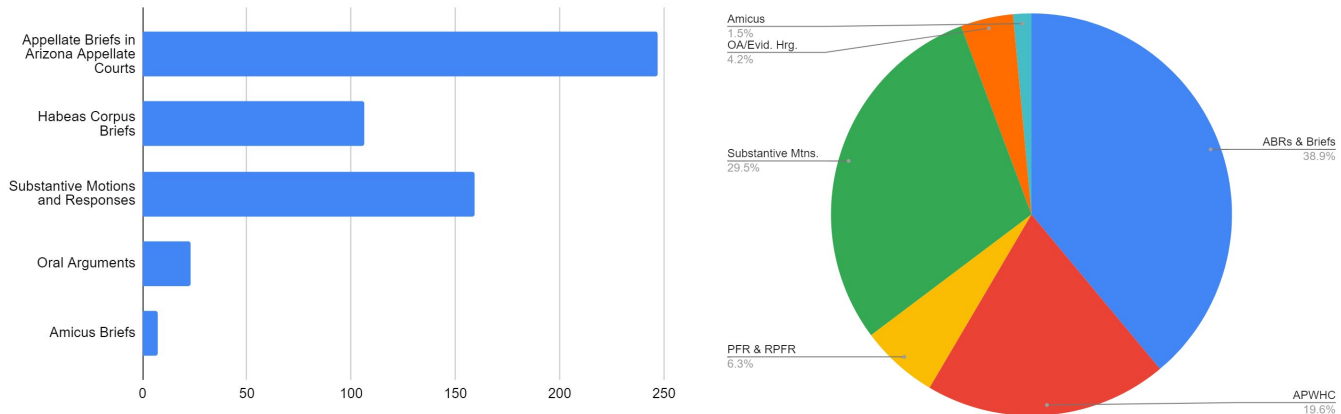
Frank Atwood v. Shinn – Atwood also appealed, only days before his execution, the district court's ruling denying a stay of execution based on his claims that his degenerative spinal disease would cause severe pain during his execution in violation of the Eighth Amendment, that ADCRR would be in violation of its execution protocol by using an expired drug, and that the gas chamber was unconstitutional. In denying Atwood's motion for a stay of execution, the court held that the district court did not commit clear error by determining that Atwood did not face a substantial risk of severe pain, there was insufficient evidence to conclude that Arizona was in violation of its execution protocol, and Atwood lacked standing to challenge the gas chamber.

Criminal Appeals Section

The Criminal Appeals Section is comprised of approximately 25 attorneys in the Phoenix and Tucson offices of the AGO. The Section represents the State of Arizona in the Arizona Court of Appeals, the Arizona Supreme Court, and the United States Supreme Court when criminal defendants appeal in non-capital felony cases. The Section also represents the Arizona Department of Corrections, Rehabilitation, and Reentry ("ADCRR") in the United States District Court for the District of Arizona, the Ninth Circuit Court of Appeals, and the United States Supreme Court when non-capital defendants challenge their convictions and sentences in federal habeas corpus cases. Additionally, the Criminal Appeals Section provides periodic legal advice to County Attorneys throughout Arizona regarding criminal trial prosecutions.

In fiscal year 2022, attorneys in the Criminal Appeals Section filed approximately 542 appellate briefs, habeas answers, petitions for review, responses to petitions for review, amicus briefs, and other substantive motions and responses in state and federal courts. Attorneys in the Criminal Appeals

Section also represented the State or ADCRR in 23 oral arguments—some of which were conducted remotely in light of the COVID-19 pandemic. Since the spring of 2022, most appellate oral arguments have resumed in-person.



Members of the Criminal Appeals Section continue to provide Continuing Legal Education (“CLE”) seminars and training, both in-house and outside of the AGO, most often with the Arizona Prosecuting Attorneys Advisory Council (“APAAC”). Those CLE programs provide prosecutors throughout the State with important information and recent developments in case law on a variety of issues involving constitutional law, evidentiary rules, and procedural requirements in criminal cases. For example, the Section’s attorneys are lead presenters and organizers of APAAC’s annual Appeals Seminar offered every December. In the spring of 2022, two of the Section’s attorneys wrote articles on timely appellate topics that were featured in the Arizona Attorney Magazine.

Attorneys in the Criminal Appeals Section are also members of the Committee on Bar Examinations, the Criminal Jury Instructions Committee, and the Criminal Rules Committee. The Section has developed a strong Law Clerk Program to help develop legal writing skills for law students. The Section’s attorneys are excellent mentors and provide our clerks with valuable feedback and legal experience, such as attending moot courts and drafting portions of appellate briefs. Several students who have clerked for the Criminal Appeals Section, post-graduation, have been hired as judicial clerks at the Arizona Supreme Court, the Arizona Court of Appeals, and the U.S. District Court for the District of Arizona.

Major Accomplishments – Criminal Appeals Section

The Criminal Appeals 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. The Section’s work contributes significantly to the development of criminal and constitutional law in the state and federal courts, and protects both defendants’ and victims’ rights guaranteed under the Arizona Constitution.

SOLICITOR GENERAL'S OFFICE


CRIMINAL APPEALS SECTION

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. Indeed, the Section's attorneys routinely provide legal advice to trial-level county attorneys throughout Arizona. The AGO's collaboration with county attorneys' offices 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.

The COVID-19 pandemic has continued to cause some temporary delays in criminal cases, but habeas corpus matters have remained consistent with the prior fiscal year. Ultimately, the Section's attorneys and staff have maintained a high level of productivity that was essentially the same as the fiscal year 2021. Now that counties are generally resuming trial proceedings, the number of new appellate criminal matters is expected to increase in fiscal year 2023. As predicted, in fiscal year 2022, the Section's attorneys have litigated novel legal issues relating to COVID-19 and fair-trial/due process claims.

In the spring of 2022, the Criminal Appeals Section assisted the Solicitor General's Office in drafting two Amicus Briefs for the States (at the cert stage and merits stage) in *Vega v. Tekoh*, No. 21-499. The United States Supreme Court granted certiorari in *Vega* and ultimately held, consistent with the argument advanced by Arizona and 21 other States, that a police officer's failure to read Miranda warnings to a suspect in custody is not alone sufficient to state a claim for civil liability against the officer under 42 U.S.C. § 1983.

State v. Porter, 251 Ariz. 293 (2021) – the Arizona Supreme Court granted the State's petition for review and held that, when a defendant challenges the State's peremptory strike of a prospective juror under *Batson v. Kentucky*, 476 U.S. 79 (1986), a trial court need not make express findings on the credibility of a demeanor-based justification for the strike when a non-demeanor-based justification is also offered and no evidence suggests that either justification is pretextual. The court of appeals' divided opinion in this case, which the supreme court vacated, had erroneously held that, when a trial court is presented with two explanations for a strike and one is based on a prospective juror's demeanor, an appellate court may not presume that the trial court had credited the demeanor-based explanation simply because it had denied the *Batson* challenge, and required the trial court to make explicit findings on demeanor-based justifications in those situations.



State v. Reed, 252 Ariz. 328 (2022) – the Arizona Supreme Court held that a victim’s attorney’s fees are recoverable as criminal restitution so long as the attorney’s representation is reasonably necessary to remedy the harm caused by the criminal conduct (but decided that some of the particular fees awarded in the case were not recoverable as restitution). Reed had argued that a victim’s attorney’s fees are never recoverable as restitution because such fees (purportedly) do not flow directly from a defendant’s conduct and, thus, constitute consequential damages, which cannot be recovered as restitution.

Arizona Court of Appeals

State v. Aldana, 252 Ariz. 69 (App. 2021) – The Arizona Court of Appeals agreed with the State on cross-appeal that a person who commits a crime while on community supervision for a prior conviction involving a dangerous-nature offense is on “release” status, and, thus, the person is subject to the heightened sentencing requirements of A.R.S. § 13–708(B).

State v. Mora, 252 Ariz. 122 (App. 2021) –The Arizona Court of Appeals held, as an issue of first impression, that foreign convictions may constitute predicate felony convictions for sentence-enhancement purposes under the dangerous crimes against children statute, A.R.S. § 13–705 (but found, in applying its holding to the facts of the case, that Mora’s foreign convictions did not qualify under this statute).

State v. Luviano, 252 Ariz. 162 (App. 2021) –The Arizona Court of Appeals agreed with the State that the two statutorily enumerated ways of committing felony resisting arrest under A.R.S. § 13–2508 constitute alternative means of committing a single unified offense and, thus, the trial court had properly instructed the jury on both theories of culpability for the single charged offense of felony resisting arrest.

State v. Huante, 252 Ariz. 191 (App. 2021) – The Arizona Court of Appeals agreed with the State that negligent homicide under A.R.S. § 13–1102 occurs when a defendant commits the act that leads to the victim’s death and not the date of the death itself, and, thus, the date of the act controls when determining whether an earlier conviction constitutes a historical prior conviction under A.R.S. § 13–105(22).

State v. Rios, 252 Ariz. 316 (App. 2021) – The Arizona Court of Appeals agreed with the State that a defendant can be charged with multiple acts of harassment under A.R.S. § 13–2921(A)(1) regardless whether the acts occur during a continuous course of conduct, so long as each act “convey[s] a complete thought with harassing intent.”

State v. Copeland, 253 Ariz. 104 (App. 2022) –The Court of Appeals held, as an issue of first impression, that an indictment alleging 50 separate counts of child molestation distinguished only by their relative timing, i.e., the first offense to the fiftieth, committed by an in-residence abuser, provides sufficient notice of the charges (but reversed Copeland’s convictions on other evidentiary grounds).

SOLICITOR GENERAL'S OFFICE

Ninth Circuit Court of Appeals

Jessup v. Shinn, 31 F.4th 1262 (9th Cir. 2022) – In reversing the District Court's grant of habeas corpus relief on Jessup's sentence of life imprisonment without the possibility of release, the Ninth Circuit Court of Appeals held that the Arizona state courts' application of *Miller v. Alabama*, 567 U.S. 460 (2012), was objectively reasonable where the sentencing court had expressly taken into account Jessup's age and attendant characteristics when sentencing him to natural life for the murder of an elderly man for pecuniary gain.

Additional Areas of Responsibility

Legal Ethics

The Solicitor General's Office's ethics counsel chairs the office's ethics committee and provides guidance to AGO employees on ethical issues. The office's ethics committee meets on an as-needed basis and met twice this past fiscal year. The first ethics committee meeting concerned whether to report an attorney to the State Bar of Arizona and the committee voted unanimously a report was not needed under the rules. The second committee meeting concerned a review of a denial of an outside employment request. There, the committee reviewed the issue and agreed to allow the employee volunteer on a modified capacity to ensure compliance with A.R.S. § 41-191(B) and office policy HR-19.

Throughout the past year, ethics counsel responded to numerous ethics questions from employees throughout the AGO. The questions encompassed a broad range of ethical issues pertaining to the special duties of prosecutors, professionalism, conflicts of interest, unauthorized practice of law by opposing parties, and many others. Most 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. Ethics counsel continued to review AGO employees' requests for outside employment to guard against potential conflicts of interest and to ensure statutory and policy compliance. If ethics counsel determined there was a potential for a conflict between the employee's duties and the contemplated outside activity, ethics counsel provided a written 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.

Attorney General Opinions

The Solicitor General's Office coordinates the drafting and publication of Attorney General opinions. In fiscal year 2022, the Attorney General received 17 new opinion requests and drafted the following Attorney General opinions:

- *Whether the Governor's action to opt out of a federal requirement that physicians supervise CRNAs was valid under Arizona Law, No. I21-006 (August 18, 2021)*
- *Whether an employer can require a COVID vaccination as a condition of employment and whether a private business can require a COVID vaccination as a prerequisite of patronage, No. I21-007 (August 20, 2021)*
- *Constitutionality of Phoenix City Code § 12-217(a)-(b), No. I21-008 (September 30, 2021)*
- *Whether A.R.S. § 36-789(M) applies to isolated or quarantined students sent home from a school due to potential exposure to COVID-19, No. I21-009 (December 17, 2021)*
- *The Federal Government's Duty To Protect the States And The States' Sovereign Power Of Self Defense When Invaded, No. I22-001 (February 7, 2022)*
- *A.R.S. § 48-2010(F) and County Boards of Supervisors, No. I22-002 (June 17, 2022)*

Library and Research Services

The Solicitor General's Office assumed management responsibility for the AGO law library in fiscal year 2009. Since that time the library has 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 online, and in which interlibrary loans for this material would be difficult if not impossible to attain.

Training emphasis was placed on the new Westlaw Edge platform, including Practical Law, Drafting Assistant, Litigation Analytics, and Quick Check. Multiple training webinars were held and over 50 attorneys and paralegals were trained. There is now a schedule in place where webinar trainings will take place every month. Assistance with specialized research and grant-writing projects were delivered to requesting AGO sections in fiscal year 2022. The library has assisted in over 110 legislative history and other research requests. 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 15 attorneys and 6 support staff. Its clients include the Arizona state court system, the Departments of Administration, Corrections, Housing, Juvenile Corrections, Game and Fish, Gaming/Racing, the Boards of Equalization and Executive Clemency, and the state retirement systems, to name a few.



Overview of Accomplishments

Clarence Dixon v. Arizona Board of Executive Clemency - Clarence Dixon was convicted of murder and sentenced to death. After the Arizona Supreme Court issued a warrant for his execution and a clemency hearing was scheduled before the Board of Executive Clemency, Dixon filed a special action in Superior Court alleging that the Board's membership compilation violated A.R.S. § 31-401 because



more than two members of the Board had careers in law enforcement. The superior court, relying on the traditional definition of “profession” concluded that the Board’s composition did not violate the statutory provisions. Dixon appealed to the Court of Appeals and after oral argument, the Court of Appeals declined to accept special-action jurisdiction. Dixon appealed to the Arizona Supreme Court and the Supreme Court declined to accept jurisdiction.

St. Anthony’s Monastery, et al., v. Arizona Board of Executive Clemency - Frank Atwood was convicted of murder and sentenced to death. St. Anthony Monastery filed a special action against the Arizona Board of Executive Clemency alleging that the Board would violate the Arizona Open Meeting Laws by holding Frank Atwood’s clemency hearing at the Arizona Department of Corrections prison complex because the facility did not have enough seating for the members of the church who intended to watch the hearing. No injunction having been issued, the Board proceeded and held the clemency hearing for Frank Atwood at the prison facility. After the clemency hearing, St. Anthony’s Monastery amended its complaint and asserted that the Board violated the open meeting law because all of its members could not be seated in the same room as the Board and that the audio of the hearing was extremely poor preventing them from listening to the proceeding. After an evidentiary hearing, the superior court found that the Board had complied with Arizona Open Meeting Law by permitting the public to watch the hearing at the facility in a main room, an overflow room and online and specifically rejected the Monastery’s argument that the agency had to accommodate every person who desires to attend the hearing in the same room as the entity conducting the hearing.

Morgan/Neff v. Hons. Dickerson and Cardinal - Petitioners alleged that the use of juror numbers in open court violated the First Amendment right of the public to access to court proceedings. They argued that the First Amendment requires the release of juror identities in criminal trials unless the judge articulates a valid reason on the record. ACS argued on behalf of the trial judges that the use of juror numbers does not violate the First Amendment.

After oral argument, the Arizona Supreme Court ruled that the trial court’s use of juror numbers was not a violation of the First Amendment of the US Constitution as the second part of the Experience and Logic test articulated in *Press Enterprise v. Superior Court*, 478 U.S. 1 (1986) was not met. The Arizona Supreme Court ruling confirmed that state statute and court rules protecting the identities of Arizona jurors do not violate the First Amendment right of public access to court proceedings.

Flagstaff v. Arizona Department of Administration, et. al. - The Arizona Minimum Wage Act, passed by voter initiative in 2006, allows a city, county or town to raise the minimum wage within its geographic boundaries above the State’s minimum wage. Flagstaff enacted a minimum wage increase in 2016, crafted in such a way to ensure that Flagstaff’s minimum wage was always higher than the State’s general minimum wage.

In 2019, the Legislature passed a law that a city, county, or town with a higher minimum wage than the State may be assessed an amount to reimburse the State for the cost to the State attributable to the higher minimum wage. ACS’s client, ADOA, is the agency responsible for billing and collecting the assessed amount. Flagstaff was assessed \$1.1 million in 2021, and the city sued, seeking a preliminary injunction and declaratory judgment that the assessment statute was unconstitutional. At the trial court level, the parties were involved in accelerated discovery with multiple depositions and tens of thousands of pages of disclosure. The Superior Court granted Flagstaff’s request for a preliminary injunction without deciding whether the 2019 legislation is constitutional. ACS appealed on behalf

STATE GOVERNMENT DIVISION

AGENCY COUNSEL SECTION

of ADOA and the Director; full briefing has been completed in the appeal, and oral argument was set before the Court of Appeals, Division 1, on September 14, 2022.


Macias/Maricopoly/Garcia (AZ Department of Housing) - In *Matt Steinmetz, PLLC v. Everyone Wins, LLC*, No. 1 CA-CV, 17-0549, 2018 WL 3028964 (App. June 19, 2018), (a memorandum decision), the Arizona Court of Appeals awarded a senior lienholder excess proceeds from a junior lien foreclosure even though the senior lien was not and could never be terminated by the junior lien foreclosure. Since the Steinmetz decision, a number of homeowners and subordinate lienholders whose interests are subject to termination by such a foreclosure have been challenging the propriety of that decision in light of the overarching statutory scheme of lien law, the Restatement of Property and pre-Steinmetz Arizona case law.

ACS Attorneys, as counsel for the Arizona Department of Housing, filed an Amicus Curiae Brief on the topic in *Tortosa Homeowners Ass'n v. Garcia*, No. 2 CA-CV 2021-0114, 2022 WL 3023211 (App. Aug. 1, 2022). The *Garcia* Court issued an Opinion rejecting the reasoning in *Steinmetz* as incomplete. The *Garcia* Court found that under A.R.S. §33-727(B) governing judicial foreclosures, liens and other interests, i.e., a homeowner's interest attach to the excess proceeds, not the senior lien which was not and could never be terminated by that foreclosure. This decision clears up the apparent confusion and benefits homeowners.



Significant Other Responsibilities

Arizona State Lottery - The Arizona Lottery markets numerous instant ticket games every year. As part of that process, games typically undergo three individual reviews prior to public release. ACS participates in a legal review to help ensure the ticket is in proper form prior to public sale. During the last fiscal year, ACS conducted 161 individual game reviews, for more than 80 different games, which led to the tickets' approvals as to form.



Bonds - Pursuant to A.R.S. § 35-721(F), ACS reviewed 34 projects for Industrial Development Bond funding contained in A.R.S. § 35-701(7). The projects that ACS reviewed totaled over \$4,252,600,000.00 to ascertain whether the proposed project satisfied the statutory definition of “project”

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 \$3,800,181.83.

Real property leases/contracts/agreement - ACS reviewed over 85 leases, contracts and other agreements for various agencies.

Lien Foreclosure Complaints - ACS resolved over 39 lien foreclosure complaints that impacted interests held by the Superior Court Clerks of Court in the various counties.

Training - ACS routinely conducted trainings for client agencies as well as the AGO on various subjects, including procurement, open meeting law, and public records law.

STATE GOVERNMENT DIVISION

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, Voluntary Remediation Program, Water Quality Assurance Revolving Fund (WQARF), and Comprehensive Environmental Response, Compensation, and Liability Act (Superfund Program). Also, EES advises and represents the Oil and Gas Conservation Commission (OGCC) and the Arizona State Emergency Response Commission (AZSERC).



State of Arizona v. Catalina Cleaners, LLC - EES obtained court approval of an ADEQ settlement agreement with Catalina Cleaners to resolve violations of the state's hazardous waste disposal laws. Under the consent judgment, Catalina Cleaners and its operator agreed to pay a \$10,000 civil penalty to resolve allegations of illegal disposal of tetrachloroethylene (perc) at its dry cleaning business in Maricopa County.

Werkoven and Patagonia Area Resource Alliance v. Arizona Department of Environmental Quality - EES successfully defended ADEQ's decision to renew an aquifer protection permit issued to Arizona Minerals Inc. for its Hermosa Project to mine zinc, lead, silver, and manganese. In an administrative appeal, the appellants argued that ADEQ failed to apply the aquifer protection laws and rules to assess hydrologic impacts of the mine on the drinking water aquifers. Following a nine-day hearing that included extensive expert testimony supporting ADEQ's permitting decision, the administrative law judge ruled in favor of ADEQ's technical determinations and upheld the permit as protective of groundwater. Upon review, the Water Quality Appeals Board affirmed the decision.

State of Arizona v. Sierra Mining & Crushing Co., LLC - EES obtained court approval of ADEQ's settlement agreement with Sierra Mining & Crushing to resolve violations of the state's solid waste disposal laws in Pima County. The defendant allegedly accumulated a large pile of vegetative and wood waste 20 feet high that caught on fire and smoldered for several years. The defendant failed to obtain ADEQ's approval of a facility plan for waste storage and disposal. Under the consent judgment, the defendant is required to remove at least 2000 tons of waste from the pile and properly dispose of it or store it in accord with state waste disposal and storage laws while extinguishing any fire and smoldering. If the defendant fails to meet its court-ordered obligations, it will be liable for penalties between \$200 and \$1000 per day per violation.

State v. ConocoPhillips Company (Phillips 66) - EES assisted in a settlement with ConocoPhillips Company and its related company, Phillips 66, to resolve allegations that it failed to disclose insurance coverage for leaking underground storage tanks in Arizona and failed to disclose the settlements of those insurance claims. Phillips 66 is alleged to have received payments from its insurers for the same corrective action reimbursement claims it made to ADEQ. Under the agreement, Phillips 66 agreed to pay back \$650,000 to the state to resolve the disputed claims.

Significant Matters

State v. Brimhall Sand, Rock & Building Materials, Inc. - EES obtained court approval of an ADEQ settlement with Brimhall Sand, Rock & Building Materials for alleged violations of the Clean Air Act. The complaint alleged repeated violations of opacity, air quality monitoring, and compliance certification requirements at Brimhall's hot mix asphalt plants and crushing and screening plants in Navajo County. Under the consent judgment, Brimhall agreed to immediately pay a \$25,000 civil penalty and, if a violation occurs within three years, an additional \$110,000 civil penalty.



State v. Terrible Herbst, Inc. - EES obtained court approval of an ADEQ settlement with Terrible Herbst to resolve alleged underground storage tank violations at Terrible Herbst gas stations in Lake Havasu City. The complaint alleged Terrible Herbst failed to remediate soil and groundwater contamination from leaking underground storage tanks at its gas stations. Under the consent judgment, Terrible Herbst will follow a court-ordered schedule of corrective actions to remediate the contamination and face penalties from \$500 to \$2,500 if it has additional violations.

State v. Circle K Stores, Inc. - EES obtained court approval of an ADEQ settlement agreement with Circle K Stores, Inc. for alleged violations of the Underground Storage Tank Program at gas stations located in Maricopa County. The complaint alleged Circle K failed to register and pay fees for its storage tanks and failed to notify ADEQ of suspected leaks from tanks. Under the consent judgment, Circle K agreed to pay delinquent tank fees and a \$30,000 civil penalty. Circle K is required to implement an on-going environmental management plan to meet tank compliance requirements in the future.

Additional EES Matters

Water Quality Assurance Revolving Fund (WQARF) Program - EES advises and represents ADEQ in its administration and enforcement of the Water Quality Assurance Revolving Fund (Arizona's Superfund program), as well as ADEQ's involvement in the federal superfund program in Arizona. Both the state and federal programs investigate and register sites with contamination from hazardous substances, investigate the liability of potentially responsible parties, and undertake 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.

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.

STATE GOVERNMENT DIVISION

EDUCATION & 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 and its Professional Practices Advisory Committee, the Arizona Schools for the Deaf and the Blind, the Arizona State Board for Charter Schools, the School Facilities Board and, for one-half of the year, the Arizona State Commission for Postsecondary Education.


Health Unit

Major Case Highlights: State Court

The Health Unit participated in three federal cases, two of which involved collaborations with other AGO sections. A fourth federal case was filed and served in June 2022. Additionally, Health Unit attorneys assisted ADHS in obtaining a preliminary injunction against individuals who were unlawfully operating an assisted living home.

Significant Programs

Emergency Medical Services and Trauma Systems - The Bureau of EMS and Trauma Systems (“Bureau”) oversees the air and ground ambulance services that operate in Arizona and certifies and regulates the practice of Emergency Medical Certified Technicians (EMCTs) in Arizona. The Bureau licenses air ambulances and fully regulates ground ambulance services that operate or want to operate in Arizona through the Certificate of Necessity (CON) process. The Health Unit provided weekly advice regarding investigations, enforcement actions, applications for CONs, and certifications for EMCTs. The Health Unit represented the Bureau in two administrative hearings concerning initial CON applications; one of those hearings is still ongoing. In a matter on judicial review of an administrative decision involving a new ambulance service in Central Arizona, the Health Unit successfully defeated a motion to stay the Director’s decision to grant a CON to an additional ground ambulance service. The Health Unit also effectively represented ADHS in three enforcement actions against EMCTs, which resulted in probation and/or revocation of their certifications.



Medical Facility Licensure - ADHS licenses and regulates health care institutions in Arizona, including hospitals, nursing homes, assisted living facilities, behavioral health facilities, outpatient clinics, hospice service agencies, and other classes and subclasses of medical facility licenses. The Health Unit provided weekly advice to ADHS on various medical facility licensing enforcement matters and represented ADHS in 109 licensing administrative appeals at the Office of Administrative Hearings, most of which resulted in settlement. These matters included application denials, license, assessments of civil money penalties, and cease and desist orders. The Health Unit represented ADHS in superior court on three judicial reviews of administrative actions, two of which remain ongoing. The Health Unit also represented ADHS in its case to enjoin the operation of an unlicensed assisted living home, successfully securing a preliminary injunction. The matter remains pending to secure a permanent injunction and a contempt order for violations of the preliminary injunction, and represented ADHS in three superior court appeals of administrative decisions. Additionally, the Health Unit, in collaboration with other sections (SGO/SLS and SGD/LES), defended ADHS in a lawsuit challenging various abortion-related statutes. That matter remains ongoing and has been impacted by the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*.

Sober Living Home Licensing - ADHS began licensing sober living homes in FY20 pursuant to A.R.S. § 36-2061 et seq. This has become a growing licensure program as ADHS now licenses 220 sober living homes across the State and the Health Unit represents ADHS when enforcement actions and other legal matters arise. The Health Unit represented ADHS in five enforcement actions that it initiated against facilities that were operating unlicensed sober living homes in violation of A.R.S. § 36-2061 et seq. The Health Unit led informal settlement conferences and drafted settlement agreements so that the facilities came into compliance and safely obtained licenses. All of these matters were successfully resolved through settlement. The Health unit is currently representing ADHS in actions against an unlicensed sober living home that were initiated in June 2022. ADHS issued a cease and desist order and the unlicensed sober living home filed a Federal lawsuit. In addition to providing legal representation, the Health Unit also provides legal advice to ADHS to help ensure that sober living facilities comply with the State's licensing and regulatory requirements and provide safe homes for those recovering from addiction.

Bureau of Radiation Control - The Bureau of Radiation Control regulates ionizing and non-ionizing sources of radiation and oversees several programs that include the Radioactive Material Program that licenses industrial and academic radioactive materials; the Particle Accelerator Program that regulates medical, industrial, and academic uses of particle accelerate; and the X-Ray Program that licenses and regulates x-ray producing machines throughout the state. The Health Unit provides legal advice to ADHS regarding interpretations of law, enforcement actions, and other complex issues concerning radioactive materials. When legal actions arise, the Health Unit provides representation. In licensing enforcement matters, the Health Unit negotiates and drafts settlement agreements to garner compliance with licensing requirements and resolve the enforcement action without a hearing.

Medical Radiological Technologists and Laser Technicians Certification - ADHS is responsible for the certification and regulation of the medical radiologic technologists and laser technicians. The Health Unit provides legal representation and legal advice to assist ADHS with its certification duties. The Health Unit reviews notices of enforcement actions, negotiates settlements, drafts settlement agreements,

STATE GOVERNMENT DIVISION

EDUCATION & HEALTH SECTION


and presents administrative cases. The Health Unit represented ADHS in two enforcement actions to revoke certifications; those matters are still pending.

Licensed Midwife Program - ADHS is responsible for the certification and regulation of licensed midwives. To determine compliance with the licensing regulations, ADHS reviews records regularly submitted by licensed midwives as well as complaints from the public. When a licensed midwife's actions are deemed dangerous to the mother or child, ADHS takes action to suspend or revoke a midwife's licenses, or to impose civil money penalties or restrictions on the license. Health Unit attorneys represented ADHS in an action to suspend a midwife's license and to assess civil money penalties. The Health Unit negotiated a consent agreement wherein the midwife agreed to the suspension of her license, to a probationary period where she will be monitored, and the payment of civil money penalties.

Child Care Licensing - ADHS licenses and regulates child care facilities and child care group homes. Health Unit attorneys provide legal advice to ADHS concerning enforcement issues such as cease and desist orders, notices of intent to revoke a license, and notices of assessment of civil money penalties. The Health Unit also drafts consent agreements and represents ADHS at informal settlement conferences, administrative hearings, and court proceedings. The Health Unit negotiated a consent agreement with an entity that operated two child care facilities in violation of state licensing requirements. The facilities were required to pay civil money penalties, voluntarily surrender their licenses, and refrain from operating any child care facility for ten years.

Bureau of Vital Records - ADHS is the primary agency responsible for all vital records including birth and death certificates. The Health Unit provided advice to the Bureau of Vital Records and represented ADHS in administrative, Superior court, and Federal court proceedings. Specifically, the Health Unit represents ADHS in an ongoing Federal class action lawsuit concerning amendments to birth certificates, ten Superior court matters, and more than thirty-five administrative actions before the Office of Administrative Hearings. The Health Unit also advised and supported ADHS in its work serving the public and other governmental entities while protecting and ensuring data confidentiality.

Women, Infants, and Children Program (WIC) - The Health Unit represents the Arizona WIC Program that is administered by ADHS. The AZ WIC Program provides nutritional support to pregnant, breastfeeding, and postpartum women, infants and children less than five years of age. The Health Unit provided legal advice to the AZ WIC Program regarding compliance with Federal requirements, Vendor and Participant manuals, questions related to enforcement of Federal rules violations, and questions related to local WIC agencies that directly provide nutritional assessments and breastfeeding support to participants.



The Health Unit also reviewed contracts and AZ WIC presentations for legal issues and provided advice related to ADHS's dietetic internship program, which gives AZ WIC employees an opportunity to earn a dietetic nutritionist certificate.

Arizona State Hospital (ASH) - ADHS operates ASH, a long-term inpatient psychiatric care hospital that provides mental health treatment and housing to Arizonans who are under a court order for treatment. The Health Unit provided daily legal advice to ASH on a wide variety of issues and represented the State in all Superior court civil commitment proceedings for patients admitted to ASH's civil campus, represented ADHS/ASH at Psychiatric Security Review Board (PSRB) hearings concerning forensic campus patients who are committed to ASH as guilty except insane, represented ADHS/ASH in matters at the Office of Administrative Hearings involving grievances made by individuals who are seriously mentally ill, participated in Superior court guardianship matters concerning ASH patients, and addressed other legal matters involving ADHS/ASH. The Health Unit and staff prepare numerous superior court filings on a weekly basis related to individuals committed at ASH, all of which must be filed in paper. The Health Unit assisted ASH in completing 163 civil commitment filings, 154 civil commitment hearings, 82 PSRB filings, 36 PSRB hearings, represented ADHS/ASH in three administrative matters that were brought to the Office of Administrative Hearings, and continued to collaborate with other sections (SGD/LMS and SGD/ELS) to defend against a Federal lawsuit that an ASH patient filed against ADHS. Additionally, the Health Unit has advised ADHS/ASH about the significant statutory changes pertaining to forensic campus patients who are committed to ASH as guilty except insane. There has been a tremendous amount of planning and preparation to be ready for the December 31, 2022 effective date when the laws concerning forensic campus patients who are committed to ASH as guilty except insane will change, the PSRB will be abolished, and the Superior court will take over all cases of forensic patients who have been found guilty except insane.

Sexually Violent Persons (SVPs) - ADHS is responsible for the care, supervision, and treatment of those persons found by a court or jury to be SVPs under the Sexually Violent Persons Act (SVPA), A.R.S. § 36-3701 et seq. ADHS operates the Arizona Community Protection and Treatment Center (ACPTC), a Behavioral Health Specialized Transitional Agency located on the grounds of ASH that provides psychosexual counseling and psychotherapy counseling to SVPs. The Health Unit represented the State in Maricopa County Superior Court proceedings concerning SVPs' petitions conditional release to a less restrictive alternative or absolute discharge, successfully completing six hearings wherein the contested petitions for discharge and/or conditional release to a less restrictive alternative were ultimately denied. The Health Unit also successfully represented ADHS/ACPTC in its petitions to revoke or modify the conditional release of two SVPs. Additionally, the Health Unit provided legal advice to ACPTC and represented ADHS/ACPTC in SVP matters throughout the State. Additionally, the Health Unit advised ACPTC about various requests and inquiries, including facility records requests under A.R.S. § 36-3712(B) and other issues raised under the SVPA. As counsel for ADHS/ACPTC, the Health Unit reviewed and filed 98 annual reports pursuant to A.R.S. § 36-3708 and 292 quarterly and 132 monthly reports pursuant to A.R.S. § 36-3710(F), all of which must be filed in paper. Also, the Health Unit successfully defended [a pro se special action] challenging the ACPTC's conditions of treatment.

Procurement Office - The Health Unit reviewed and advised on various contracts for ADHS and provides regular advice regarding the Procurement Code, RFIs, RFPs, IGAs, ISAs, MOUs, and Protests.

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Speech Language Pathology - ADHS licenses Speech-Language Pathologists and Speech-Language Pathologist Assistants. The Health Unit advises and represents ADHS in matters pertaining to the licensure of these professionals. The Health Unit represented ADHS in two license revocation actions and drafted the resulting consent agreements. Based on a complaint investigation, ADHS sought to revoke a Speech-Language Pathologist Assistant's license after the licensee refused to provide necessary records. The Health Unit successfully negotiated a settlement with the licensee so that ADHS could complete its investigation. ADHS also sought to revoke a Speech-Language Pathologist's license for filing false claims. That matter ultimately resulted in ADHS and the licensee entering into a consent agreement that suspended the individual's license for six months.

Arizona Commission for the Deaf and the Hard of Hearing (ACDHH) - The Health Unit represents ACDHH, which advocates for the deaf, hard of hearing, and deafblind community, provides telecommunications equipment and support services, and licenses and regulates sign language interpreters. The Health Unit regularly provided advice to ACDHH; attended all quarterly board meetings; reviewed agendas, meeting minutes, and investigation results; and drafted with a notice for an enforcement action that resulted in the assessment and payment civil money penalties.

Civil Money Penalties

The Health Unit reviewed, negotiated, and participated in administrative enforcement actions taken by ADHS and ACDHH against licensed persons or entities. In total, the Health Unit assisted ADHS and ACDHH in assessing approximately \$29,650 in civil money penalties

Miscellaneous

The Health Unit participated in the AGO Taskforce against Senior Abuse (TASA), the TASA Health and Safety Subcommittee, and national Public Health Attorneys' conference calls with the CDC and the Association of State and Territorial Health Officials. The Health Unit also served on the Arizona Drug Overdose Fatality Review Team.

Education Unit

Education Unit attorneys were involved in cases before State courts as well as the Arizona Office of Administrative Hearings. Education attorneys also represented the State in front of the Professional Practices Advisory Committee, which offers recommendations to the Arizona State Board of Education in cases of alleged unprofessional conduct by certificated persons such as school teachers and administrators, and certain other non-certified persons.

Education attorneys assisted the AGO in representing the State Board of Education, the Superintendent of Public Instruction and the Department of Revenue in a lawsuit by Pima County and TUSD challenging legislation that limited the amount of tax dollars that can be used to reimburse TUSD's desegregation expenses. The State Defendants were successful in the Court of Appeals, reversing a Superior Court that found the law was unconstitutional. See, *Pima County, et. al., v. State, et. al.*, 1 CA-TX 20-0001. This case is now pending before the Arizona Supreme Court.

Education AAGs have also handled over 60 administrative hearings this year, for the State Board of Education, the Arizona Department of Education, and the State Board for Charter Schools.

Arizona Department of Education (ADE) - Education Unit attorneys provided day-to-day client advice on special education, school improvement, school finance, federal grant programs, health and nutrition programs, academic standards, student assessment, data and student privacy, public records, and procurement matters. Additionally, Education Unit attorneys assisted ADE in addressing public records requests including issues related to FERPA and other confidential teacher and student records. Furthermore, they assisted with data sharing agreement negotiations and also with technical assistance with the client's relationship with the U.S. Department of Education. Education Unit attorneys also provide daily advice to the ESA Program, and represent the Program in any appealable ESA matters. In addition to helping ADE resolve several pre-appeal ESA cases, Education Unit attorneys conducted 24 administrative hearings on ESA appeals and negotiated resolutions to seven ESA appeals. Education Unit attorneys also provide assistance to ADE in enforcement actions against those who make improper use of Empowerment Scholarship funds.

Arizona Department of Education Audits - Pursuant to A.R.S. § 15-239, ADE conducts school funding audits of the student information reported by public schools to ADE. School districts and charter schools receive per student funding based on several factors related to student enrollment and attendance at their public schools. In addition to representing ADE's audit unit generally in connection with audits against the districts and charter schools, the Education Unit attorneys assist ADE in the negotiation of settlement agreements and represent ADE in administrative audit appeal hearings. This fiscal year, EHS assisted ADE in four audit appeals, which have been settled through AAG-assisted negotiations. Most audit settlements require the schools to repay ADE for the overpayments of student funding received in prior years.

Arizona State Board of Education (Board) - Education Unit attorneys represented the Board in its public meetings, advised the Board on a variety of legal questions, provided day-to-day legal advice to Board staff, and reviewed draft Board agendas for compliance with Arizona's Open Meeting Law. During Board

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meetings, Education Unit attorneys participated in executive sessions for legal advice. The Board holds regular public hearings that the public may attend in-person and virtually. In March 2022, Governor Ducey selected seven new individuals to join the Board after other members' terms were complete. In the last year, the Board has discussed and taken action in its meetings on multiple topics, including reports by the Board President and Superintendent of Public Instruction; achievements by students, teachers, administrators, and schools; the allocation of state funds, teacher discipline, student literacy plans, academic progress standards, school enrollment guidance and choice, statewide assessments, and best practices for social media and cell phone use between students and school personnel.

Education Unit attorneys have represented the Board in increased numbers of discipline cases. Specifically, this has been the first fiscal year in which Board assumed oversight of the Investigations Unit, which now investigates allegations of unprofessional conduct not only committed by certificated persons, but by non-certificated persons. Education Unit attorneys met with investigators and Board staff to discuss pending investigations and then litigated formal complaints of unprofessional conduct before the Professional Practices Advisory Committee (PPAC), which is discussed next. The Board itself issued final decisions in teacher and school personnel discipline cases. Among them, the Board affirmed the PPAC's recommendation of a two-year suspension for one educator and letters of censure against three educators whom the PPAC determined had engaged in unprofessional conduct. The Board also required these educators to take courses related to bullying and student abuse prevention.

Additionally, Education Unit attorneys represented the Board in matters involving empowerment scholarship accounts (ESAs). The Board issues final decisions of ESA appeals. In June 2022, the Governor signed HB 2853 into law; which among other things will not only expand ESA access to all Arizona K-12 students, but will also broaden the list of items that can be purchased using ESA funds. Education Unit attorneys assisted the Board with tracking numerous ESA appeals through the pre-hearing, hearing, and post-hearing process, which culminates in final decisions of the Board.

Professional Practices Advisory Committee (PPAC) - During the 2022 fiscal year, Education Unit attorneys represented the State in 125 adjudicated cases in which teachers or school administrators were alleged to have committed professional misconduct. Education Unit attorneys conducted 43 administrative hearings before the PPAC, drafted 17 settlement agreements, obtained 65 surrenders of educator certificates, and defended one motion for rehearing, and one motion for review, each of which was denied. Of the 43 administrative hearings, 23 resulted in revocation of the educators' certificates, 12 resulted in a suspension of the educators' certificates, three resulted in a letter of censure, one resulted in the educator's application for a certificate being granted, and two resulted in the educator's

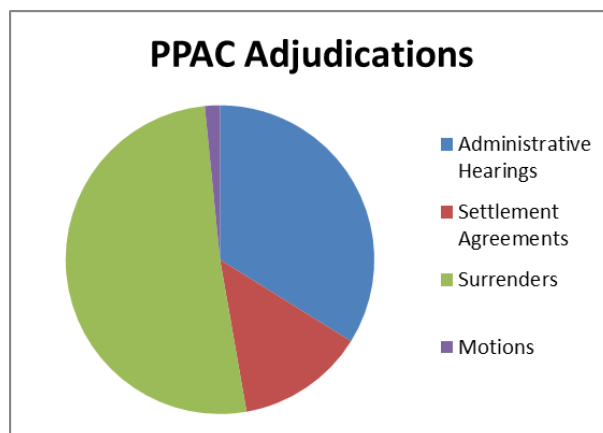
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application for a certificate being denied. Education Unit attorneys also wrote requests for summary revocation of certificates in fourteen cases and requests for summary suspension of certificates in two cases, with each request being approved by the State Board of Education.

Two Education Unit attorneys represented the State in a five-day hearing consolidating the contested cases of four Hamilton High School educators to consider whether they committed acts of unprofessional conduct in connection with numerous incidents of student vs. student sexual abuse and student vs. student fights, which occurred in the football locker room at Hamilton High School in Chandler, Arizona from 2014 through 2017. The State contended that these four educators failed to properly supervise students in the locker room and adequately investigate incidents of student criminal behavior, which violated their professional duties and ethical obligations as teachers and specifically violated three Arizona laws or rules governing teacher conduct. At the conclusion of the hearing process, discipline was assessed against each educator that included a condition that each complete coursework in preventing student vs. student hazing.

The Chart below breaks out visually all of the PPAC adjudications for FY 22.



Arizona State Schools for the Deaf and Blind (ASDB) - Education Unit attorneys attended Board meetings, and provided day-to-day advice to ASDB staff on various subjects, including contracts, special education issues, open meeting laws and public records requests. Education Unit attorneys continue to advise ASDB in its model of delivery of services at the three Campus-Based Schools and through the Regional Cooperatives. In 2021, State law authorized ASDB to receive federal funding for Local Education Agencies (LEAs), to be responsible under state and federal accountability requirements to provide a free and appropriate education, and authorized ASDB to establish graduation criteria and procedures. In



2022, the Legislature made additional statutory changes related to services at the three Campus- Based Schools. Education attorneys assisted ASDB Board and staff to implement the statutory changes.

Arizona State Board for Charter Schools - In addition to providing day-to-day legal advice to Board staff, Education attorneys attended and provided legal advice at all Board meetings and reviewed Board agendas and materials for compliance with Open Meeting Law. The AAGs negotiated several agreements to bring charter schools into compliance with State requirements and worked with Board staff in reviewing and responding to complaints filed with the Board. Education attorneys represented the Charter Board in resolution discussions and hearings on both charter revocations and charter amendment request appeals. Additionally, the AAGs assisted the Board in responding to a significant number of public records requests and in the development of revised rules, compliance measures and data sharing agreement to ensure compliance with State requirements. Education AAGs also served on the Charter School Fraud Task Force. Finally, the Education Attorneys assisted the Board in its review process for approving new charters.

School Facilities Board (SFB) - Education Unit attorneys provide day-to-day client advice on agency programs and also attended Board meetings. AAGs advised the SFB on open meeting law issues and public records requests. AAGs assisted SFB in accomplishing its objectives of improved services to school districts by advising on legislation and procedures. As of September 29, 2021, SFB no longer exists as an independent board. Instead, the Arizona Department of Administration houses the Division of School Facilities (DSF) which includes the School Facilities Oversight Board (SFOB). Education attorneys advised the DSF and the SFOB on rule making and statutory changes.

Arizona Commission for Postsecondary Education (ACPE) - Education Unit attorneys reviewed ACPE meeting agendas, attended ACPE Commission meetings and provided advice on compliance with open meeting law and public records law. Beginning on January 1, 2022, the work of the Commission transitioned to the Arizona Board of Regents. Education attorneys assisted in a MOU between the ACPE and ABOR to ensure a smooth transition prior to January 1, 2022.

Attorney General Opinions

Education Unit attorneys assisted with one formal Attorney General Opinion and are currently involved in assisting with a second opinion request.

Dollars Generated or Saved

Education Unit attorneys assisted the ADE Audit Unit in its recovery/repayment of overpaid State funding from public schools. In FY 2022, the amount recovered or agreed to in settlement agreements with public schools was in excess of \$1.0 million.

Miscellaneous

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

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 legal advice and counsel, at every stage of the employment relationship, to more than 100 state agencies, boards, commissions, and courts, as well as the AGO. 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

EELS Advice and Hearing Practice - ELS provided over 2,000 hours of legal advice to State human resources professionals and agency management on a wide range of day-to-day employment issues such as employee performance, employee discipline, wage and hour issues under the Fair Labor Standards Act, accommodating individuals with disabilities, and leave issues under the Family and Medical Leave Act.

Extensive Training for Supervisors and Agencies Across Arizona - Another key component to preventing EEOC charges and employment litigation against the State of Arizona is training state employees, particularly supervisors, on 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 the need for litigation does arise, ELS attorneys provide subject matter expertise in all stages of litigation.

ELS represents the State in employment lawsuits covered by the State's Risk Management (RM) self-insurance program, as well as in some non-risk management cases. In FY 2022, ELS represented the State through RM, in four employment lawsuits. ELS also monitored and assisted agencies in responding to 45 charges of discrimination filed with the federal Equal Employment Opportunity Commission (EEOC). ELS closed 13 EEOC charges. ELS attorneys and legal assistants billed over 9,300 hours on Risk Management litigation matters (lawsuits, claims and EEOC charges).

ELS Workers Compensation Practice - The ELS workers compensation group opened 60 new matters and closed 49 matters. ELS attorneys and legal assistants billed nearly 1,800 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.

Major Case Highlights

Baeuerlen, Brandon v. Arizona State Parks and Trails Department - The Arizona Court of Appeals, Div. 1 issued an opinion affirming Arizona State Parks and Trails' dismissal of an employee who had violated departmental and statewide policies and procedures against harassment and discrimination in the workplace. The opinion also confirmed and clarified procedures governing covered law enforcement officers' appeals from disciplinary action to the Arizona Law Enforcement Merit System Council.

STATE GOVERNMENT DIVISION

LIABILITY MANAGEMENT SECTION

The Liability Management Section (LMS) defends the State and State employees in lawsuits for which ADOA Risk Management provides coverage. Generally, these lawsuits allege State liability for torts or civil rights violations and seek substantial monetary damages. LMS also provides advice to ADOA Risk Management on various issues related to liability claims.

Significant Responsibilities

The Section is comprised of four units—the DOC Unit, which represents the Department of Corrections and its employees in inmate lawsuits; the ADOT Unit, which represents the Department of Transportation in road accident cases; the Torts Unit, which represents most other State agencies and the State’s three public universities; and the Appellate Unit, which assists LMS lawyers when their cases go up on appeal.

LMS Trial Practice

LMS trial attorneys billed more than 53,000 hours defending state agencies in lawsuits and claims in FY 2022, which included 178 new Risk Management lawsuits and 149 new Claims, and closed 127 cases. During the year, LMS attorneys tried nine cases to verdict, conducted nine mediations and one arbitration; negotiated 43 settlements; and prevailed on 82 dispositive motions, favorably ending these cases without a trial.

List of cases tried by LMS attorneys:

Reinsch, Brandon v. DPS, CV2018-015570
Driscoll, Jeffrey v. DOC, C20182551
Myohanen, Cherie, et al. v. DOT, SCTMA CV2017-014714
Jones, Edward v. DOC, CV18-04872 PHX-MTL
Gomez, Joe v Unknown De La Santos, et al., CV18-03294-PHX-JJT
Ochoa, Carlos et al v. DOT, CV2017-011933
Taylor, Ray v DOC, CV17-00022-TUC-JAS
Andrich, Devin v Unknown Dusek, CV17-0173-TUC-RM
Siciliano, Anthony v. DOT, CV2018-009387

LMS Appellate Practice

LMS Appellate Unit attorneys billed 3,800 hours in FY 2022 while successfully representing the state and state officials in 65 appeals—36 were dismissed and 29 were affirmed.

STATE GOVERNMENT DIVISION

LICENSING ENFORCEMENT SECTION


The Licensing & Enforcement Section (LES) currently represents 30 state professional licensing and regulatory boards and agencies. LES's clients include the Arizona Medical Board, the Registrar of Contractors, the Department of Liquor Licenses and Control, the Board of Pharmacy, the Board of Accountancy, the Board of Nursing, and the Peace Officer Standards and Training Board. LES attorneys serve as general counsel for these agencies and ensure its clients' compliance with open meeting and public records laws and their respective governing statutes. The attorneys provide representation in administrative, disciplinary, and license denial hearings before the agencies and the Office of Administrative Hearings. They 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. LES also assists state agencies with the review of proposed administrative rules.

Significant Highlights

Trent W. Batty v. Arizona Medical Board, 253 Ariz. 151, 509 P.3d 1053 (App. 2022) - The Arizona Medical Board (AMB) disciplined a physician for violating its sexual misconduct statute by engaging in sexually inappropriate verbal and text message communications with a younger adult male patient and inappropriately touching another adult male patient. The physician appealed the decision to both the Superior Court and Court of Appeals based on the argument that there was insufficient evidence to find a violation of the sexual misconduct statute because his conduct was not sexually motivated and the statute was void for vagueness. In a published opinion, the Court of Appeals upheld the Board's action, finding that the applicable provision of the statute did not require any specific intent. The Court also found that the statute was sufficient to forewarn physicians regarding prohibited conduct.

Arizona Peace Officer Standards and Training Board Matters - The Arizona Peace Officer Standards and Training Board (AZPOST) initiated proceedings against a former Phoenix Police Department officer who was accused of embezzling federal paycheck protection program (PPP) funds during the Covid-19 pandemic. The Federal Bureau of Investigation and the U.S. Attorney's Office for the District of Arizona investigated the fraud. Federal authorities alleged that the officer, along with a co-conspirator, submitted a false PPP loan application to obtain money for a front business. The business had no employees or payroll, and the officer converted the funds for her personal use. The officer agreed to voluntarily relinquish her peace officer certification.

In April 2020, a male suspect died while being restrained by three Tucson Police Department officers in response to a call. The autopsy report concluded that the death was caused by "sudden cardiac arrest in the setting of acute cocaine intoxication and physical restraint with cardiac left ventricular



hypertrophy (enlarged heart) as a significant contributing factor.” The Pima County Attorney’s Office determined there was insufficient evidence to prove the officers’ conduct was criminal. AZPOST initiated investigations against the officers resulting in all three of them agreeing to a three year suspension of their peace officer certifications until their certifications lapse.

In the Matter of Sigma Cuts School of Beauty - The Board of Cosmetology received a complaint against the Sigma Cuts School of Beauty from a student alleging inadequate instruction and supervision and inappropriate conduct by an instructor that included making racial slurs and sexually inappropriate comments to students. The Board’s investigation substantiated the allegations and also revealed that the school was operating a salon business inside of the school which was prohibited. The school also failed to maintain student records and comply with statutory reporting requirements. Sigma Cuts School of Beauty entered into a consent agreement with the Board for a voluntary revocation of its license and agreed that neither it nor its owners would be eligible to apply for a school license in any capacity, function as an owner or member of a school, manage a school, teach in a school, or work in any capacity or affiliation with a school regulated by the Board for three years.

Arizona Board of Massage Therapy Examiners - The Arizona Board of Massage Therapy Examiners, working in conjunction with law enforcement agencies across multiple jurisdictions in Arizona, revoked the licenses of 11 massage therapists who engaged in sexual misconduct during massage therapy treatments. The Board also revoked the licenses of three massage therapists who were involved in the ownership or operations of an illicit massage therapy establishment.

Arizona Board of Accountancy - On behalf of the Board of Accountancy, LES obtained civil injunctive relief against four unlicensed individuals and three unlicensed firms using the certified public accountant designation. Additionally, LES sought a civil contempt order against an individual for violating an injunction. The superior court initially imposed a monetary fine and subsequently issued an arrest warrant when the individual failed to pay the fine.

Review of Proposed Rules - LES is responsible for reviewing and making recommendations to the Attorney General on whether to approve proposed emergency rules submitted by regulatory agencies, final rules submitted by a state agency headed by a single elected official, certain proposed rules from the Arizona Corporation Commission and rules from the Arizona Industrial Commission when incorporating by reference certain federal occupational safety and health standards. During FY22, LES reviewed 5 rule packages; 2 packages were emergency rules. All 5 packages went into effect. The Attorney General’s approval of the rules shall not be construed as an endorsement of policy issues relating to or resulting from rulemaking. Policy decisions relating to the rulemaking are those of the Industrial Commission of Arizona and not the Office of the Attorney General.

Civil Assessments and Penalties - LES client agencies collected the following civil assessments and penalties

Civil Assessments and Penalties	
Barbering & Cosmetology Board	\$ 60,815.00
Dispensing Opticians Board	\$ 2,000.00
Board of Physician Assistants	\$ 2,000.00
Liquor Board	\$ 396,865,.00
Nursing Board	\$ 70,450.00
Pharmacy Board	\$ 262,537.50
Physical Therapy Board	\$ 1,880.00
Registrar of Contractors	\$ 56,000.00
Veterinary Medical Examining Board	\$ 5,150.00
TOTAL	\$ 857,697.50

STATE GOVERNMENT DIVISION

NATURAL RESOURCE SECTION

The Natural Resources Section (NRS) represents state land management agencies in litigation and provides advice regarding agency authority, compliance with state and federal law, property rights, land use, and contractual issues. The Arizona State Land Department (ASLD) manages over nine million acres of state trust land, so NRS provides services relating to the sales, leasing, and management of land for commercial, residential, mining, grazing, agricultural, utility, and transportation uses. Additionally, NRS assists ASLD in securing water resources and other infrastructure for the development of state trust land. NRS represents the State water rights adjudications and water rights claims on state trust lands. NRS advises the State Parks Board in land transactions and provides Open Meeting Law advice for the Board and its various committees. NRS also advises the Department of Forestry and Fire Management to support its efforts to manage the State's forests and prevent and fight wildfires.


Highlights

NRS Attorneys assisted ASLD in completing auctions of state trust land that will yield hundreds of millions of dollars for deposit into the state land trust or for direct distribution to the trust's beneficiaries (public schools and universities and other public beneficiaries). These auctions included: (1) 350 acres purchased for \$139 million by the Mayo Clinic adjacent to its existing Phoenix campus and (2) 850 acres in Queen Creek purchased for \$84 million by LG for the development of a battery manufacturing facility.

NRS attorneys assisted ASLD in reaching preliminary agreements which, if approved by the Arizona Department of Water Resources, will allow ASLD to transport groundwater from the Harquahala Valley to central Arizona to serve developing State Trust Land.

In re Hopi Reservation HSR - After completing a three-month trial in 2021, the Water Rights Adjudication Team received a favorable recommendation in the Special Master's final report quantifying the federal reserved water rights for the Hopi Reservation. The Special Master adopted most of the State's arguments and other aligned parties and recommended decreed water rights for the Tribe in an amount that will help preserve the priority of the State's asserted surface water claims in the Little Colorado River System.

In re Redfield Canyon Wilderness Area - The Maricopa County Superior Court issued a final Order denying any federal reserved water rights for the Redfield Canyon Wilderness Area in Graham and Cochise Counties, thereby helping preserve the priority for the State's asserted surface water claims in the Gila River System that the United States failed to provide evidence necessary to establish the elements of the federal reserved rights it claimed.



RM Desert Ridge v. Arizona State Land Department - The Superior Court upheld ASLD's methodology for assessing rent under the 99-year Commercial Core Lease at Desert Ridge in Phoenix. The Court agreed with ASLD's argument that the Lease requires that rent increase with the "full cash value" established by the County Assessor to reflect the market value of the parcel, as opposed to the "limited cash value" which was implemented to limit rapid increases in property taxes.

Marsh v. Atkins - The Superior Court upheld ASLD's rejection of two mineral exploration permit applications to explore for minerals that the State reserves below the surface of State Trust land previously sold at auction. The Court adopted ASLD's argument that ASLD was obligated by statute to first offer the permits to the surface owners, who then exercised their right to apply for the permits, and thus required ASLD to reject the plaintiff's application.

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. PLS's diverse client agencies include those involved in financial and occupational regulation (including the Department of Insurance and Financial Institutions and the Department of Real Estate); natural resources and energy (including the Department of Agriculture, Water Quality Appeals Board and Arizona Power Authority); military affairs (including the Department of Veterans' Services and the Department of Emergency and Military Affairs); and promotions (including the Office of Tourism). PLS attorneys serve in the role of general counsel to our client agencies and advise on all aspects of public law, such as contract matters, open meetings, conflict of interest, and public records laws. 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 the Arizona Supreme Court.

PLS provides training to client agencies on various topics, including open meeting laws, conflict of interest laws, and the administrative hearing process. PLS attorneys also serve as independent advisors for boards and commissions throughout the State Government Division.

Major Highlights

Starr v. Arizona Board of Fingerprinting, 252 Ariz. 42 (App. 2021) - PLS successfully defended the decision of the Arizona Board of Fingerprinting ("Board") regarding the scope of its statutory authority. Starr applied to Arizona Department of Public Safety ("DPS") for a fingerprint clearance card. DPS determined that a prior criminal conviction in another state was similar to child abuse, which as a matter of law precluded her from receiving a card. Starr then petitioned the Board for a good cause exception. The Board informed Starr that she was ineligible to apply for a good cause exception due to DPS' classification of her prior offense. The Court of Appeals agreed with the Board that it lacked jurisdiction to review the determination of DPS, a separate state agency. The Court further held that fingerprint clearance card applicants may seek review of a DPS criminal offense determination under the Administrative Procedures Act.



Department of Insurance and Financial Institutions

DFI conducted an investigation of an insurance agency and its president a licensed insurance producer, based on consumer complaints. The complainants alleged that the agency created fraudulent insurance policies, deposited premium payments into the president's personal account, and issued fraudulent identification cards. After a hearing at which no one from the agency appeared, the ALJ found the agency violated multiple statutes including those prohibiting misappropriation of funds and fraudulent practices. The Department adopted the ALJ's recommendation to revoke both licenses.

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 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

Vangilder v. Pinal County and ADOR - Voters in Pinal County approved a transportation excise tax that levied a transaction privilege tax at the rate of .5% on all taxable income earned under all fifteen statutory TPT classifications. Under the retail sales classification, however, the tax applied only to the first \$10,000 of the sales price of an individual item, and at 0% on the sales price above that amount. The purpose of the 0% rate was to reduce the taxes due on sales of expensive items such as automobiles in order to keep Pinal County retailers of such items competitive with their counterparts in Maricopa and Pima Counties. The excise taxes levied in all fifteen classifications would generate several hundreds of millions of dollars over time to fund many transportation projects in Pinal County.

Plaintiffs, represented by the Goldwater Institute, sued Pinal County, the County Transportation Authority, and the ADOR, alleging that the taxes levied were unlawful for several reasons. ADOR agreed with Vangilder that the 0% rate under the retail classification was unlawful because the Legislature defines the tax base upon which counties can levy transaction privilege taxes, not the counties. The Legislature has defined the retail TPT tax base as all income earned from the sale of tangible personal property. The ADOR argued that Pinal County’s 0% rate is unlawful because it exempts certain income from the statutory tax base.

Plaintiffs and ADOR lost that argument at the Arizona Court of Appeals, and thereafter petitioned the Arizona Supreme Court to hear the case. The Supreme Court accepted review and issued a decision on March 8, 2022, reversing the Court of Appeals and invalidating the retail tax as ADOR had argued. Then, because the applicable statute required transportation excise taxes to be levied on all fifteen TPT classifications, all other taxes levied by the voters in the other classifications were rendered unlawful given that the retail tax had been invalidated.

In the four years during which the case was litigated, the Pinal County Transportation Authority collected tens of millions of dollars on the assumption that the taxes were lawful, which monies were placed in an escrow account pending the resolution of the lawsuit. Now that the County and the Transportation Authority have lost the lawsuit, all such monies will be subject to refund claims, which will be administered by ADOR.

STATE GOVERNMENT DIVISION

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's representation of ADOT encompasses several subject matter areas including litigation and advice related to acquisition of real property needed for highway construction purposes, as well as construction contract matters. TRN AAGs provide legal advice to the Aeronautics Division of ADOT, which oversees the Grand Canyon Airport, and to Arizona Highways Magazine. TRN AAGs also represent ADOT's Motor Vehicle Division (MVD). Attorneys representing MVD also handle the appeals from administrative decisions suspending driving privileges.

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

TRN advises an assortment of boards, commissions, and committees, including the priority Planning Action Committee, the Law Enforcement Merit System Council, the Over-Dimensional Permit Council, the Arizona Council for D.U.I. Abatement, the Arizona Motorcycle Safety Advisory Committee, the Arizona Companion Animal Spay and Neuter Committee, ADOT's Homeland Security Committee, the School Bus Advisory Council, and the Governor's Office of Highway Safety.

In relation to the representation of ADOT, DPS, and the boards, commissions, and committees listed above, TRN attorneys provide representation and advice concerning many areas of law including state and federal constitutional law, eminent domain, government procurement matters, property management, public records, open meetings, and contractual matters including inter-governmental agreements, interagency service agreements, grant agreements, and general contracts.



2022 Highlights

Attorneys in the TRN Right of Way Unit provide legal advice in almost all areas related to the design, construction, maintenance and regulation of the State highway system. Attorneys are currently providing representation on ADOT highway projects including I-11, the South Mountain Freeway, ADOT's I-10 widening project, SR 189 Nogales Point of Entry, and the I-10 Broadway Curve widening.

The TRN attorneys who are assigned to represent DPS assisted the agency in developing a new administrative hearings process concerning fingerprint clearance cards. Under Arizona law, individuals seeking certain employment or educational opportunities (or licensure) that require state background checks must obtain a fingerprint clearance card issued by DPS. As part of the application process, DPS checks the applicants' criminal history records. If an applicant has prior convictions for certain criminal offenses, the Department must deny the application. In an August 2021 decision entitled *Starr v. Arizona Board of Fingerprinting*, the Arizona Court of Appeals held, as matter of first impression, that fingerprint clearance card denials constitute "appealable agency actions" subject to review under the Uniform Administrative Hearing Procedures. TRN attorneys worked with DPS and the Office of Administrative Hearings to develop procedures to inform applicants of their appellate rights and facilitate the efficient administrative review of fingerprint clearance card denials. In the last year, TRN and DPS have resolved 31 administrative appeals under this new process.

In addition to providing daily advice, attorneys in TRN's MVD group resolved 10 automobile dealer licensing cases and assisted ADOT in collecting \$242,400 of related fines as a result.

CIVIL LITIGATION DIVISION



Division Chief
Joseph Sciarrotta

MISSION:

Travel state-wide providing awareness and prevention education on a variety of topics and interact with the public through in-person and online trainings as well as hosting public events. 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 Community Outreach and Education Section; Consumer Protection and Advocacy Section; Division of Civil Rights Section; and Bankruptcy Collection and Enforcement Section.

Community Outreach & Education Section

The Community Outreach and Education Section (Outreach) of the Arizona Attorney's General Office (AGO) is committed to educating and protecting Arizonans through prevention programs and informational seminars. Outreach delivers diverse presentations and programs, in-person and virtually, designed to provide knowledge and awareness on important topics to children and adults. Outreach continuously updates presentations and educational materials to ensure the public is provided accurate information on pressing issues impacting communities statewide.

CIVIL LITIGATION DIVISION

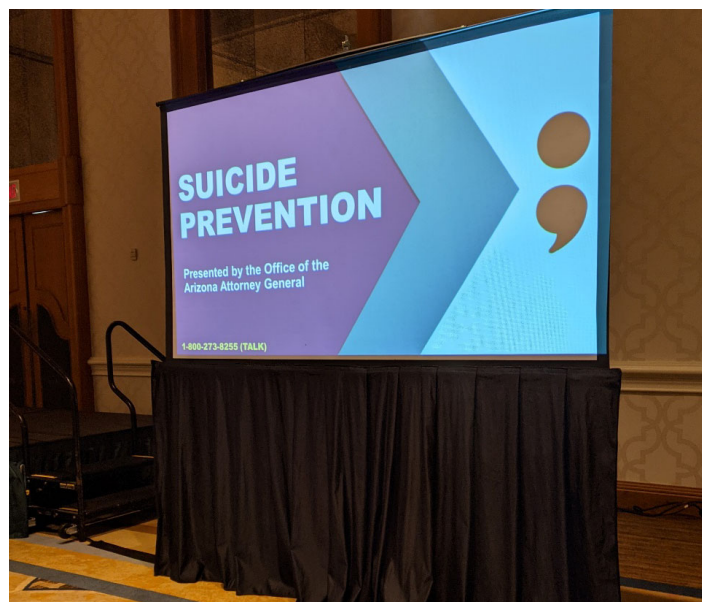
COMMUNITY OUTREACH & EDUCATION SECTION

Programs currently offered by Outreach include:

- Anti-Bullying
- Consumer Scams
- Human Trafficking
- Life Care Planning
- Suicide Prevention
- Opioid Addiction and Prevention
- Internet Safety
- E-cigarette and Vaping Awareness

In FY2022, Outreach provided more than 200 community education presentations to more than 17,200 parents, seniors, students, and other members of the public. In addition to the in-person presentations, staff also participated in 36 events, reaching more than 8,440 Arizonans. In FY2022 Outreach was honored to speak at the National School Safety Conference in New Orleans about Suicide Prevention.

*National School Safety Conference
July 26 - 30, 2021*



*Parents and Teachers Association (PTA)
Conference - June 23, 2022*



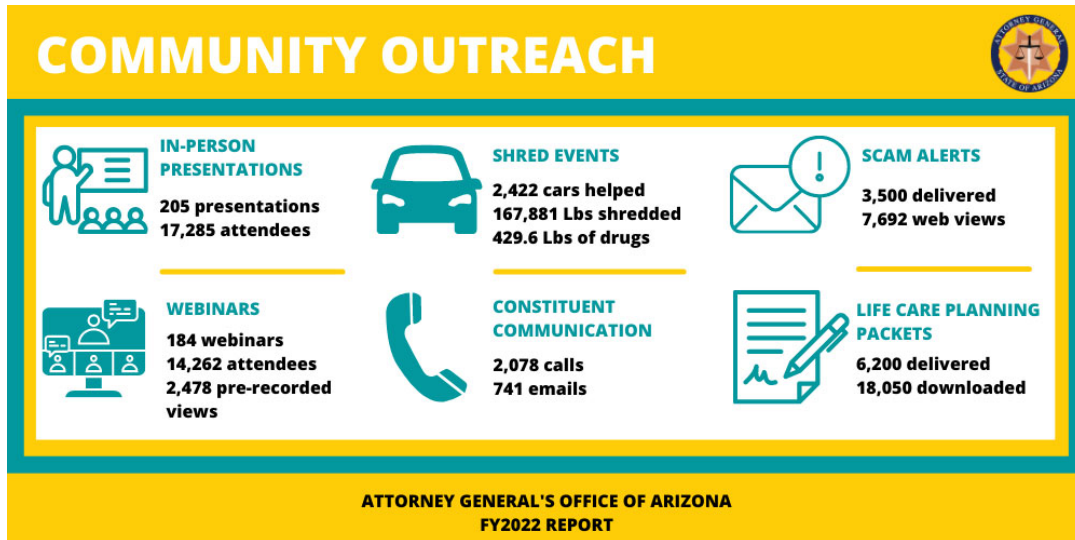
*Health Booth Event at Empire High School in
Tucson, Arizona April 14, 2022*



Outreach relies heavily upon direct contact with the public to provide educational presentations, most of which take place in K-12 settings, retirement homes, and community centers. Outreach continued to utilize an online format in addition to in-person requests to deliver programs, providing live webinar presentations and pre-recordings of all presentations that can be viewed conveniently and remotely at an individual's leisure. In FY22, Outreach provided 184 live webinars to over 14,200 Arizonans. Many also took advantage of pre-recorded versions of programs, resulting in 2,478 views of Outreach presentations throughout the fiscal year.

Despite in-person presentations and events being somewhat limited throughout FY2022, Outreach still continued to provide critical information to the public through constituent communication. During this

time period, Outreach staff answered over 2,000 calls and 740 emails from members of the public. Additionally, Outreach delivered 6,200 life-care planning packets to Arizonans, and an additional 18,050 were downloaded from the AGO website. There also were 3,500 scam alerts provided to the public with an additional 7,692 downloaded from the AGO website.



Outreach prioritized the need for identify theft prevention by hosting no-contact shred-a-thons across the state. As a result of these events, Outreach helped over 2,400 members of the public to safely destroy 167,881 pounds of sensitive documents at no-cost. Many events also included a prescription drug take-back component, allowing constituents to safely dispose of their unused prescription medications. In sum, over 429 pounds of prescription drugs were destroyed.

Sierra Vista Shred-a-thon and Drug Take-Back Event - February 26, 2022



Sun City Shred-a-thon – March 26, 2022



CIVIL LITIGATION DIVISION

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 consumer protection advocacy and public education. CPA (i) facilitates consumer complaints, (ii) initiates investigations and civil enforcement actions for violations of the Consumer Fraud Act and Data Breach Notification Law, (iii) ensures that tobacco manufacturers and distributors comply with state laws, (iv) protects competition and consumer welfare by enforcing Arizona’s antitrust statutes, and (v) is responsible for administering America’s first in the nation Arizona Fintech Sandbox. With an emphasis on recovering restitution for Arizonans impacted by consumer fraud, the dedicated CPA team regularly handle hundreds of investigations/lawsuits and process more than 13,000 consumer complaints each year.

Overview of Accomplishments

- The Consumer Information and Complaints Unit fielded 13,928 complaints, 37,609 calls, and 21,496 emails and recovered, in addition to investigations and lawsuits, a record \$5.4 million for Arizonans who filed complaints with the Attorney General’s Office over the past fiscal year.
- Announced \$1.5 billion in consumer protection recoveries since 2015, including over \$300 million in consumer restitution and other forms of relief for Arizona consumers.
- Received the “Consumers’ Champion” award from Consumers’ Research, in honor of our first-in-the-nation consent agreement with Ticketmaster, under which the company offered more than \$71 million in refunds.
- Obtained over \$540 million from three opioid distributors and Johnson & Johnson, resolving allegations that the companies used unlawful practices to promote and distribute opioids.
- Obtained agreement from all Arizona counties, cities, and towns for the distribution and use of opioid settlement funds to combat the opioid crisis.
- Sued two Tucson Midas locations, alleging that the companies charged undercover investigators for services that the auto repair businesses did not perform.
- Obtained \$14.5 million from JUUL, resolving allegations that the company used deceptive and unfair practices to encourage youth vaping and misrepresented its products.
- Announced that Arizona Public Service sent over \$24 million in restitution to over 225,000 consumers, as required by our 2021 consent agreement.
- Obtained over \$50 million in debt relief and over \$3 million in restitution from student loan servicer Navient, resolving allegations that the company originated predatory student loans.
- Warned consumers to beware of government imposter tax collection scams.

- Obtained \$4.8 million in restitution from CashCall, resolving allegations that the lender issued unlawful, high-interest loans.
- Warned consumers about scams related to moving.
- Obtained over \$400,000 in restitution from ABC Nissan and Pinnacle Nissan, resolving allegations that the companies misled consumers with online prices that did not include mandatory fees and add-ons.
- Obtained over \$3 million in restitution from Intuit, maker of TurboTax, resolving allegations that Intuit tricked consumers into paying for tax services it advertised as free.
- Warned consumers about scams related to filing taxes.
- Obtained \$500,000 in restitution from Robert Contreras, resolving allegations that he sold extremely expensive “business opportunities” to consumers by using misrepresentations about the ease and profitability of those businesses.
- Obtained nearly \$2 million in restitution from StubHub, resolving allegations that the company failed to honor its “FanProtect Guarantee” after the advent of the COVID-19 pandemic.
- Warned consumers about the need to make informed decisions related to the use of Buy Now Pay Later loans.
- Obtained over \$250,000 in restitution from Auction Nation and Auction Yard, resolving claims that the businesses failed to disclose that they engaged in “shill bidding” to drive up bids.
- Warned consumers about the proliferation of scams conducted through social media.
- Obtained a judgment for over \$1.6 million in restitution from Mark Anthony Smith, resolving allegations that he made false claims and threats to collect money on debts on which he had no authority to collect.
- Sued Tucson real estate companies and their manager, alleging that they deceived consumers in real estate transactions.
- Warned consumers about the possibility of identity theft related to the T-Mobile data breach.
- Obtained settlements with three doctors who allegedly accepted hundreds of thousands of dollars in “speaker fees” from Insys in exchange for prescribing Insys’s fentanyl-based drug, Subsys.
- Warned consumers about issues with home warranty companies.
- Obtained over \$100,000 in restitution from home warranty company AHW, resolving claims that the company faked online reviews and misrepresented how long it had been in business.
- Urged the FDA to preserve state regulation of over-the-counter hearing aids.
- Warned consumers to beware of bank scams.
- Reminded consumers about their rights as airline travelers.
- Obtained over \$2 million in debt relief for former students of Argosy University, resolving allegations that the system of education institutions misled students.
- Warned consumers to be mindful about scammers when donating to charities.
- Obtained over \$800,000 from Ford Motor Company, resolving claims that Ford misrepresented the fuel economy and payload capacity of certain model year 2011-2014 vehicles.
- Obtained \$400,000 from Vivint, resolving claims that the home security company made misrepresentations to sell its services.
- Warned consumers to beware of rental scams.
- Obtained over \$90,000 from Pfizer, resolving claims that the company misled consumers with language on its copayment coupons for certain drugs.
- Warned consumers to beware of ticket scams.
- Launched program designed to combat utility gift card scams, installing warning signs in approximately 1,200 Arizona grocery stores.

CIVIL LITIGATION DIVISION

CONSUMER PROTECTION & ADVOCACY SECTION

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 other state and federal consumer protection statutes.

Auctions

\$260,000 consent decree against Auction Nation and Auction Yard – Obtained consent decree against auction companies Auction Nation, LLC and Auction Yard, LLC to stop alleged unfair and deceptive acts and practices related to auctions and to ensure consumers know whether the sellers and the auctioneers are placing bids on auction items in the future. The auction companies must pay \$260,000 in restitution; additionally, they must disclose reserve prices prominently and also must disclose whether the seller or auctioneers are placing bids on items to reach the reserve price.

Auto

Combined \$500,000 judgments against ABC Nissan and Pinnacle Nissan – Entered into consent judgments and decrees with car dealerships ABC Nissan and Pinnacle Nissan. The dealerships allegedly advertised prices that failed to include mandatory add-ons like nitrogen tires, door edge guards, and window tint. The dealerships must pay over \$400,000 in restitution to Arizona consumers, plus \$100,000 to the State, and must advertise truthful online prices.

Over \$880,000 obtained from Ford Motor Company – As part of a multistate effort, obtained consent judgment against automaker Ford Motor Company regarding claims that Ford falsely advertised the real-world fuel economy of 2013–2014 C-Max hybrids and the payload capacity of 2011–2014 Super Duty pickup trucks. Arizona received over \$884,000 from the judgment.

Lawsuit filed against two Tucson Midas locations – Sued two Tucson Midas locations, alleging that an undercover investigation revealed that both locations charged undercover investigators for auto services that the auto repair shops did not perform.

CIVIL LITIGATION DIVISION

CONSUMER PROTECTION & ADVOCACY SECTION

Business Opportunities

Up to \$1.4 million judgment obtained against Robert Contreras and his telemarketing companies - Obtained consent judgment against Robert Contreras and his telemarketing companies, prohibiting them from selling business opportunities and internet marketing services in Arizona. The State alleged that the Contreras and his companies misrepresented the ease of operating an online business, the likelihood of earning money, and the effectiveness of their marketing. In addition to the ban on doing business in Arizona, Contreras and his companies must pay \$500,000 in restitution and up to \$900,000 in civil penalties.

Debt Collection


Up to \$2.5 million judgment obtained against debt collectors - Obtained consent judgment against Mark Anthony Smith, the owner and manager of debt collection businesses CMS Financial Group, John Lee Group & Associates, and TD Financial Solutions Group AZ. The judgment permanently bars Smith from participating in any debt collection activities and requires him to pay more than \$1.6 million for consumer restitution. The judgment includes up to \$900,000 in civil penalties. The consent judgment resolved the State's allegations that Smith's businesses called consumers and made false claims and threats, convincing people to pay debts that Smith and his businesses had no authority to collect.

Healthcare

\$400,000 consent judgment with Vivint, Inc. - Obtained consent judgment against home security company Vivint, Inc. to stop misrepresentations and unfair practices. The State alleged that Vivint misrepresented the length of its cancellation policy, claimed that current security companies had gone out of business when they had not, and extended contracts over the phone when consumers did not agree to the extension. In addition to refraining from illegal practices, Vivint must pay \$75,000 in restitution to Arizona consumers, \$285,000 in civil penalties, and \$40,000 in costs and fees.

Home Security

\$225,000 obtained for consumers who paid excessive "early termination fees" to alarm company -- Obtained over \$225,000 in restitution in a settlement with Guardian Protection Services, resolving claims that the alarm monitoring company concealed material facts from consumers, including an



“early termination fee” that required consumers to pay for months or even years of future service that they would never receive. Under the consent judgment, Guardian also had to pay an additional \$200,000 in civil penalties and clearly and conspicuously disclose any early termination fees in the future.

Home Warranties

\$150,000 consent judgment resolving allegations of fake reviews - Obtained consent judgment with home warranty company Amazon Home Warranty (AHW) (not affiliated with Amazon.com) to resolve allegations that the company created and used fake online reviews, misrepresented the identity of the company’s officers, and falsely claimed to have been operating for a decade. Under the judgment, AHW must provide truthful information to consumers and must pay \$105,000 in restitution, and \$45,000 in civil penalties and fees.

Lending

\$4.8 million consent judgment with CashCall - Obtained consent judgment against lender CashCall, Inc., its owner, and a subsidiary, requiring the company to cease collections activities, to forgive all outstanding loans, to pay \$4.8 million in restitution to Arizona consumers, and to refrain from any further lending activities not in compliance with Arizona law. The judgment resolved the State’s lawsuit, which alleged that CashCall had been issuing unlawful, high-interest loans with rates as high as 169 percent while claiming Native American tribal affiliation as a façade.

Opioids

Over \$540 million obtained for Arizona from opioid manufacturer and distributors - Obtained consent judgments as part of a nationwide settlement with three opioid distributors (Cardinal, McKesson, and AmerisourceBergen) and opioid manufacturer Johnson & Johnson. Under the four judgments, Arizona and its subdivisions as a whole will receive nearly \$542 million, with nearly \$240 million of that amount going to the State.

Opioid distribution plan finalized with all Arizona counties, cities, and towns - Announced the finalization of the One Arizona Plan, which creates a framework for distributing and using opioid settlement funds to combat and abate the opioid crisis.

Nearly \$1 million collected in consent judgments with doctors who prescribed fentanyl - Obtained consent judgments against pain management doctors Steve Fanto, Nikesh Seth, and Sheldon Gingerich. The judgments resolved allegations that the doctors accepted hundreds of thousands of dollars in sham educational “speaker fees” from Chandler-based Insys Therapeutics in exchange for prescribing its highly addictive fentanyl drug, Subsys. The doctors each forfeited all of the money they collected from Insys and agreed to pay civil penalties. Additionally, the doctors agreed to extensive injunctive relief.

CIVIL LITIGATION DIVISION

CONSUMER PROTECTION & ADVOCACY SECTION

Public Utility

\$24 million sent to APS customers - Arizona Public Service sent \$24 million to over 225,000 customers as part of Attorney General Brnovich's landmark consent agreement regarding APS' failure to provide customers with correct and adequate information regarding their most economical plans.

Robocalls

Real Estate

Lawsuit filed against Tucson real estate companies - Sued Tucson businesses Deed and Note Traders, LLC and 881 Home, LLC and their manager, David Kinas, alleging that the defendants deceived consumers in real estate transactions. Specifically, the AGO alleged that the Defendants sold homes to consumers under a "wrap mortgage" arrangement and then failed to make payments on the underlying mortgages, despite taking thousands of dollars of down payments from consumers and promising to apply consumers' monthly payments to the underlying mortgage.

Student Loans

\$57.3 million consent agreement with Navient - Obtained consent agreement against student loan servicer Navient in conjunction with 38 other states to stop the company from allegedly originating predatory student loans and steering consumers into unfair forbearances. Arizona consumers will receive \$54 million in debt relief and over \$3.3 million in restitution. In addition, the consent agreement requires Navient to train specialists who will advise distressed borrowers, and the company must explain alternative repayment options to consumers.

\$2.1 million of debt canceled for former Argosy students - Settled with Dream Center Education Holdings, owner of Argosy University, a school system that closed in 2019. The multistate settlement cancels nearly \$2.1 million in debt taken out directly from the institution by students at 12 campuses.

Tax Preparation

\$3.1 million obtained from Intuit Inc. - Obtained assurance of discontinuance from Intuit Inc., maker of TurboTax, to resolve allegations that the company deceived consumers into paying for tax services that should have been free. Intuit must pay Arizona consumers who were harmed over \$3 million and suspend an advertising campaign promising free services.

Ticket Sales

\$2 million consent agreement with StubHub - Obtained consent agreement against ticket reseller StubHub to secure refunds for Arizona consumers who purchased tickets for events that were cancelled due to COVID-19. The State alleged that StubHub initially refused to honor its “FanProtect Guarantee” refund policy, which promised consumers full refunds for cancelled events. The AGO secured nearly \$2 million in refunds and over \$250,000 in account credits for over 6,100 Arizona consumers. Consumers were permitted to choose between the full refund and an account credit.

“Consumers’ Champion” award - Attorney General Brnovich received the “Consumers’ Champion” award from the nation’s oldest consumer protection organization, Consumers’ Research. The award honored CPA’s first-in-the-nation consent agreement with Ticketmaster, under which Ticketmaster offered more than \$71 million in refunds for consumers who purchased tickets to Arizona live events that were canceled, postponed, or rescheduled due to the COVID-19 pandemic.

Vaping

\$14.5 million consent judgment with JUUL - Obtained consent judgment against e-cigarette maker JUUL to stop the company from allegedly marketing its products to young people and misrepresenting the risks associated with its products. The consent judgment requires JUUL to make significant changes to its corporate practices ensuring that JUUL’s products are not marketed or sold to underage Arizonans. In addition to those changes, \$12.5 million will be used for cessation and education programs to stop youth vaping in Arizona and \$2 million will go to the State.

Competition, Innovation & Privacy Unit

The Competition Innovation and Privacy Unit (“CIPU”) investigates conspiracies, monopolies, and mergers that may result in an anticompetitive impact on consumers. CIPU ensures Arizona’s markets remain competitive and protects consumers from those who attempt to use anticompetitive practices to manipulate the market, prices, and competition. The unit is also responsible for enforcement and regulatory matters regarding technology, innovation, and privacy in support of the Office’s consumer protection mission, including administering the Arizona Regulatory Sandbox and enforcing Arizona’s Data Breach Notification Law.

Antitrust Lawsuit Filed Against American Airlines and JetBlue – Filed suit in conjunction with the Department of Justice and six other state attorneys general to end American’s and JetBlue’s Northeast Alliance agreement, which reduces price competition that would otherwise lower fares on flights to and from several major airports. The airlines’ agreement is effectively a partial merger between the world’s largest airline and a low-cost competitor, whose past expansion efforts consistently forced the Big Four airlines to lower their prices.

CIVIL LITIGATION DIVISION

CONSUMER PROTECTION & ADVOCACY SECTION

AGO Fights Google's Anticompetitive Conduct in Two Antitrust Cases – The AGO, as part of a multistate group with 37 other attorneys general, pushes closer to trial concerning Google's exercise of unlawful monopoly power over general search and advertising markets. Additionally, in a second case filed in 2021, the AGO joined a multistate group with 37 attorneys general to stop Google's chokehold grip that requires app developers to offer their apps through the Google Play Store, use Google Billing as a middleman, and pay Google a 30% commission on all app sales. Google also grew its market share by originally launching its Android operating system as an "open source" platform and then, after luring in consumers, cell phone manufacturers, and app developers into using Android, trapping them all in the Android ecosystem where they were forced to use Google's Play Store. Google's conduct in both cases deprived consumers of a competition that could lead to lower prices, greater choice, new innovations, and better privacy protections.

Cases Against Generic Drug Manufacturers Marches Closer to Trial – The AGO and other state attorneys general continued to push three price-fixing conspiracy cases involving many generic drug manufacturers closer to trial. The AGO worked with the other state attorneys general and private plaintiffs to collect evidence relevant to several related cases within a multidistrict litigation. One of the AGO's cases involving generic dermatology drugs is the designated bellwether case, which is a case within multidistrict litigation that is representative of all the cases and serves to educate the parties and the court about the strengths and weaknesses of the other related cases.

Regulatory Sandbox

Arizona's Regulatory Sandbox (the "Sandbox") was the first of its kind in the United States when established in 2018. The Sandbox provides a regulatory alternative for companies and individuals that want to test an innovative product or service before obtaining a license to do business in Arizona. It fosters technological innovation with an ever-present focus on consumer protection and provides a trial program approach to test whether Arizona could benefit from changes to its existing regulations. Participants get a regulatory safe-harbor for testing their innovations with Arizona consumers subject to customized consumer protection requirements and oversight. Since Arizona's Sandbox launched, it has become a model for other states looking to pass similar regulation, and it continues to strengthen Arizona's reputation as a business and technology friendly state.

As of June 2022, the Sandbox has had 13 participants. Most of the Sandbox participants have had successful tests, leading to a better understanding of consumer demand toward a product or service,

a strategic shift toward the company’s competitive advantage, or simply a stronger business model, product, or service. One of the participants who has already exited the program, Verdigris, moved its headquarters to Phoenix, bringing with it more than 200 high-paying jobs.

In its first five years of operation, the Sandbox was limited to innovative financial technologies, such as cryptocurrency and blockchain business. The Legislature expanded the Sandbox so that, beginning in September 2022, businesses wishing to explore any technological or other innovative product or service of any kind, not just financial innovations, can participate in the Sandbox. CIPU is preparing itself to evaluate new applicants who want to test innovations outside the fintech sector.

Data Breach

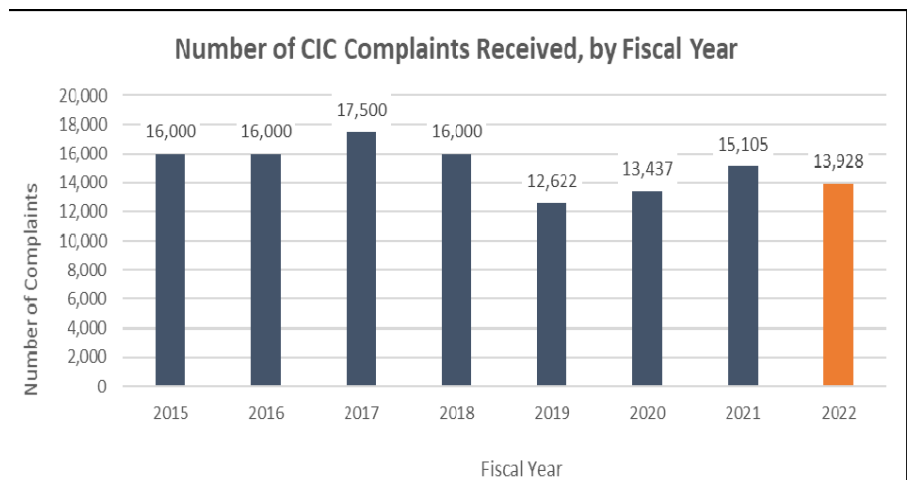
The AGO continues to monitor reports of data breaches impacting consumers across Arizona to ensure compliance with Arizona’s data breach laws whereby Arizona consumers are timely notified of data breaches so that they can take the steps necessary to protect themselves. The AGO investigates and commences legal action, if warranted, against individuals or entities that violate Arizona’s data breach laws.

\$1.25 million settlement with Carnival Cruise Line - Obtained \$1.25 million as part of a multistate settlement with Carnival concerning data breach affecting personal information of 180,000 customers and employees, which Carnival failed to report to the State and to affected persons until ten months after Carnival discovered it. The settlement also requires Carnival to implement several policy changes related to data security and data breach responses in the future.

Consumer Information & Complaints Unit

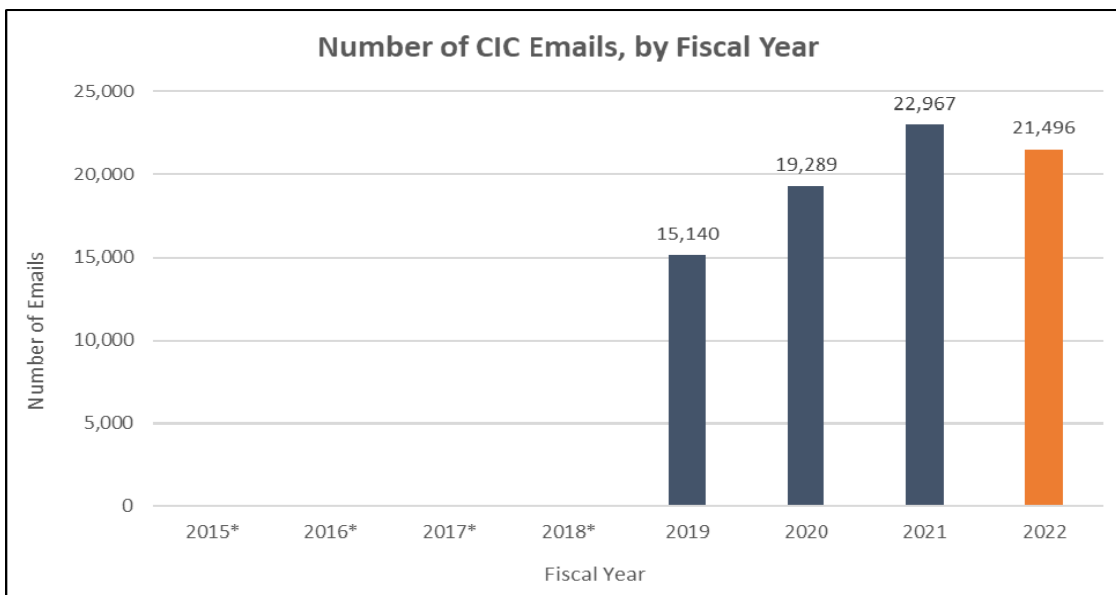
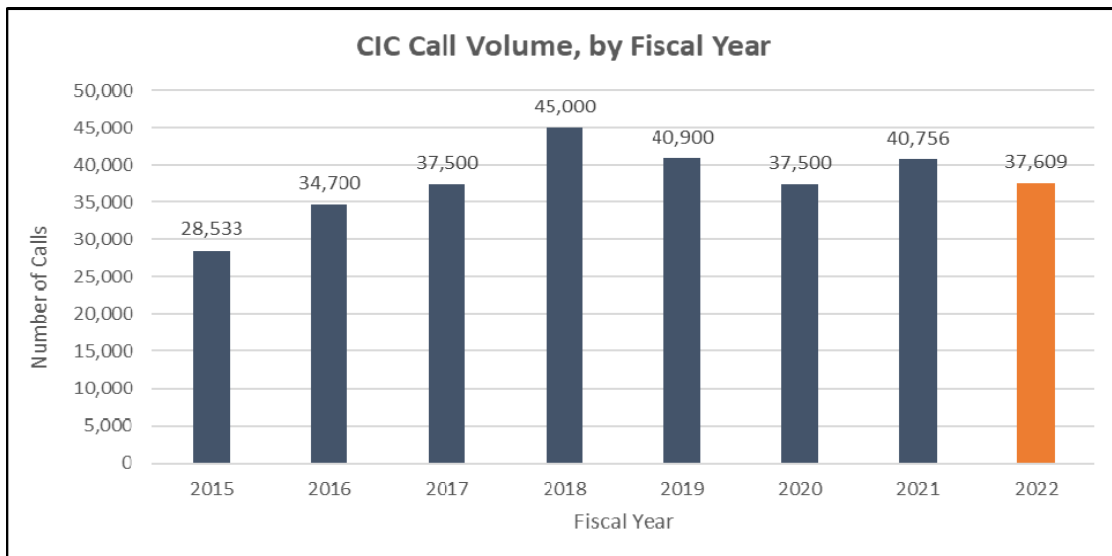
The Consumer Information & Complaints Unit (“CIC”) conciliates consumer complaints and works to obtain recovery (i.e., pre-investigation and pre-litigation recoveries) for consumers whenever possible.

CIC received nearly 14,000 complaints in fiscal year 2022. CIC staff, most of whom are bilingual in English and Spanish, answered more than 37,000 consumer phone calls throughout the year and responded to over 21,000 consumer emails. CIC recovered, in addition to investigations and lawsuits, a record \$5.4 million for Arizonans who filed complaints with the Attorney General’s Office over the past fiscal year.



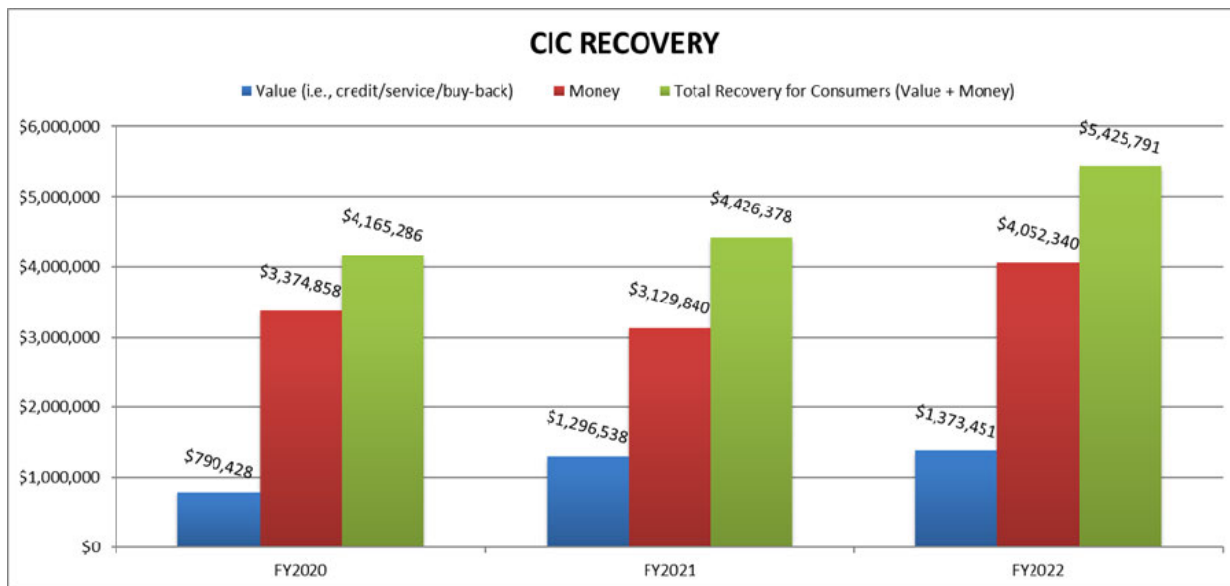
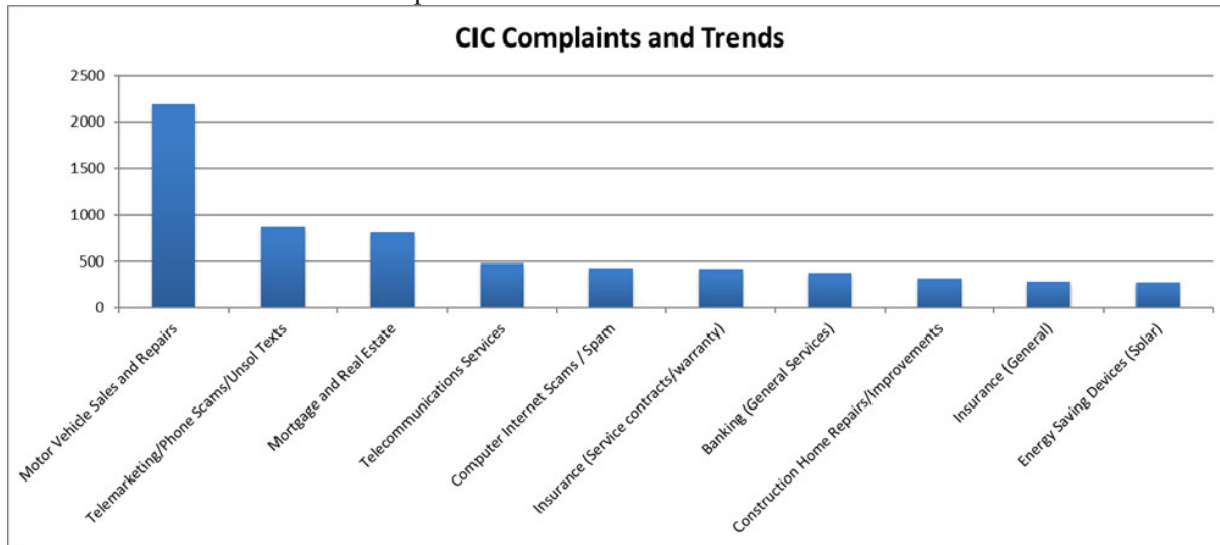
CIVIL LITIGATION DIVISION

CONSUMER PROTECTION & ADVOCACY SECTION



*CIC email data not gathered until 2019

Common FY2022 consumer complaints:



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

CONSUMER PROTECTION & ADVOCACY SECTION

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 2022, Arizona received approximately \$108.5 million in total MSA payments. Since 1998, tobacco manufacturers have paid Arizona approximately \$2.3 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.


2020 Data Clearinghouse Proceeding

Pursuant to the terms of the Tobacco Non-Participating Manufacturer (NPM) Adjustment Settlement, the Settling States and the Participating Manufacturers (PMs) must participate in an annual Data Clearinghouse (DCH) Proceeding, during which BDO USA, a national economics firm, will 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 Master Settlement Agreement payment if the non-compliance amount goes beyond the safe harbor set forth in the settlement agreement. The 2020 DCH Proceeding began in August 2021. Due to the Tobacco Enforcement Unit’s diligent efforts to enforce the Escrow Statute as to all NPM cigarettes sales in Arizona, BDO USA was able to quickly determine that Arizona has zero non-compliant cigarettes resulting in no adjustment to Arizona’s MSA Payment received April 2022.

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 an 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.

Enforcing Ban on Online Tobacco Sales

Arizona law prohibits tobacco companies from selling cigarettes, roll-your-own, or whole leaf tobacco products online, and in FY2022 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 FY2022, TEU nominated 6 websites and associated entities to the ATF non-compliant list. This nomination number is lower than in prior years because, as confirmed by TEU through continued purchase attempts, the vast majority of websites that sell the above-referenced tobacco products online no longer sell into Arizona. TEU worked closely with eBay to remove additional cigarette sale offers available to Arizona consumers, adding to the over 2,000 cigarette sale offers removed to date. eBay improved its filters used to identify offending purchase offers based on information provided by TEU. As a result, the number of cigarette sale offers appearing on eBay during FY2022 remained minimal. TEU also 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, very few websites continue to offer to sell cigarettes, roll-your-own, or whole leaf tobacco to Arizona consumers.

Counter Strike (AGO’s Youth Tobacco Program)

Counter Strike, AGO’s Youth Tobacco Program, is focused on monitoring retailer compliance with state laws prohibiting the sale of tobacco products – including electronic cigarettes - to minors. Due to the pandemic, TEU was not able to perform youth undercover inspections until the later part of FY2021. Counter Strike was able to resume regular inspections in FY2022, completing 2730 undercover inspections of tobacco retailers and issuing 716 criminal citations 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 \$1,000 per offense. Over 38,000 retail inspections have been performed since the program’s inception in 2002. Also, Counter Strike’s inspections are a critical element of demonstrating compliance with the federal Synar mandate, protecting approximately \$40 million in federal funding, which is used for important public health purposes.

After achieving record low fail rate 9.8% in FY2018, the fail rate for FY2022 increased to 14% primarily due to the sale of e-cigarettes to minors and to the gap in inspections during the COVID pandemic. 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.

CIVIL LITIGATION DIVISION

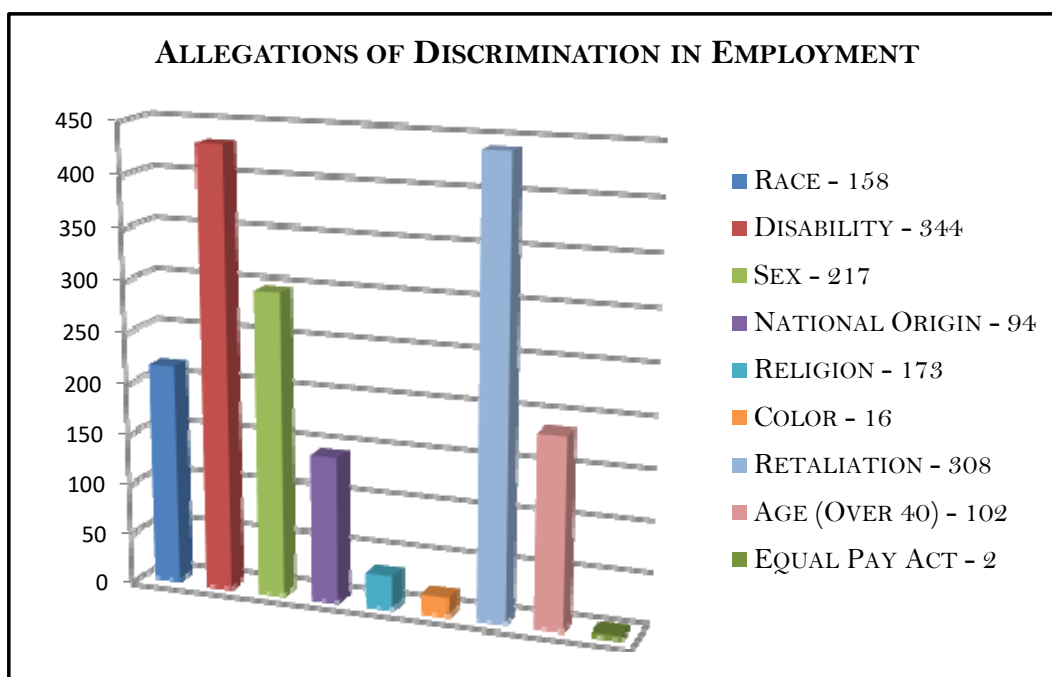
DIVISION OF CIVIL RIGHTS SECTION

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

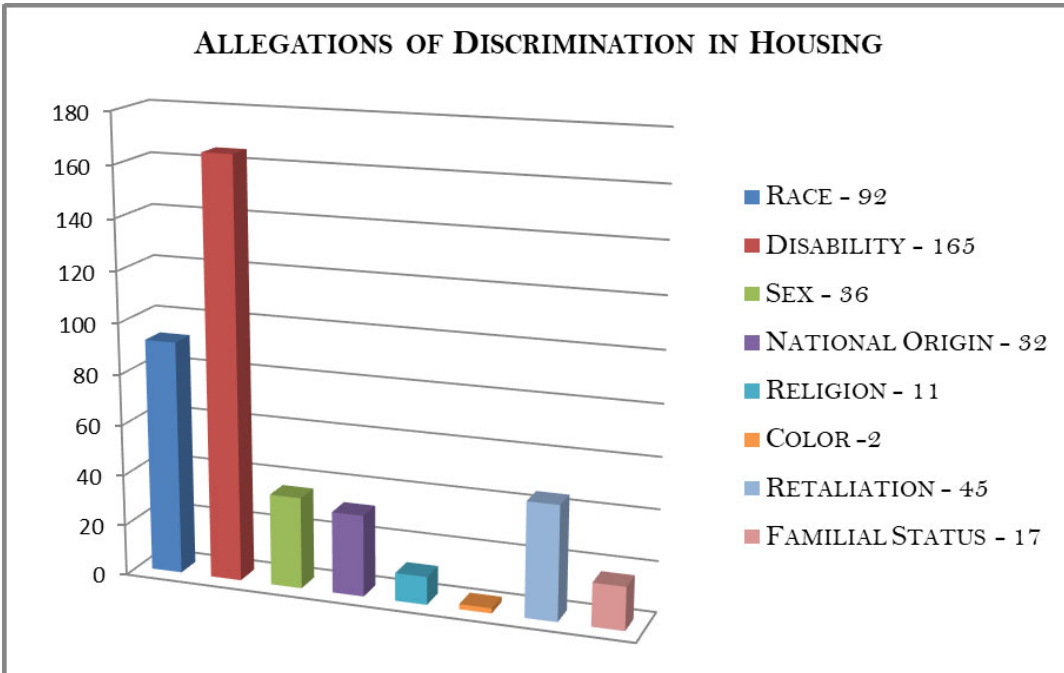
Arizonans can initiate a complaint with the DCRS online, by phone, mail, or in person. DCRS has offices in Phoenix and Tucson.

In FY2022, the DCRS investigated 2,178¹ allegations of the following types of discrimination:

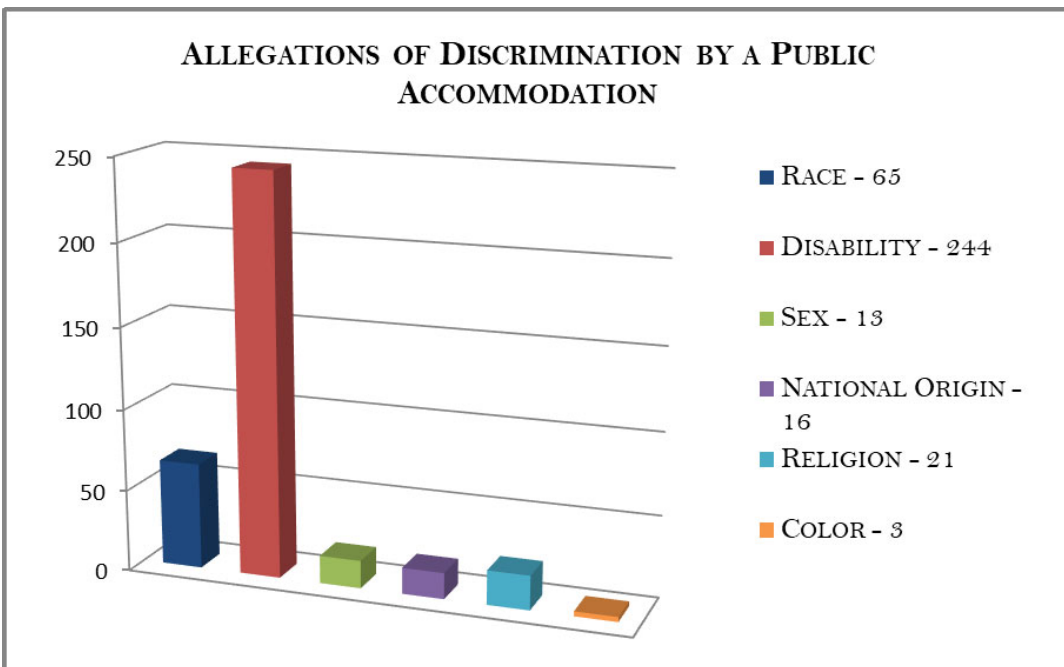


¹ The DCRS investigated a total of 1,556 cases in FY2022. A case may include multiple allegations of discrimination.

ALLEGATIONS OF DISCRIMINATION IN HOUSING



ALLEGATIONS OF DISCRIMINATION BY A PUBLIC ACCOMMODATION



Resolution of Cases Alleging Unlawful Discrimination

Where possible, the DCRS seeks to resolve disputes through various forms of conflict resolution. In FY2022, the DCRS resolved 89 cases of discrimination through mediation, conciliation, or litigation

CIVIL LITIGATION DIVISION

DIVISION OF CIVIL RIGHTS SECTION


settlements. As a result of these resolution efforts, the DCRS obtained a total of \$1,148,752.00 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 include:

State v. Brentwood Southern, LLC d/b/a Brentwood Southern Manufactured Home Community et al. – The DCRS alleged that Defendants violated the Arizona Fair Housing Act when it refused to lease land to the aggrieved party because of her disability. In this fair housing case, the DCRS alleged that Defendants discriminated against the aggrieved party who was qualified to purchase a mobile home when it refused to lease her land in the no pet zone of their mobile home park because she had an emotional support animal necessary for her disability. In its Complaint, DCRS further alleged that Defendants violated the Arizona Fair Housing Act when it refused to make a reasonable accommodation necessary to afford the aggrieved party an equal opportunity to use and enjoy housing. The State resolved the lawsuit through a Consent Decree that included monetary damages of \$35,000 to the aggrieved party, \$20,000 in civil penalties to the State, and injunctive relief to proactively prevent future civil rights violations.

State v. Solterra of Arizona, LLC d/b/a Solterra La Cholla - The DCRS alleged that Defendant violated the ACRA when it subjected its employee to different terms, conditions, and privileges of employment based on her sex, including a sex-based hostile work environment and severe and pervasive sexual harassment. DCRS further alleged in its Complaint that Defendant retaliated against its employee and subjected her to an adverse action after she notified them of the sexual harassment and hostile work environment and opposed an unlawful employment practice under the ACRA. The State resolved the lawsuit through a Consent Decree that included monetary damages to the aggrieved party and injunctive relief to proactively prevent future civil rights violations.

State v. Royo Restaurant, LLC d/b/a Sunny Side Up Café – In this employment discrimination case, the DCRS alleged that Defendant violated the ACRA when it refused to hire a male applicant for a server position and deprived the aggrieved party of employment opportunities because of his sex. In its Complaint, the DCRS alleged that Defendant violated the ACRA when it refused to hire the aggrieved party because of his sex and when it segregated and classified applicants and employees in a manner that deprived employment opportunities to men based on sex. The State resolved the lawsuit through a Consent Decree that included monetary damages to the aggrieved party and injunctive relief to proactively prevent future civil rights violations.



State v. Joshua David Mellberg, LLC d/b/a J.D.S. Mellberg Financial – The DCRS alleged that Defendant violated the ACRA when it discriminated against its employee because of her pregnancy-related disability. In its employment discrimination Complaint, the DCRS further alleged that Defendant violated the ACRA when it refused to grant the aggrieved party a reasonable accommodation necessary for her disability; subjected the aggrieved party to different terms and conditions of employment because of her disability; and retaliated against the aggrieved party when she opposed a practice made unlawful under the ACRA. This case is pending in Pima County Superior Court.

State v. CCJK Family, LLC d/b/a NOS Computers et al. – The DCRS alleged that the employer violated ACRA by subjecting its employee to sexual harassment, a sex-based hostile work environment, and different terms, conditions, and privileges of employment based on sex. In its complaint, filed in Pima County Superior Court, the DCRS alleged that the aggrieved party’s supervisor subjected the aggrieved party to frequent, and at times, daily, offensive and unwelcome physical touching and sex-based comments and conduct. The State resolved the lawsuit through a Consent Decree that included monetary damages to the aggrieved party, \$5,000 in civil penalties to the State, and injunctive relief to proactively prevent future civil rights violations.

Outreach and Education

The DCRS also participated in or sponsored thirteen education and outreach events. This participation informed the community about civil rights laws, explained the DCRS complaint and resolution process, and provided alternative dispute resolution trainings.

CIVIL LITIGATION DIVISION

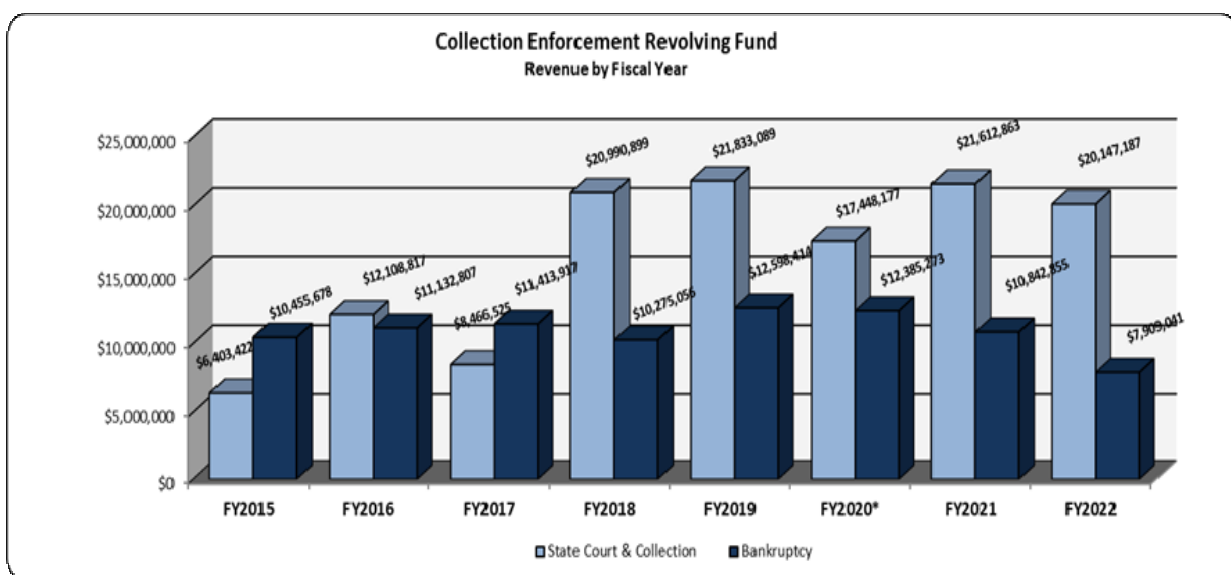
BANKRUPTCY & COLLECTION ENFORCEMENT SECTION

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.

Accomplishments

In FY2022, BCE collected more than \$28 million dollars on behalf of the state. Once again, the amounts collected was significantly higher than the gross amounts collected in prior administrations due to the policies and strategies implemented by BCE since 2015 and resulted in significant amounts paid into the General Fund.



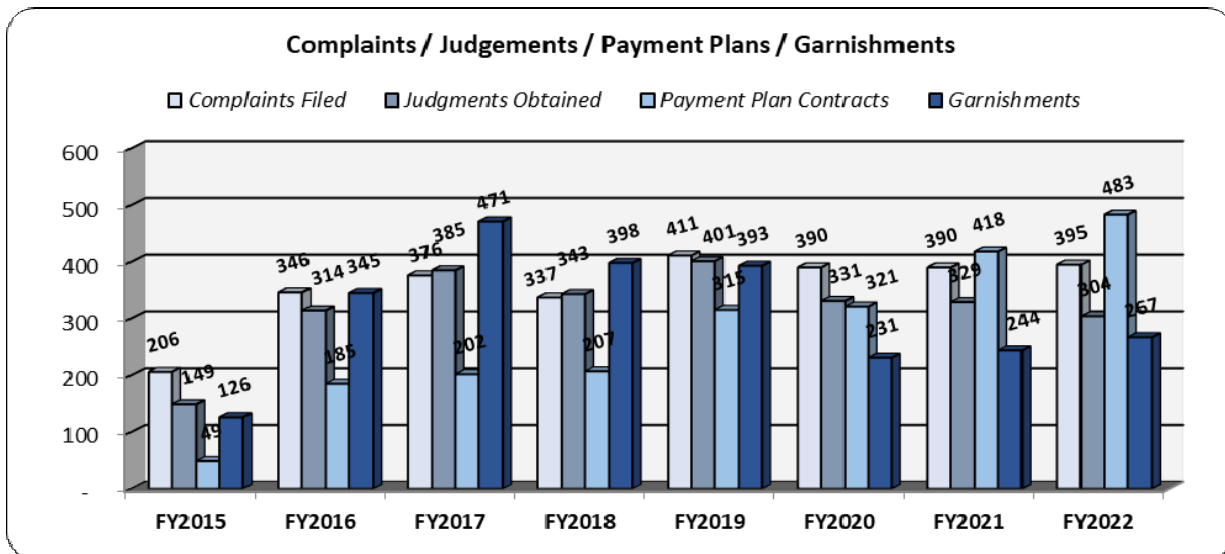
BCE exceeded its collection goals regarding the amount of Complaints filed, Judgments obtained, Payment Plan Contracts, and Garnishments. In FY2015, BCE filed 206 Complaints. In FY2016 that was

increased to 346. In FY2017, it filed 376, an 83% increase over FY2015. In FY2018 it filed 337 and in FY2019, it filed 411, a record number of Complaints, almost doubling its output in FY2015. The trend continued in FY2020, seeing BCE file 390 Complaints. In FY2021 BCE matched FY2020 by filing 390 Complaints. In FY2022, BCE exceeded that amount by filing 395 Complaints, a 92% increase over the amount filed in 2015.

In FY2015, BCE obtained 149 judgments. In FY2016 that was increased to 314. In FY2017, it obtained 385, a 158% increase over FY2015. In FY2018 it obtained 343 judgments and in FY2019, it obtained a record 401 judgments, a 169% increase over its output in FY2015. In FY2020, BCE obtained 331 judgments. In FY2021, BCE filed an almost identical amount of 327. In FY2022 the consistent trend continued with 304 judgments obtained.

In FY2015, BCE entered into 49 payment agreements. In FY2016, that number increased to 185 and 202 in FY2017, a 312% increase over FY2015. In FY2018 it entered into 207 payment agreements and in FY2019, it entered into a record 315, a 543% increase from FY2015. In FY2020, BCE entered into a record 321 payment agreements. In FY2021, BCE entered into a record amount of 418 payment agreements, almost 10 times the amount of agreements obtained in FY2015. In FY2022 BCE beat its previous record of 418 with 483 payment agreement contracts entered into. The substantial increase in payment agreements since 2015 provides steady and foreseeable collection revenue for the state.

The same trend was seen in garnishments. In FY2015, BCE filed 126 garnishments. In FY2016, BCE increased that to 345 garnishments and 471 in FY2017, a 274% increase over FY2015. In FY2018 it filed 398 garnishments and in FY2019 it filed 393, a 212% increase over FY2015. In FY2020 BCE filed 231 garnishments. In FY2021, BCE filed 244 garnishments. In FY2022, BCE's consistent collection activity continued with 267 garnishments filed.



The policies and strategies implemented since 2015 have created a methodology for collecting significant amounts of revenue for the state and continued application of these strategies will ensure that those amounts are reliable and foreseeable.

CHILD & FAMILY PROTECTION DIVISION



*Division Chief Virginia
Herrera-Gonzales*

MISSION:

To provide the Arizona Department of Economic Security (DES) and the Department of Child Safety (DCS or the Department) with high quality representation and 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 located statewide. CFPD is divided into three sections: Protective Services Section (PSS), Child Support Services Section (CSS), and Civil and Criminal Litigation and Advice Section (CLA). The Division also has an Appeals Unit that represents DES and DCS in the Arizona Court of Appeals, the Arizona Supreme Court, and the Federal Courts.

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 full time equivalent positions, 154 attorneys and 122 legal staff. PSS attorneys and staff are located statewide and provide legal representation to DCS throughout Arizona's 15 counties.

Trial Practice

Because threats to child safety are not limited to regular business hours, PSS Unit Chiefs provide twenty-four hour legal advice and support for DCS through an on-call schedule. They field calls about issues such as missing children, urgent situations involving law enforcement, emergency motions and attend weekend court appearances as needed.

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 manage over 8,200 dependency cases annually. Cases are initiated when children who are abused or neglected are placed in the legal custody of DCS and court oversight is warranted. The Department provides families with protective and remedial social services in order to achieve reunification. If reunification is not achieved within statutory time frames, a case may move toward permanent guardianship or severance and adoption. For each dependency case, PSS attorneys initiate the court case by filing a dependency petition. After the petition is filed, attorneys represent DCS in two to four statutorily required review hearings per year in addition to multiple contested evidentiary hearings and trials if a party contests the dependency, guardianship, severance, or placement of a youth in the case. A significant part of attorney case management also involves advising the DCS Specialists on statutes and laws governing dependency cases and discussing the trajectory of each case. On average, each PSS attorney is assigned between 70-90 cases when the Section is fully staffed.

During FY2022, juvenile courts began returning to in-person hearings and trials. Many rural counties set both uncontested and contested matters in person, while Maricopa and Pima counties maintained virtual appearances for uncontested matters but began setting more evidentiary hearings and trials in-person.

Recruitment and Hiring

PSS began a paid law clerk program, and extended conditional offers to eight third-year law students and law school graduates to participate in the PSS training program pending bar results and licensure. Upon admission to the State Bar, law clerks are transferred to a vacant assistant attorney general position. This program enables PSS to plan for future vacancies and provide in-depth training to newly licensed attorneys prior to assigning them cases. Approximately 25 Assistant Attorneys General from various Divisions within the Office provided assistance to PSS in handling hearings and/or trials. This also served to provide additional litigation experience to these volunteer attorneys.

Policy & Training

PSS attorneys advise DCS on a wide spectrum of legal issues arising from federal, state, and agency statutes, rules, regulations, policies, procedures, and court decisions.

Within the dependency practice, three significant changes occurred in FY2022, including introduction of new reunification services offered to families; a new type of placement for youth under federal law; and revised and restyled Rules of Procedure for the Juvenile Court. Each of the changes required training, creating and revising PSS motions and orders and coordinating new practices and procedures with DCS.

CHILD & FAMILY PROTECTION DIVISION

PROTECTIVE SERVICES SECTION

- In July 2021, DCS incorporated a new method for providing reunification services to families, referred to as the “new service array”. PSS received training from DCS on the new service array and PSS leadership partnered with the judiciary, legal community, and clients in a statewide training on the new service array. PSS updated forms and motions to reflect the new services.
- In October 2021, a new type of placement under federal law took effect in Arizona. In order to implement the Qualified Residential Treatment Placement “QRTP”, PSS created two new pleadings (a notice as soon as the youth is placed and then a motion and order approving placement), prepared for additional hearings, trained attorneys and staff on the new placement and new juvenile rule in collaboration with the Department. In FY2022 173 notices and 168 motions were filed relating to QRTP.
- Effective July 1, 2022, the Arizona Supreme Court Juvenile Rules Task Force’s revised and restyled Rules of Procedure for Juvenile Court took effect. The Juvenile Rules were renumbered, new rules added and some existing rules revised. Prior to July 1, PSS analyzed each rule, and conducted training on the new rules, and reviewed and revised approximately 200 motions and orders.

PSS provides intensive training to incoming attorneys including a three-week long training and a weeklong follow-up training after completion of the initial training. For all attorneys, PSS provides ongoing training in the form of monthly brown bags. In FY2022 PSS also provided a three-day intensive training to volunteer assistant attorneys general to prepare them to assist PSS in hearings and trials. PSS coordinated with CSS and CLA to organize the third Division-wide continuing education conference in June 2022. The majority of the conference was held virtually and included over 300 attorneys and staff with presentations by DCS, guest speakers and CFPD attorneys. Awards were presented to Outstanding Advocates and Team Players for each unit in recognition of their contributions to the Division.

PSS also provides training to incoming DCS specialists and ongoing training to DCS supervisors. The training encompasses dependency laws, court appearances and testifying in contested matters. New DCS specialist training occurs monthly; with approximately 30 hours of training by PSS each month. Advanced academy training is provided to experienced DCS specialists and supervisor training with eight hours of training by PSS every 2-3 months.

PSS continues to attend statutory mandated meetings on behalf of DCS and participates in monthly meetings with members of the judiciary, stakeholders, community partners and Tribal representatives on procedures and practices in juvenile court, such as the Arizona Supreme Court Dependency Children’s Services Court Improvement Program and the Arizona State, Tribal and Federal Court Forum.

PSS Appellate Matters

PSS appeals arise from matters litigated in juvenile court (dependency, guardianship, and termination matters). In FY2022, the Appeals Unit filed 168 briefs on behalf of PSS, in addition to 21 substantive motions or responses to motions. The Arizona Court of Appeals issued seven opinions, and the Arizona Supreme Court issued two opinions. In addition, the court of appeals issued 179 memorandum decisions. The appeals unit participated in six oral arguments.

The appellate unit reviewed and submitted comments on the new juvenile rules prior to the adoption of the rules and provided analysis and training after adoption. The appellate unit assisted the PSS trial teams by giving in-house CLE presentations; providing research and consultation on cases; and revising and writing motions and responses. In FY2022, it provided substantial assistance to the trial units on at least 33 cases.

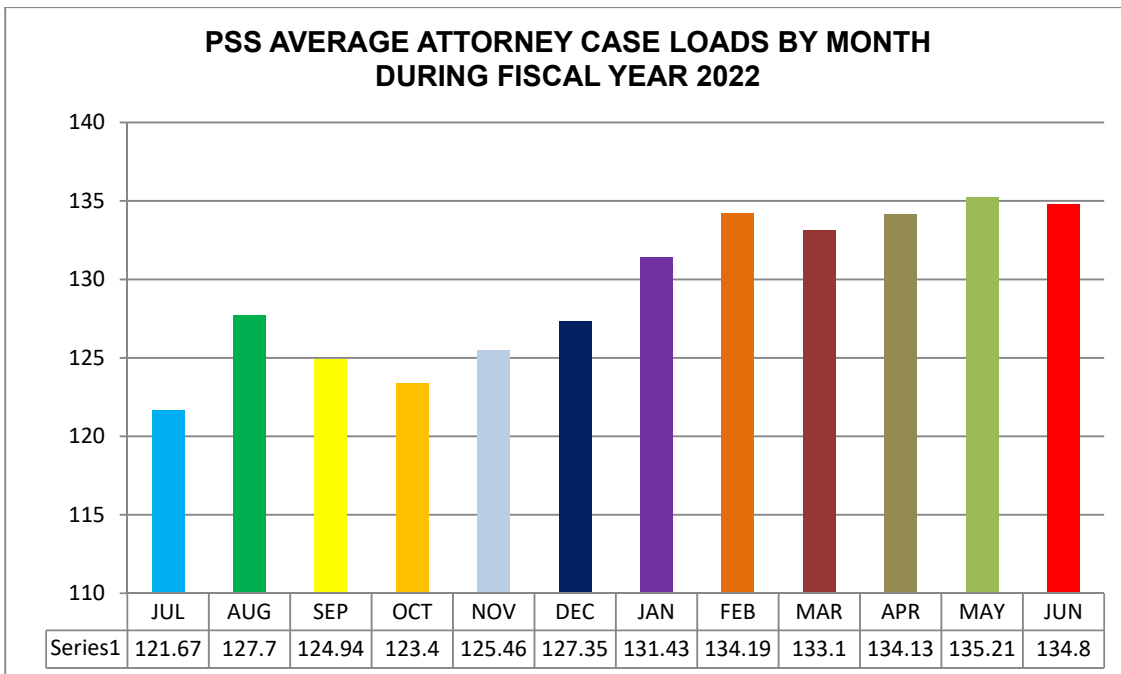
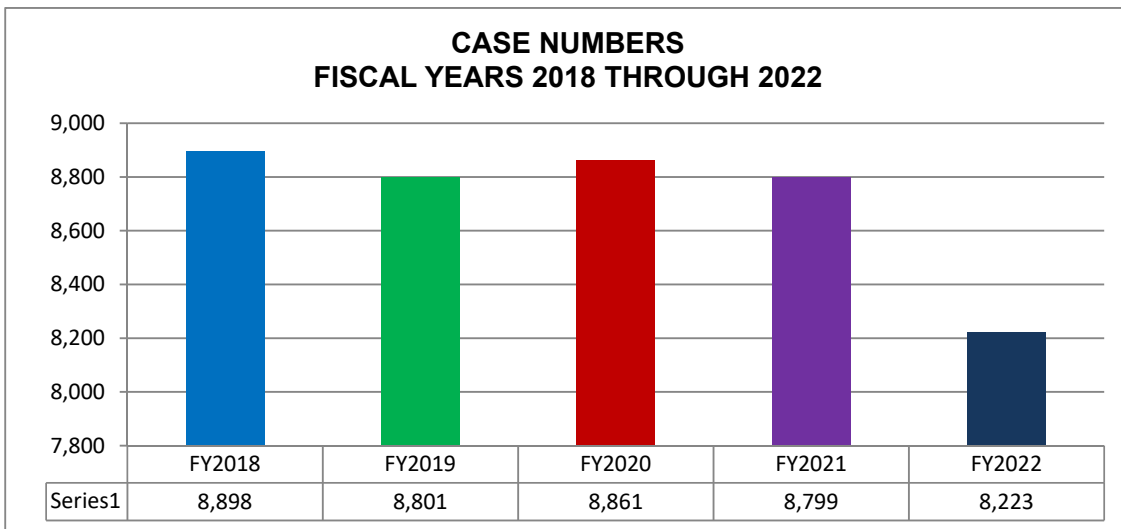
PSS FY2022 Accomplishments:

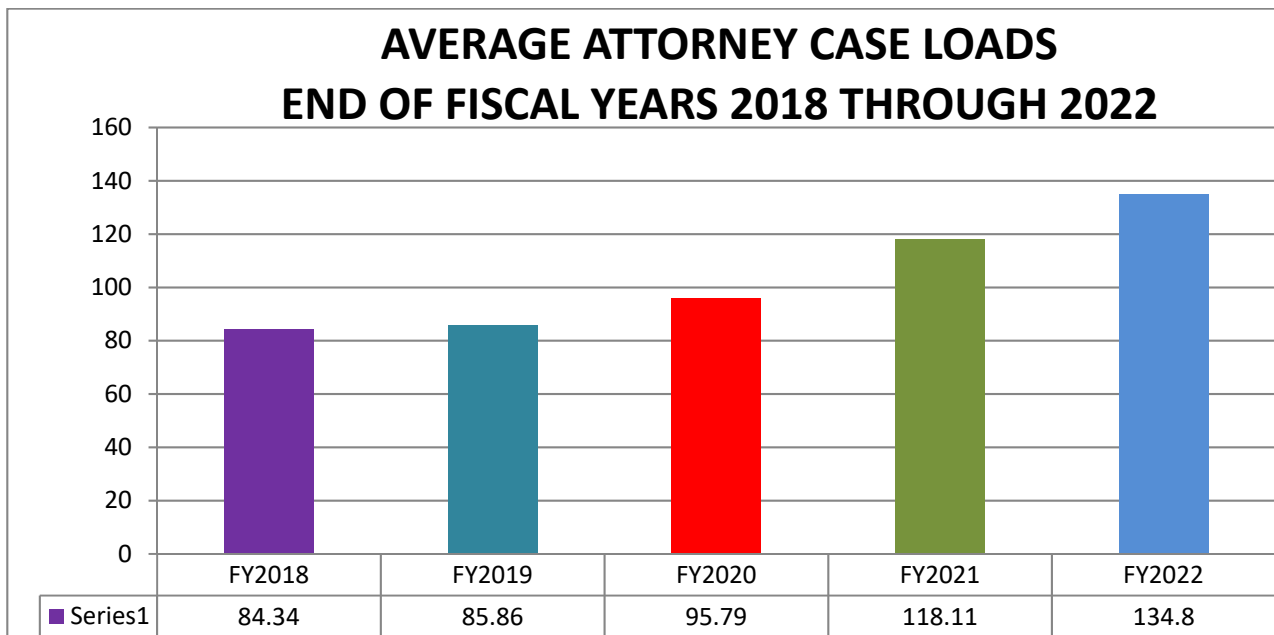
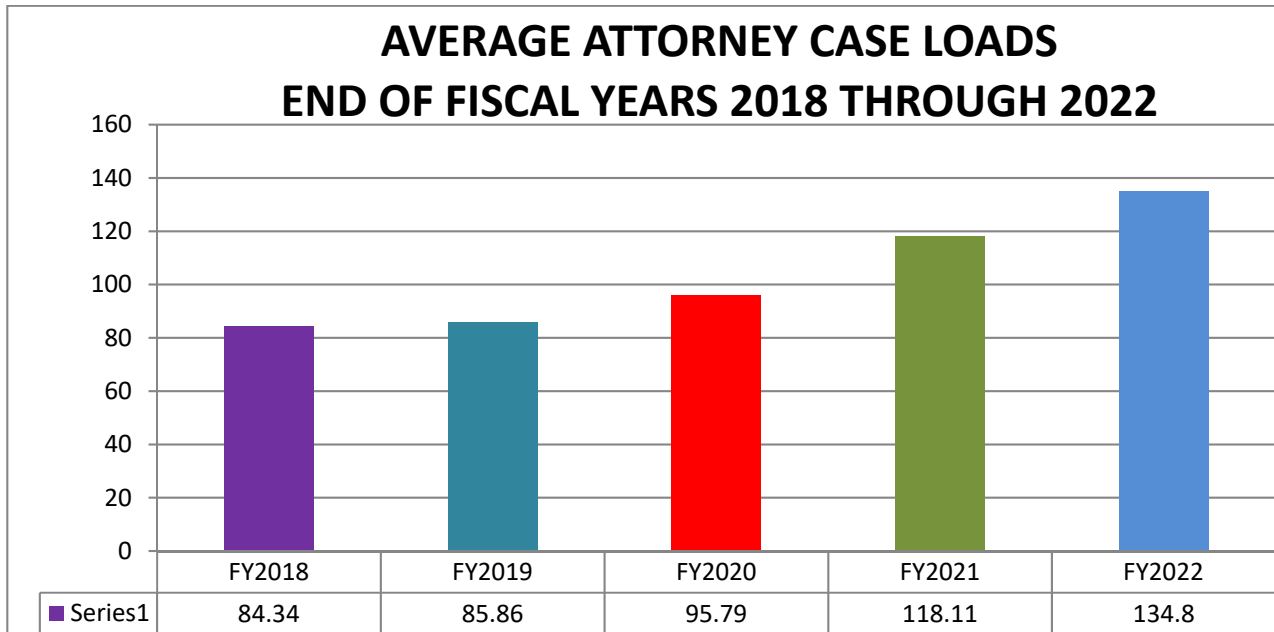
- PSS attorneys prepared for and/or attended 68,143 court hearings on behalf of DCS statewide.
- PSS attorneys prepared for and represented DCS in trials a total of 6,455 days.
- PSS's training attorney trained 25 new attorneys, 25 volunteer attorneys and nine outside counsel attorneys.
- PSS's training attorney trained 692 new DCS specialists statewide and 79 new DCS supervisors statewide. PSS also trained 84 DCS Specialists in conjunction with DCS's Advanced Academy.
- PSS's Training attorney trained assistant attorneys general nationwide through the National Attorneys General Training and Research Institute (NAGTRI).
- A PSS Appellate attorney provided statewide training through the Administrative Office of the Courts (AOC) on topics such as the Indian Child Welfare Act (ICWA), Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA) and Interstate Compact on the Placement of Children (ICPC).
- PSS attorneys participated in panel discussions on DCS's New Service Array and Qualified Residential Treatment Programs (QRTP).
- PSS represented and assisted DCS in protecting 14,095 children in care from abuse and neglect.
- PSS filed 4,162 new dependency petitions.
- PSS filed 1,348 severance motions and petitions.²
- PSS filed 392 guardianship motions on behalf of DCS.
- PSS filed 168 appellate briefs.
- PSS represented DCS in reuniting 2,717 children with their parents.
- PSS represented DCS in placing 593 children with permanent guardians.
- Two PSS attorneys appear in 62 cases assigned to a specialized juvenile court (STRENGTH Court)

² 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

PROTECTIVE SERVICES SECTION



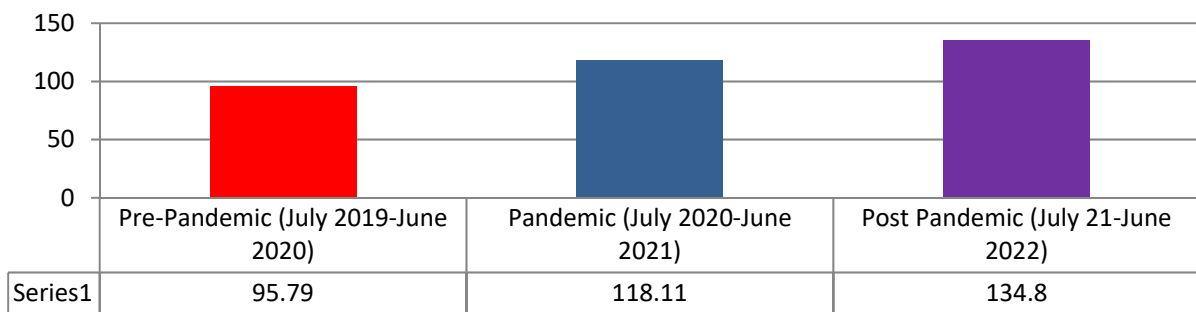


Despite a decrease in cases overall, the number of current PSS attorneys decreased, resulting in an increase in the number of cases per attorney.

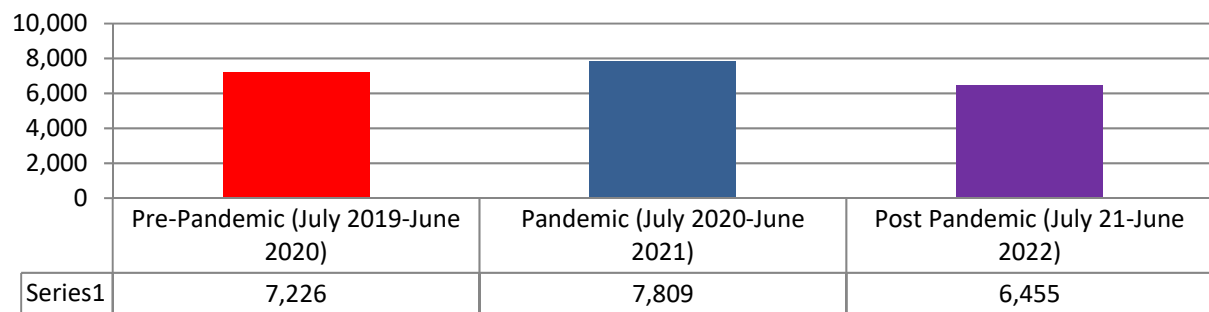
CHILD & FAMILY PROTECTION DIVISION

PROTECTIVE SERVICES SECTION

PRE, DURING AND POST PANDEMIC



NUMBER OF TRIALS PRE, DURING AND POST PANDEMIC



CHILD & FAMILY PROTECTION DIVISION CHILD SUPPORT SERVICES SECTION

Child Support Services Section

The Child Support Services Section (CSS) seeks to ensure that children receive financial support from both parents. CSS provides legal advice and representation to DES's Division of Child Support Services (DCSS). CSS consists of 117 full time equivalent positions, 37 attorneys and 80 legal staff. 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 DCSS, in 10 of its 11 statewide offices in the following counties:³ Cochise, Coconino, Maricopa, Mohave, Pima, Pinal, Yavapai, and Yuma. CSS also handles the litigation in six additional counties; namely, Apache, Gila, Graham, Greenlee, La Paz, Navajo, and Santa Cruz.

Litigation Practice:

CSS attorneys engage in fast-paced litigation in the Family Court Division of the Arizona Superior Court. Approximately 45% of Arizona's children are born to unwed parents.⁴ For that reason, 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. In this Voluntary Acknowledgement process, parents are able to establish legal paternity by signing a form called an "Acknowledgement of Paternity."⁵ They can sign this form at the hospital following the birth of their child, or they can visit a DCSS location to execute the form at a later date before the child's 18th birthday. Once the parents sign this form, it is logged by DCSS's Hospital Paternity Program, and the form is then transmitted to Arizona's Bureau of Vital Records, which creates the birth certificate. An Arizona birth certificate has the same force and effect as a court order for paternity.⁶

3 Maricopa County has four CSS office locations.

4 Centers for Disease Control and Prevention, <https://www.cdc.gov/nchs/pressroom/sosmap/unmarried/unmarried.htm>, last accessed July 19, 2022.

5 Ariz. Rev. Stat. § 25-812

6 Ariz. Rev. Stat. § 25-812.

CHILD & FAMILY PROTECTION DIVISION

CHILD SUPPORT SERVICES SECTION

Arizona child support law is designed to ensure that the child support order is the appropriate amount for the parents and the child; specifically, Arizona’s child support guidelines use a “shared income” model. This model calculates the child support order based on the combined total of the parents’ respective incomes. It also considers both the standard of living the child would enjoy, were the parents living in the same household, and the paying parent’s need to pay their own reasonable living expenses.

Because parents’ financial circumstances and the child’s financial needs change throughout the potentially 18-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. If appropriate, CSS prepares the petition, files it, serves it, and appears in court to pursue the modification. In FY2022, modifications constituted 22.2% of CSS’s caseload, which is about 1% higher than last year. The number of modifications in CSS’s caseload slightly increased this year, based on the requests for modification review that DCSS received and referred to CSS.

In all, CSS attorneys evaluated 12,858 DCSS cases to assess the legal requirements to file a Petition to Establish Child Support, or another appropriate action, such as a Petition for Modification of Child Support, or a Petition to Enforce Child Support. CSS attorneys appeared at 10,009 evidentiary hearings.⁷ The majority of courts have continued holding presumptively virtual or telephonic hearings, but the courts in Santa Cruz, Cochise, Yavapai, La Paz, and Pima Counties are holding presumptively in-person hearings.

CSS responded to approximately 18,050 requests for legal advice.⁸ In FY2022, the CSS litigation caseload consisted of 4,382 cases per month on average, a slight decrease this year in light of the fact that numerous DCSS personnel remain dedicated to special projects, such as the project to modernize their ATLAS case database, which will allow DCSS to efficiently serve Arizona families.

⁷ At least 16% of referrals from DCSS in FY2022 did not require an evidentiary hearing, which contributed to fewer evidentiary hearings. (See “Child Support Services Caseload Composition” pie chart.)

⁸ This number includes DCSS requests for an evaluation of whether a paying parent’s ability to pay child support meets the standard to file a judicial contempt action. This category of requests for legal advice has not previously been included in the Annual Report.

Policy and Training

CSS attorneys advise DCSS on various legal issues arising from federal and state statutes, regulations, policies, and court decisions, including the confidentiality of child support information and Arizona's updated child support guidelines. As such, CSS trains its newly hired and experienced attorneys utilizing these legal authorities. CSS, along with the other CFPD sections, attended a joint CFPD conference on related practice areas and tools, including the rules of evidence, trial advocacy, applicable rules of procedure, appellate and statutory law updates, ethics and professionalism, and effective communication with clients, colleagues and the public.

During the pandemic, CSS quickly adapted to the use of virtual tools, including web-based communication platforms to continue CSS's work, training, and maintaining effective communication among statewide offices. These tools have continued to improve CSS's practice even as in-person meetings resume. Attorneys and staff in offices across the state are able to meet and work together regularly using a video platform to communicate as efficiently as possible.

CSS Appellate Matters

The CFPD Appeals Unit handles CSS appeals, with additional support provided by CSS attorneys. In FY2022, the Appeals Unit did not initiate any appeals on DCSS's behalf; rather, the appellate lawyers monitored and responded to appeals that parents brought. The parent's appeals involved issues including the validity of paternity orders, the lower court's denial of a petition to modify child support, the amount of child support order, and DCSS's administrative garnishment of funds. The appellate lawyers filed four answering briefs;⁹ two responses to petitions for review;¹⁰ and two responses to special actions.¹¹ The Appeals Unit evaluated and monitored another twenty-one parent-led appeals, five of which remain pending.¹²

- Judicially established paternity for 520 children.
- Established new child support orders for 1,998 families.
- Obtained child support judgments of over \$25 million.
- Resolved 1,885 actions for modification of support.
- Assisted DCSS in collecting over \$329,115,005 in support.¹³
- Contributed to 58.67% current support collection for every child support dollar owed.
- In bankruptcy cases, collected \$466,047.57 in support.
- In non-family court litigation and administrative enforcement mechanisms, collected \$2,012,436.93 in support.¹⁴

9 The Court of Appeals affirmed the lower court's order in two appeals, and the other two appeals remain pending.

10 The Arizona Supreme Court denied review on one Petition for Review, and the second Petition for Review remains pending.

11 The Court of Appeals declined jurisdiction in both special actions.

12 The Appeals Unit monitors an appeal to which DCSS is a party but does not need to participate, such as an appeal of a legal decision-making and parenting time order (formerly "custody and visitation").

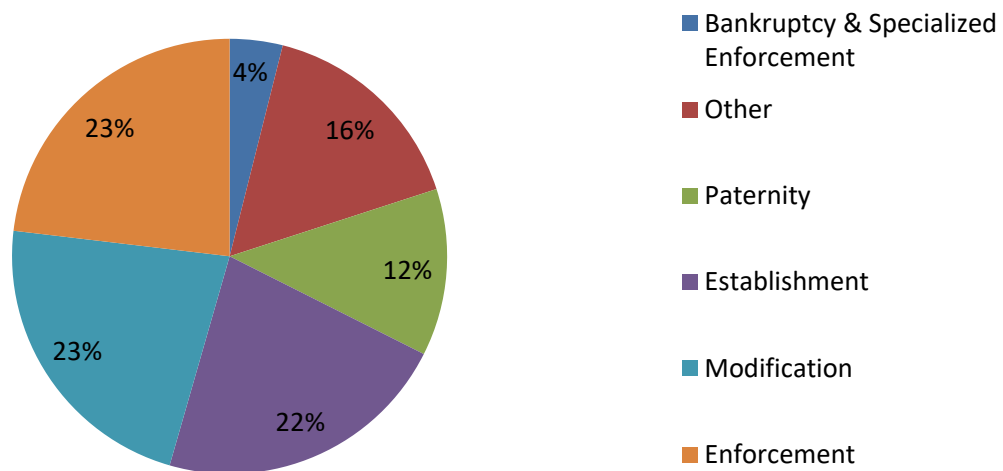
13 This number is the total amount of child support that DCSS collected. CSS contributed to this collection amount through judicial enforcement proceedings.

14 Non-Family Court litigation consists of liens, insurance claim seizures, probate, and settlements. CSS receives notification of these potential collections from the client's automated system, from attorneys, and from self-represented parties.

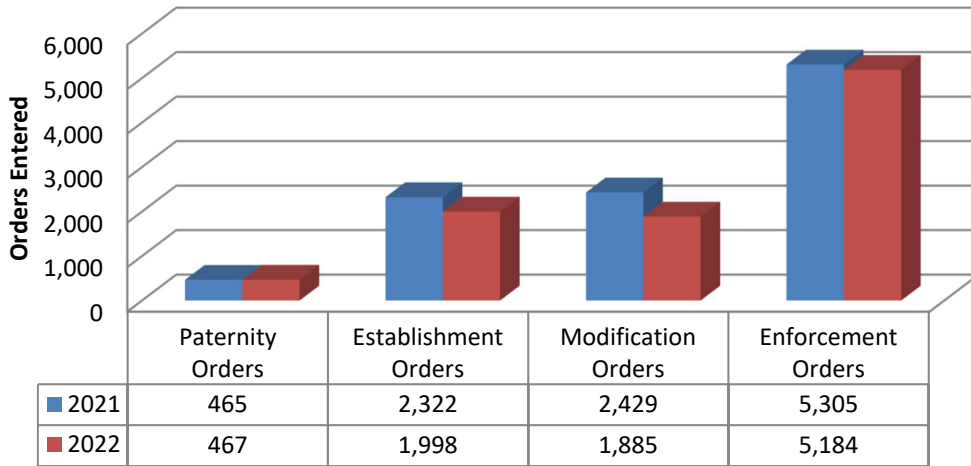
CHILD & FAMILY PROTECTION DIVISION

CHILD SUPPORT SERVICES SECTION

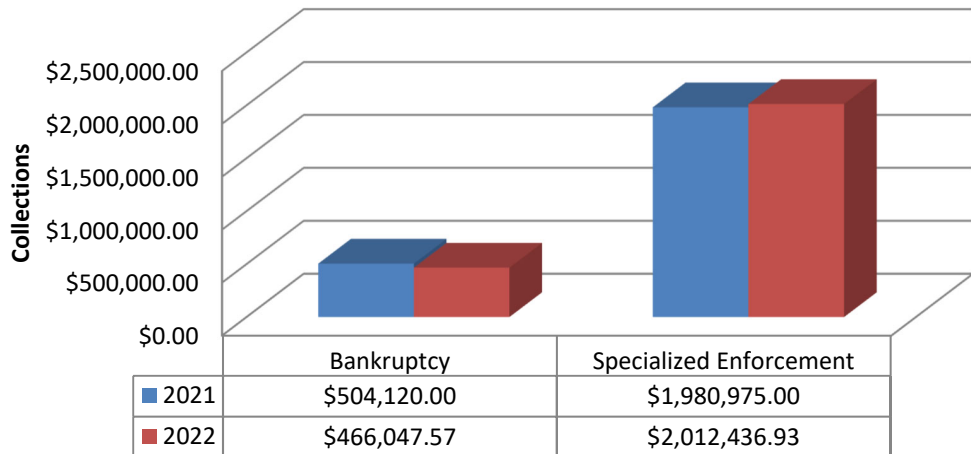
Child Support Services Section Caseload Composition



Child Support Services Section Litigation Results



Child Support Services Section Specialized Enforcement Collections



CHILD & FAMILY PROTECTION DIVISION

CIVIL & CRIMINAL LITIGATION & ADVICE

Civil & Criminal Litigation and Advice (CLA)

CLA attorneys represent DES and DCS on a wide and diverse range of legal matters critical to the numerous social services programs administered by its client agencies. CLA has 45 full time equivalent positions, 24 attorneys and 21 legal staff. CLA attorneys provide complex, time-sensitive legal advice, often on issues of first impression, with respect to changes in the law impacting public benefits and compliance with federal and state statutes and rules. In addition, CLA attorneys provide legal advice in matters regarding business operations, including contracts and procurement, public records law, 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.

A representative list of the DES and DCS programs represented by CLA includes: Adult Protective Services, Unemployment Insurance Benefits, Vocational Rehabilitation, Child Care Administration, Benefits and Medical Eligibility, SNAP, Cash Assistance, Foster Care Licensing, Protective Services Review Team/Central Registry, Developmental Disabilities, Adoption and Guardianship Subsidies and the medical and dental program for dependent children, among numerous others.

CLA provides legal representation in administrative hearings before the Office of Administrative Hearings and the DES Office of Appeals. The attorneys also represent the agencies in the Superior Court in judicial review actions, special actions, and injunctive proceedings. CLA opened 845 new cases in FY 2022, on top of its existing caseload, and closed 800 administrative, civil, and appellate cases.

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 the divisions/programs within DES and DCS. In FY2022, the Appeals Unit filed nine appellate briefs, including one in the Arizona Supreme Court, and eight substantive motions and responses in the Arizona appellate courts. Two oral arguments were held in the court of appeals.

CLA Civil Practice Team FY 2022 Accomplishments

- Opened, litigated and/or reviewed 845 administrative litigation and civil cases
- Opened and reviewed 112 contracts, leases, intergovernmental agreements and/or amendments

- Filed 191 civil collections cases
- Obtained 171 civil judgments in civil collections cases totaling \$507,917.38, collected \$314,268.44 through wage and bank garnishments, and secured an additional \$32,544.41 in civil judgment collections without the need for reducing multiple matters to a judgment. In light of the pandemic, collections and garnishments were lower in FY2022 due to a decrease in case referrals.
- Opened 105 “matter” files for tracking significant legal advice provided to DES
- Responded to 993 subpoena and requests for public records

Administrative, Civil and Appellate Litigation Resolved (Cases Closed)

FY 2022

Program	Cases Closed
Adoption Subsidy	3
Adult Protective Services Review Team	192
Comprehensive Medical and Dental Program	1
Department of Child Safety (DCS)	11
Department of Economic Security (DES)	1
Division of Developmental Disability: Grievances	20
Division of Developmental Disability: Long Term Care	8
Division of Developmental Disabilities	30
Equal Employment Opportunity Commission (Matters)	13
Food Stamp Administration	2
Food Stamp Plus Another	1
Foster Care Licensing	8
Licensing/Agency	4
Medical Assistance Under DBME	1
Personnel Department of Child Safety	2
Personnel Division Of Benefits & Medical Eligibility	2
Protective Services Review Team	188
Rehabilitation Services Administration (RSA)	3
SNAP	3
Unemployment Insurance Benefits	276
Unemployment Insurance Contributions	20
Vocational Rehabilitation and Blind Services	11
Grand Total	800

CHILD & FAMILY PROTECTION DIVISION

CIVIL & CRIMINAL LITIGATION & ADVICE

Civil Collections by Program			
Program	Filed	Judgments Entered	Total Judgments
Child Care	0	0	0
Child Care Administration	0	0	0
Combination Cases	0	1	537.80
Food Stamp	3	1	15,571.12
Fraud	0	0	0
Unemployment Insurance Benefits	188	169	491,808.46
Grand Total	191	171	\$ 507,917.38

Civil Collections by Program		
Program	Collections Rec'd Judgment not Filed	Collections without Reducing Matter to Judgment
Combination Case	2	5,781.00
Fraud	0	0
Unemployment Insurance Benefits	11	26,763.41
Grand Total	13	\$ 32,544.41

Garnishment Collection Summary	
1 st Quarter 2022	105,9083.11
2 nd Quarter 2022	65,265.88
3 rd Quarter 2022	54,747.47
4 th Quarter 2022	88,346.98
Grand Total	\$ 314,268.44

CLA Criminal Practice Team FY 2022 Accomplishments

- Filed 306 criminal cases
- Obtained 189 criminal sentences
- Obtained restitution orders totaling \$515,260.72
- Collected \$755,370.28 in restitution prior to sentencing
- Obtained orders in fines totaling \$20,400.00
- Obtained orders for 1,320 hours of community service

Criminal Cases						
Program	Cases Filed	Cases Sentenced	Restitution Ordered	Restitution Paid prior to Sentencing	Fines Collected	Community Service Hours
Food Stamp	45	31	\$140,891.00	\$68,223.00	\$800.00	400
Unemployment Insurance Benefits	261	158	\$374,369.72	\$687,147.28	\$19,600.00	920
Grand Total	306	189	\$515,260.72	\$755,370.28	\$20,400.00	1,320

CFPD Appeals Unit

The Appeals Unit handles appellate litigation on behalf of the Division’s two agency clients. The Appellate Unit consists of 18 full time equivalent positions, 15 attorneys and three legal staff. Appellate attorneys regularly practice in the Arizona Court of Appeals and the Arizona Supreme Court to defend or challenge rulings made by the superior court or administrative bodies; they file and respond to appeals, special actions, or petitions for review, present oral argument when it is ordered, and support the Division’s three sections with research, consultation, or training presentations. The Appeals Unit’s work arises from all three sections of the Division, and prevails in an overwhelming majority of all resolved appeals.

In addition, Appellate attorneys participate in committees both inside and outside of the Attorney General’s Office. Examples include participation on the AGO Ethics committee; membership or participation on the Administrative Office of the Court’s (AOC) State, Tribal, and Federal Court Forum’s ICWA committee; editing updates to the Conference of Western Attorneys General’s Indian Law Desk Book; and contributing to updates of the Arizona Appellate Handbook published by the Arizona State Bar and the new Rules of Procedure for the Juvenile Court.

CRIMINAL DIVISION



Division Chief John Johnson

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 & Criminal Enterprise Section (SAWCCE) and Special Investigations Section (SIS). The Criminal Division (CRM) serves the citizens of Arizona by investigating and prosecuting crimes that fall within the jurisdiction of the Arizona Attorney General's Office (AGO) either by statute or regulatory mandate. CRM also provides a variety of services to the victims of these crimes. Funding for CRM comes from the general fund as well as a number of federal and state grant sources.

Criminal Division Prosecutor Wins HIDTA Honors

Southern Arizona White Collar & Criminal Enterprise Section (SAWCCE) Assistant Attorney General Nanette Morrow was named the High Intensity Drug Trafficking Area (HIDTA) Outstanding Prosecutor. This award recognized Nanette's support of the Task Force's initiatives aimed at curbing methamphetamine and heroin distribution in the Tucson metropolitan area. Morrow assisted Counter Narcotics Alliance (CNA) investigators with a multi-year investigation that sought to dismantle a significant drug trafficking organization (DTO) operating in the Tucson metropolitan area. The DTO was responsible for trafficking thousands of pounds of cocaine throughout the United States in exchange for millions of dollars in illegal proceeds. Additionally, the DTO has ties to multiple investigations into known drug

dealers in the Tucson area and beyond; thereby establishing itself as a significant organization whose power and influence extends well beyond that of a typical domestic DTO. To date, this investigation has netted numerous indictments of high-level drug traffickers and millions of dollars in forfeitable drug proceeds. Throughout the course of the investigation, Morrow made herself available to investigators around the clock and offered both guidance and perspective as the case became more complex. With her assistance, the investigation rapidly evolved into what is currently a multi-jurisdictional prosecution that includes co-conspirators who have been indicted in multiple states across the country.



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

Administrative Professional Lifetime Achievement: Legal Administrator Lisa Rodriguez has had a distinguished 30-year career as an administrative professional at the AGO. After starting in the Civil Division in 1992, Lisa transferred to the Criminal Division in 1996, where she has been the Office Administrator for the Financial Remedies, Drug and Racketeering Enforcement and Fraud and Special Prosecution Sections. Lisa was promoted to Legal Administrator of the entire Criminal Division in 2007. Lisa has worked on many notable cases, including the Arrowhead Ranch condemnation case, the forfeiture and later the prosecution case of Sammy "The Bull" Gravano, the Baptist Foundation of Arizona, and the Fiesta Bowl and Colorado City investigations. She has worked under five Attorneys General and eight Criminal Chief Counsels, numerous other Section Chief Counsels and many Assistant Attorneys General. She has mentored countless administrative professionals across Arizona. Those who work with Lisa know she has an unrivaled passion for her profession and her coworkers. Her career exemplifies the highest standards of dedication to the administrative profession.



Criminal Division Prosecutor Wins APAAC Honors

Felony Prosecutor of the Year Award - Southern Arizona White Collar & Criminal Enterprise Section (SAWCCE) Section Chief Nick Klingerman was honored as the 2022 Arizona Prosecuting Attorney's Association Counsel (APAAC) Felony Prosecutor of the Year, Large Jurisdiction, for accomplishments


CRIMINAL DIVISION

that demonstrate his exceptional advocacy for the AGO. Nick is a leader who serves the prosecutors he supervises, the AGO and his fellow Arizona prosecutors utilizing his impressive breadth of skills. Among Nick's accomplishments are his Supreme Court advocacy, Superior Court litigation, legislative efforts, committee service and teaching. Over the last year, Nick argued four cases before the Arizona Supreme Court, co-argued a substantial Trebus issue and also litigated a contested Rule 32 hearing with success resulting from his cross examination of the defendant. Nick is a member of many interagency and outside agency task forces where his expertise is relied upon in substantive criminal issues. Nick also proposed, drafted and testified at the legislature on behalf of the AGO. He is a respected and admired manager, colleague and mentor who supports challenges and lifts everyone around him.

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

Advocate of the Year - Office of Victim Services' (OVS) Victim Advocate Veronica Driz was the AGO nominee for APAAC's 2022 Advocate of the Year. Veronica carries a complex caseload of fraud, child sexual exploitation and elder exploitation cases in prosecution as well as appellate and death penalty cases. She is passionate about meeting survivors' needs, providing victims creative advocacy and building partnerships with justice practitioners in neighboring counties and other community resources. In 2021, Veronica was integral in a case against a peddler of child sexually abusive images by working with the National Center for Missing and Exploited Children to obtain contact information for survivors identified in known images. As a result, survivors were able to present victim impact statements at sentencing. Veronica is an empathetic advocate who works to advocate for her victims to ensure they know their rights, while balancing the needs of the AGO to effectively prosecute offenders.

Legal Assistant of the Year - Southern Arizona White Collar & Criminal Enterprise Section (SAWCCE) Senior Legal Assistant Nicole Farenga was the AGO nominee for APAAC's 2022 Legal Assistant of the Year. Nicole is an accomplished legal assistant and model team player. Her skills and willingness to help her peers was instrumental in helping the SAWCCE Section run smoothly. Nicole often works on high-profile matters. On top of Nicole's challenging assignments and only being an AGO staff member for only three months, she assisted the Section for several months when the Office Administrator was unavailable. She quickly learned SAWCCE's various processes and worked closely with the legal staff to ensure SAWCCE's operations were not adversely affected during this time. She helped staff identify and calendar new cases, learned the payroll system and assisted in interviewing applicants for vacant positions. Nicole has provided extraordinary support and unwavering dedication.



Rising Star Award - Financial Remedies Section (FRS) Assistant Attorney General Elliot Stratton was the AGO nominee for APAAC's 2022 Rising Star Award. Starting his litigation career in late 2020, Elliot has notched a series of accomplishments more typical for seasoned prosecutors. With a passionate dedication to his position, a work ethic to match and armed with raw skills that he soon honed, Elliot immersed himself in all of his cases. He took on cases ranging from simple to complex, while and practicing appellate work as well. All of this occurred while the law governing his practice area was significantly altered by the Arizona Legislature. Elliot responded by helping to create new pleadings and taking charge of some of the first cases under the new law. His accomplishment demonstrates his acumen for exceptional prosecutorial advocacy and foretells an outstanding career.

Administrator of the Year - Southern Arizona White Collar & Criminal Enterprise Section (SAWCCE) Section OA Martita Jimenez was the AGO nominee for APAAC's 2022 Administrator of the Year Award. Martita supports the SAWCCE Section Chief Counsel, supervises staff and handles all the administrative matters for SAWCCE. With the pandemic changing court and office practices, Martita took on additional tasks to ensure that the Criminal Division continued operating effectively. She implemented new case tracking procedures to better manage cases from opening to closure; ensuring cases were processed faster and with better documentation. She also volunteered to be the Coronavirus Emergency Funding Grant Coordinator for the entire office, reviewing financial reports to track and explain expenditures. More impressive, Martita accomplished this work during a period of significant staff turnover, finding time to train and mentor five new legal secretaries.

CRIMINAL DIVISION

DRUG & RACKETEERING ENFORCEMENT SECTION

Drug & Racketeering Enforcement Section (DRG) combats drug trafficking and money laundering organizations operating within Arizona. Attorneys in DRG also provide 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 FY22, DRG had 652 open cases and resolved 259 of them. DRG cumulatively charged 594 defendants with felony offenses. Total drug seizures in cases for FY22 were: 3,011.49 pounds of methamphetamine with an approximate wholesale value of \$6,022,980; 372.89 pounds of cocaine with an approximate wholesale value of \$5,084,931; 6,040,246 fentanyl pills and 220.91 pounds of fentanyl powder with an approximate wholesale value of \$62,812,387; in addition to cash seizures totaling \$2,167,428. Courts ordered defendants to pay \$1,135,715 in fines as a result of DRG prosecutions.

In FY22, DRG seizures removed 50,101,545 potentially fatal doses of fentanyl powder from circulation. According to the United States Drug Enforcement Administration (USDEA), 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. As noted on the USDEA's website, the picture illustrates a dose of two milligrams of fentanyl in relation to the point of a sharpened pencil.



Major Cases

Investigation CWT-530 -- Beginning in June 2019, an SIS Special Agent worked closely with case agents with the Drug Enforcement Agency (DEA) and Tempe Police Department as they 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 3,097 pounds of methamphetamine, 77 pounds of heroin, 297 pounds of cocaine, 147 pounds of fentanyl powder, 3.1 million fentanyl pills, multiple weapons and over \$2.1 million dollars in cash.

CRIMINAL DIVISION


DRUG & RACKETEERING ENFORCEMENT SECTION

Investigation CWT-525 -- Beginning in March 2019, law enforcement 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 laundering illegal drug proceeds. Over the years, this investigation led to indictments against 64 suspects and the seizure of approximately 412 pounds of methamphetamine, 190 pounds of heroin, 53 pounds of cocaine, 353,000 M-30 fentanyl pills, 3.4 pounds of fentanyl powder and \$570,000 in cash. As part of this investigation, Luis Zavala was identified as a Phoenix based drug trafficker. Zavala was responsible for coordinating the trafficking and sale of large quantities of methamphetamine, heroin, fentanyl and cocaine. Additionally he was responsible for laundering money for the drug trafficking organization. He was charged with multiple felony offenses. Zavala pled guilty to Conspiracy to Commit Dangerous Drugs-Possession for Sale, Attempt to Commit Narcotic Drugs-Possession for Sale and Possess/Use of Weapon in a Drug Offenses. In June 2022, he was sentenced to five years in prison, followed by three years of supervised probation.



State v. Orlando Rodriguez Mendoza -- In June 2021, law enforcement officers from Tempe Police Department began an investigation of Orlando Rodriguez Mendoza for suspected transportation and sale of illegal drugs. Based on their investigation, law enforcement conducted a traffic stop on Mendoza and subsequently served a search warrant at Mendoza's residence in September 2021. Law enforcement located a total of 62 pounds of methamphetamine, 26,000 fentanyl pills, four pounds of fentanyl powder and \$24,167 in cash. Mendoza was charged with Conspiracy, Illegally Conducting an Enterprise, Transportation of a Dangerous Drug (Methamphetamine) for Sale, Possession of a Dangerous Drug (Methamphetamine) for Sale, Money Laundering and two counts of Possession of a Narcotic Drug (Fentanyl) for Sale in an Amount Over the Statutory Threshold. Mendoza pled to Conspiracy to Commit Dangerous Drugs-Possess for Sale. In March 2022, he was sentenced to four years in prison.

State v. Jose Ricardo -- In January 2022, as part of a narcotics investigation, Arizona Department of Public Safety (DPS) detectives identified a fentanyl trafficking organization. The target of the organization was an individual who went by "El Gato." El Gato was later identified as Jose Ricardo. Detectives arrested Ricardo during a controlled buy of 40,000 fentanyl pills. Detectives recovered 9.3 pounds of fentanyl pills in vacuum-sealed packages inside of grocery bags in the backseat of his vehicle. Additionally, a pistol was recovered from the front driver's door pocket where Ricardo was seated. Ricardo was



charged with Conspiracy, Illegally Conducting an Enterprise, Possession of a Narcotic Drug (Fentanyl) for Sale in an Amount Over the Statutory Threshold and Misconduct Involving Weapons. In June 2022, he pled guilty to Attempt to Commit Possession of a Narcotic Drug (Fentanyl) For Sale and Misconduct Involving Weapons and was later sentenced to 3.5 years in prison.

State v. Luis Hernandez – In July 2021, as part of an investigation by Arizona Department of Public Safety (DPS) detectives into a methamphetamine trafficking organization, detectives organized a controlled buy from Luis Hernandez for 90 pounds of methamphetamine. However, the arrangement had been for the sale of 45 pounds with the other 45 pounds to be sold at a later date. Upon delivery, detectives arrested Hernandez and recovered 44.8 pounds of methamphetamine in 45 one-pound packages inside of two duffle bags in the trunk of the vehicle. Hernandez had two prior felonies for Solicitation to Commit Sale or Transportation of Marijuana and Conspiracy to Possess with the Intent to Distribute a Controlled Substance (Methamphetamine). He was charged with Conspiracy, Illegally Conducting an Enterprise and Sale and/or Transportation of a Dangerous Drug (Methamphetamine) for Sale. In May 2022, Hernandez pled guilty to Illegal Control of an Enterprise and was later sentenced to 6.5 years in prison.

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 committed against individuals and businesses, counterfeit merchandise, securities fraud, illegal gambling, prescription drug “pill-mill” enterprises and fraud committed against state agencies that provide public benefits, such as AHCCCS. 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 Criminal Division sections 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.

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 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.

During FY22, FRS assisted its law enforcement partners with five seizure warrants. From those and other investigations the agency partners submitted cases to FRS involving 566 combined targeted offenders and assets. The value of all seized assets was \$9 million dollars. From these submittals, FRS filed 113 new actions. In FY22, FRS obtained judgments concluding 96 actions against 941 combined assets and named defendants. From forfeited assets recovered and liquidated in FY22, FRS distributed a total of \$8.1 million dollars in funds to crime victims, state agency victims and law enforcement partners. Through these efforts FRS disrupted the racketeering activity of 83 targeted offenders and criminal enterprises. FRS attorneys also conducted 12 forfeiture trainings attended by 401 law enforcement agents and attorneys from across the state. Most of the training provided by FRS was done through two statewide trainings dedicated specifically to the substantial changes to Arizona’s Racketeering and Forfeiture statutes passed by the Legislature in its 2021 Session. Those trainings focused on the substantive and procedural content, operation and effects of the new statutes; potential legal issues and challenges that might arise from the application and litigation of the statutes; practice and procedure options; and examples of new forms and pleadings compliant with the statutory changes. FRS also updated state prosecutors at the APAAC Annual Prosecutor Conference and updated federal agencies at their Annual Law Enforcement Summit. FRS will conduct follow-up statewide training throughout FY23. In addition to these trainings for law enforcement agents and attorneys, FRS presented two seminars for the Committee on Judicial Education and Training (COJET) to judges and court administrators on the new law, both in Phoenix and Tucson.

Financial Remedies Section Metrics	
Metric	FY 2022
Seizure Warrants	5
Combined Assets and Named Defendant in Cases Submitted	566
Estimated Gross Value of Seized Property (\$ Million)	\$9.00
New Cases Filed	113
Judgments Entered	96
Combined Assets and Named Defendant in Judgments Entered	939
Net Distributions from Forfeited Property (\$ Million)	\$8.10
Targeted Offenders and Criminal Enterprises Disrupted	83
Trainings	12
Law Enforcement Agents and Attorneys Trained	401

CRIMINAL DIVISION

FINANCIAL REMEDIES SECTION

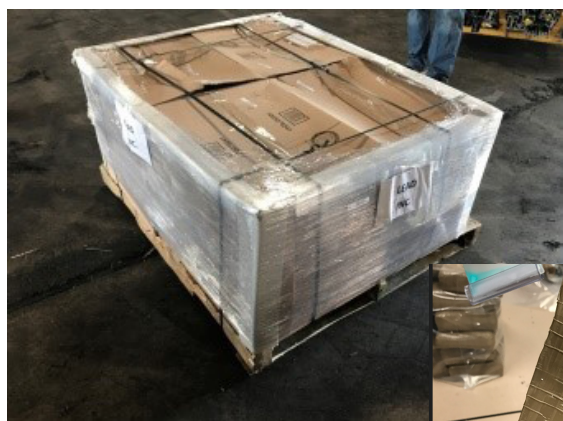
Major Cases

FRS continues to pursue its mission of “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.” Over the last year, FRS completed many cases involving a wide variety of criminal activity that threatens public safety. The following are examples of major cases that had an impact against criminal organizations, illegal enterprises and other racketeering offenders.

Drug Trafficking Organizations

Arizona Based DTO – The Bautista Drug Trafficking Organization (DTO), led by Austreberto Bautista and Edwin Sosa-Castro, trafficked large quantities of heroin and methamphetamine in Kingman and throughout Mohave County. Through an investigation spanning from 2018 to 2020 by SIS Special Agents, Financial Crimes Task Force, a Mohave County task force and other law enforcement agencies that included a wire interception, agents learned that Bautista had purchased 15 pounds of methamphetamine and two pounds of heroin every two to three weeks in Los Angeles and Las Vegas. Bautista and Sosa-Castro stored the drugs at their residences and distributed it to 22 dealers. Bautista wired the proceeds of the DTO through money service businesses to his spouse in Mexico and he enlisted other family members to assist the DTO. The criminal enterprise trafficked over \$1.6 million dollars’ worth of drugs. Though Bautista had no source of legitimate income, he held and used numerous bank accounts, vehicles and real properties to operate the DTO. Agents executed search warrants on the residences of Bautista, Sosa-Castro and others. They discovered additional evidence of drug trafficking and additional assets held by Bautista, Sosa-Castro and other DTO members. In all, agents seized cash totaling \$58,000, three bank accounts holding \$10,000, 12 vehicles, two real properties and five firearms with magazines, ammunition and accessories. FRS filed a racketeering forfeiture case against the lead members of the DTO and the seized property. By July 2021, FRS obtained two judgments cumulatively forfeiting all of the seized items.

Mexico Based DTO - In May 2021, after receiving a tip from a shipping company about two suspicious pallets it had received agents from the Counter Narcotics Alliance (CNA) in Tucson investigated. The listed recipient for the pallets arrived on scene. During questioning he admitted that he was being paid by associates of a drug trafficking organization (DTO) based in Agua Prieta to pick up the pallets and deliver the pallets to another location. CNA obtained a search warrant for the pallets. The pallets were labeled and invoiced as “Tools,” they found \$1,992,131 in cash concealed within nine large boxes of commercial tools. Agents learned that the recipient had recently shipped three pallets at the same



shipping company, each destined to separate states. Agents interdicted two of the shipments and located 82 kilos of cocaine. Follow-up investigation identified numerous DTO members and estimated the scope of the illegal enterprise at \$49 million dollars. The SAWCCE Section charged a criminal drug and racketeering enterprise case against 27 DTO defendants. FRS filed a civil forfeiture case against the \$1,992,131 and nine boxes of commercial tools. In January 2022, FRS obtained a forfeiture judgment against the \$1,992,131 and tools.

Violent Offenders

In November 2020, Arizona Department of Public Safety (DPS) detectives conducted two undercover cocaine buys from Angel Butierez, Jr., in Tucson. During the second buy, Butierez kept a firearm within his reach. He was arrested in his 2014 Camaro after the sale was complete. DPS detectives obtained and executed search warrants against Butierez's residence, vehicle and Bank of America accounts. At the residence, detectives located a safe containing 10 different types of illicit drugs valued at \$119,558, 22 firearms, 5,531 rounds of ammunition, body armor, \$14,495 in cash and a money counter. FRS forfeited the \$14,495 cash, vehicle, 20 firearms (two firearms belonged to uninvolved persons), all ammunition, body armor and a money counter. Butierez was sentenced to prison in the related criminal case.

Money Laundering

In August 2020, Scottsdale Police Department detectives and investigators assigned to the Drug Enforcement Administration (DEA) Task Force Group One began investigating a money services business (MSB) named "Mi Mundo Latino" for laundering millions of dollars of illegal drug cartel proceeds from Sinaloa, Mexico. From surveillance, intercepted communications, and a review of money transmittal and other financial records, investigators learned that the owner and agents of the MSB routinely collected large amounts of bulk drug proceeds throughout the country and then deposited the funds into business, commercial and personal bank accounts controlled by the MSB owner and others, often in amounts structured to avoid anti-money laundering reporting requirements. The funds were then wired to Mexico through the MSB using falsified and fictitious sender and receiver profiles. In April 2021, investigators executed search and seizure warrants, resulting in the arrest of the MSB owner and other associates and the seizure of large amounts of bulk cash, eight vehicles, and 11 items of personal property. FRS initiated a racketeering forfeiture case against the owner, other defendants and the seized property. In July 2021, FRS obtained a judgment forfeiting all of the seized property with a value totaling \$824,624. The related criminal case resulted in convictions and is concluded.

CRIMINAL DIVISION

FINANCIAL REMEDIES SECTION

Public Transportation Interdiction

AMTRAK police and the Counter Narcotics Agency (CNA) in Tucson have developed a collaborative partnership in conducting successful interdictions of drugs and drug proceeds being trafficked on the railway system. In September 2020, AMTRAK reported to CNA a suspicious passenger, Terrance Bristol, traveling to Tucson. The details included that Bristol was traveling from Baltimore to Phoenix on a one-way ticket, purchased only a few days before travel and the ticket was for a private sleeper room. Bristol's criminal history reflected three prior arrests for drug possession and possession with intent to distribute drugs between 2003 and 2012. In addition, at the time of this investigation, Bristol was under investigation by the Drug Enforcement Agency (DEA) for money laundering of cocaine proceeds. CNA then conducted an interdiction operation aboard that train during its layover in Tucson. When agents approached Bristol and conducted a consensual conversation he denied consent to search his bag, but consented to a K9 sniff. The K9 alerted to the bag. Agents obtained a search warrant for the bag and found stacks of \$100 and \$50 dollar bills rolled up and concealed within four shoes. They also found two phones. The phones were downloaded pursuant to a warrant and revealed conversations about selling fentanyl and images of a table stacked with high-grade marijuana along with Bristol posing with large sums of cash. The money seized from Bristol that day totaled \$100,000. FRS filed forfeiture proceedings and served Bristol. Bristol did not file a claim. FRS filed an application to the Court for an order of forfeiture of the \$100,000 and obtained a forfeiture judgment in August 2021.




When agents approached Bristol and conducted a consensual conversation he denied consent to search his bag, but consented to a K9 sniff. The K9 alerted to the bag. Agents obtained a search

warrant for the bag and found stacks of \$100 and \$50 dollar bills rolled up and concealed within four shoes. They also found two phones. The phones were downloaded pursuant to a warrant and revealed conversations about selling fentanyl and images of a table stacked with high-grade marijuana along with Bristol posing with large sums of cash. The money seized from Bristol that day totaled \$100,000. FRS filed forfeiture proceedings and served Bristol. Bristol did not file a claim. FRS filed an application to the Court for an order of forfeiture of the \$100,000 and obtained a forfeiture judgment in August 2021.

Parcel Shipping Interdiction

The Maricopa County Sheriff's Office (MCSO) learned from investigators with the Drug Enforcement Agency (DEA) Laredo Field Office that a suspect named Ernesto Salazar was receiving parcels of suspected synthetic cannabinoids, otherwise known as "spice." MCSO detectives secured a search warrant to search a package delivered to and picked up by Salazar in his truck that was found to contain 20 pounds of spice. Salazar was arrested and a search warrant was served at his Mesa residence. The search resulted in the discovery of a synthetic cannabinoids





manufacturing laboratory and 11,711 vials of “EZ-Liquid” containing synthetic cannabis. Cash totaling \$6,647 was found in several rooms, Salazar’s truck and on Salazar. FRS filed a forfeiture action. In April 2022, FRS obtained a forfeiture judgment against the cash and Salazar’s truck.

Public Corruption

In the Fall of 2020, the Homeland Security Investigations (HSI) Native HIDTA Task Force and the Federal Bureau of Investigation (FBI) Southern Arizona Corruption Task Force investigated a Border Patrol (BP) agent for involvement in the distribution of illegal drugs in Phoenix. Investigators developed information that the BP agent would be delivering a shipment of drugs to an unidentified female, later identified as Maria Gallardo. On August 9, 2020, investigators surveilled the BP agent at a parking garage in the Phoenix Sky Harbor Airport. Investigators observed the BP agent standing next to a Ford Explorer. A short time later a Nissan vehicle arrived, driven by Gallardo and parked next to the Ford Explorer. The BP agent removed two duffle bags from the Ford Explorer and placed them into the Nissan. They both then left the parking garage. Investigators conducted a stop of the Nissan. While clearing the vehicle, investigators located the two duffle bags. The zippers on each bag were sealed with super glue; however, a drug detection K-9 alerted on both duffle bags. A search of the bags revealed 42 kilos of blue M30 (fentanyl) pills, 23.17 kilos of cocaine, one kilo of heroin and one kilo of fentanyl. The vehicle also contained three cell phones, cash, three money gram receipts, three money orders and three value-added gift cards. The evidence led to the execution of a search warrant at a Mesa residence where investigators seized \$152,476 in cash, eight kilos of M30 pills and four vehicles. FRS filed a forfeiture action against all of the cash and four vehicles. In September 2021, FRS obtained a forfeiture judgment against all of the property.

A State Auditor General’s investigation discovered that Santa Cruz County Sheriff Marco “Tony” Estrada and Captain Ruben Fuentes directed the Santa Cruz County Sheriff’s Department (SCCSD) employees to claim overtime hours on time sheets for hours those employees had not actually worked. First, Estrada and Fuentes had employees report unworked overtime as compensation for certain job assignments to include: field training officers; communications training officers; lead officer/officer in charge/corporal duty; and administrative duties/interim operations commanders. These falsified time sheets were signed by employees who swore that the time sheets were accurate and the time sheets were later approved by supervisors. Estrada admitted creating this practice in approximately 2000. Fuentes admitted knowing that this practice existed before he became a captain in 2007. Second, Estrada and Fuentes promoted two employees to lieutenant without prior approval from the Santa Cruz County Board of Supervisors that was required for all supervisory positions. Estrada and Fuentes directed the promoted lieutenants to report unworked overtime as compensation for their promotions. The Auditor General reviewed timesheets from 2014 to 2019 and discovered that \$196,842 was paid to SCCSD employees for unworked overtime. Attorneys from FRS, SAWCCE and SGO filed a racketeering suit against Estrada and Fuentes and obtained a settlement agreement containing an admission of responsibility and recovered a portion of the funds for Santa Cruz County.

Public Benefits Fraud

An extensive investigation by SIS Special Agents and AHCCCS OIG revealed that numerous individuals and companies defrauded Arizona Healthcare Cost Containment System (AHCCCS) by schemes that included double billing, billing for services not rendered to patients, billing for services rendered by unqualified providers and billing for mischaracterized services that were not authorized and services that were ineligible for billing to AHCCCS. AHCCCS made payments under these improper circumstances, incurring economic injury in an amount over \$12 million dollars. In October 2020, FRS obtained a Seizure Warrant against the defendants, cash, account funds, vehicles and real property subject to liability and recovery. In December 2020, FRS filed a racketeering action against 30 defendants, \$9 million dollars in funds, 14 vehicles and 16 real properties, followed in February 2021 by a Complaint seeking monetary judgments, property forfeiture and other remedial orders to compensate AHCCCS for its losses. HCFA and FSP filed a corresponding criminal prosecution.

Low Value Assets Contribute To Significant Crimes

Low Value Assets Contribute To Significant Crimes

FRS continues to bring racketeering forfeiture cases against illegal massage businesses, drug traffickers who use social media platforms for their transactions and persons who operate outside the legal parameters of the Arizona Medical Marijuana Act and the Recreational Marijuana Act. While some cases involve assets with a low value, those assets contribute to the commission of significant crimes that impose a high level of harm on the public. The significance of a case is measured not by the value of the assets offenders dedicate to the commission of their crimes, but rather by the amount of injury the crimes have on the citizens of Arizona. Some examples of these cases include:

- \$932 and a handgun recovered from a courier delivering five pounds of meth worth \$10,000.
- \$165 and a handgun recovered from a courier delivering one-half pound of cocaine worth \$14,000.
- \$1,011 recovered from a courier delivering 50 pounds of meth worth \$100,000.
- \$162 and two vehicles recovered from two couriers transporting 180 pounds of meth, 27 kilos of cocaine, 19 kilos of fentanyl, one pound of heroin, 25,000 fentanyl pills, a money counting machine, money bands and a ledger. The street value of the illegal drugs totaled \$1.6 million dollars.

CRIMINAL DIVISION

FRAUD & SPECIAL PROSECUTIONS SECTION

Fraud & Special Prosecutions (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, election fraud, 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. In FY22, the AGO launched an Organized Retail Crime Task Force with the support of the Arizona Legislature. The Task Force is one of the first prosecutorial units in the country dedicated to combating crimes relating to stolen retail merchandise being resold or reentered into commerce.

Overview of Accomplishments

In FY22, FSP had 1,387 open cases and resolved 678 of them. FSP cumulatively charged 521 defendants with felony offenses, including fraudulent schemes and artifices, illegal enterprise, participating in criminal syndicates, money laundering and numerous violent and sex crimes. The cases of fraudulent schemes involved losses to victims in the millions of dollars. FSP assisted approximately 2,877 victims and obtained restitution in the amount of \$6,833,563 and \$603,393 in fines. In addition, 110 defendants were prosecuted for violation of their terms of probation.

Major Cases

State v. Tracey Kay McKee - The AGO received a complaint of several ballots being cast in the November 2020 election by deceased voters. An SIS investigation revealed that Tracey Kay McKee casted a vote in the name of her deceased mother through an early ballot in the 2020 General Election. McKee's mother died on October 5, 2020; however, she signed her mother's name on an early ballot envelope. She was charged with Illegal Voting and Perjury. In February 2022, McKee pled to Attempted Illegal Voting and was sentenced to two years supervised probation and ordered to complete 100 hours of community restitution.

State v. Dean Durante - Dean Durante worked as the CFO for Perfekt Marketing. A Tempe Police Department investigation revealed that Durante defrauded the company by manipulating the pay check reports to show payments lower than the paychecks actually received. He overpaid himself and paid two individuals who were not even employees of the business. Durante was charged with Fraudulent Schemes and Artifices and Theft. In April 2022, Durante pled guilty to Money Laundering in the 2nd Degree and Theft. He was later sentenced to 3.5 years in prison, followed by seven years of probation with white collar terms. Durante was also ordered to pay \$3,080,974 in restitution.


CRIMINAL DIVISION

FRAUD & SPECIAL PROSECUTIONS SECTION

State v. Kathie Vestal - The AGO received a complaint to further investigate a claim of theft by an employee at Shipp Holdings. Kathie Vestal was the company's bookkeeper. An SIS investigation revealed that over an eight-year period, she stole \$946,720 from her employer by writing checks to herself and forging signatures. She hid her actions by listing the checks as payable to a legitimate vendor in the accounting system. Vestal was charged with Fraudulent Schemes and Artifices, along with ten counts of Theft. Vestal pled guilty to three counts of Theft. In August 2021, she was sentenced to four years in prison, followed by seven years of probation with white collar terms. She was also ordered to pay \$946,720 in restitution.

State v. The Hangar, LLC and Karoline Mungar - An undercover operation was conducted by the Arizona Department of Revenue (DOR) at The Hangar restaurant. The undercover buys at The Hangar showed that the restaurant was collecting sales tax from its customers. DOR records showed that The Hangar was not filing Transaction Privilege Tax (TPT) returns and not remitting funds to DOR between August 2016 and March 2019. Defendants were charged with 32 counts of Failure to File TPT Return and Failure to Pay TPT Tax. In August 2021, The Hangar LLC pled guilty to two counts of Failure to File Transaction Privilege Tax Return and Failure to File Transaction Privilege Tax Return. In December 2021, The Hangar was sentenced and placed on one year of unsupervised probation and ordered to pay \$180,387 in restitution to DOR jointly and severally. In August 2021, Mungar pled guilty to Failure to File Transaction Privilege Tax Return. In December 2021, Mungar was sentenced to six months of probation and ordered to pay \$180,387 in restitution to DOR jointly and severally.

State v. Jarret M. Sharp - Jarret M. Sharp, PhD, was the Director of the Pioneer Preparatory School in Phoenix from August 2016 until June 2018. He was inadvertently left on the school's Wells Fargo accounts as the only authorized signor. In September 2020, Pioneer Preparatory's new bookkeeper discovered that one of the school's accounts had been emptied and closed; the other was zeroed out, but still open. An SIS Special Agent's analysis of the school's Wells Fargo records revealed that in March 2020, Sharp had the school's monthly statements rerouted to his home in Colorado. Beginning April 2020, Sharp began using the school's money to pay his various debt-holders, including collections accounts, divorce lawyer and ex-wife. Sharp emptied one of the school's accounts of approximately \$5,000, then opened his own Wells Fargo account. After transferring the balance of \$644,197 to his new personal account, Sharp closed the school's other account. In October 2020, the agent recovered a total of \$634,591 from Sharp's Wells Fargo account by utilizing a search warrant. Sharp was charged with Fraudulent Schemes and Artifices, Theft, Computer Tampering and Forgery. In April 2022, Sharp pled guilty to Forgery. In June 2022, he was sentenced to 15 months in prison. He was ordered to pay restitution of \$30,774, which is the amount Sharp spent before being caught.



State v. Andrea Bagioli, et al - Terry Fong, an attorney with Terry J. Fong Law Group., filed a complaint with the AGO regarding employee embezzlement. Andrea Bagioli was a paralegal and office manager for the law firm. An SIS investigation revealed that Bagioli stole \$52,418 in a scheme in which she used her access to the firm's funds to write checks to herself. She concealed her actions by moving money between the firm's accounts and listing the checks as refunds associated with client accounts. Bagioli was confronted by Fong and admitted she stole the money to support her opioid addiction. Bagioli also admitted she recruited other people, issued checks to them and requested they cash the checks for her. In total, Bagioli stole over \$158,000. Bagioli and her co-defendants were charged with Conspiracy, Fraudulent Schemes and Artifices, Theft and Forgery. In May 2021, Bagioli pled guilty to Fraudulent Schemes and Artifices and two counts of Forgery. She was later sentenced to five months in jail, followed by a 30-month term of supervised probation. She was ordered to pay restitution in the amount of \$5,931 as she had pre-paid most of the restitution prior to the case being filed. The remaining co-defendants were sentenced to supervised probation with varying jail terms.

State v. Darren Sikes, et al - Darren Sikes was a correctional officer. In 2016, he became president of the Arizona Correctional Peace Officers Association (AZCPOA). The AZCPOA is an independent labor organization started by correctional officers that represents state employees. Sikes hired his daughter, Samantha, to assist with office duties. He and Samantha had sole control over the accounting and banking for the association. It was discovered that Sikes had made numerous unauthorized purchases for the personal benefit of himself and Samantha including a brand new F-250, hot tub, trailer, payment of personal debts and tax liabilities, along with other transactions. The total loss was over \$130,000. The defendants were charged with Conspiracy, Fraudulent Schemes and Artifices and Theft. Darren pled guilty to Fraudulent Schemes and Artifices and two counts of Theft. In August 2021, he was sentenced to 1.5 years in prison, followed by five years of supervised probation. He was also ordered to pay restitution in the amount of \$188,126. Samantha pled guilty to Fraudulent Schemes and Artifices and two counts of Theft. In July 2021, she was sentenced to five years of supervised probation.

State v. Fahrad Kankash - This case involved a complex fraud scheme in which Fahrad Kankash owned and operated a car dealership, Onyx Motors, in Phoenix. An Arizona Department of Transportation (ADOT) investigation revealed that Kankash committed fraudulent acts against individual car buyers/sellers and lending institutions. Kankash would sell a car and fail to provide the title to the vehicle to the new owner. Kankash also would take registration fees and title fees from car buyers, but would fail to send those fees to the Motor Vehicle Division (MVD). Kankash took vehicles on consignment, sold the vehicles and never paid the owners for the consigned vehicles. In addition, as part of his scheme, customers traded in their current vehicles to Kankash while purchasing a new vehicle from him with the understanding that Kankash was going to pay off the lien on the traded in vehicle. However, Kankash failed to pay the lien causing financial losses to the customers that ultimately were responsible for two car loans. Kankash also double-funded vehicles by receiving loans from two banks on the same vehicle, but only one institution could be the lienholder. The State of Arizona and the MVD eventually had to provide titles and assist all of Kankash's victims. Kankash was charged with seven counts of Fraudulent Schemes and Artifices and seven counts of Theft. Kankash pled guilty to Amended Theft and Amended Illegal Enterprise. In September 2021, he was sentenced to 30 days in jail, followed by five years of supervised probation. He was also ordered to pay \$383,938 in restitution. Prior to sentencing, Kankash paid \$100,000 toward the restitution ordered by the court which was distributed to the victims.

CRIMINAL DIVISION

FRAUD & SPECIAL PROSECUTIONS SECTION

State v. Vernal Crow - Vernal Crow was a former Vice Chairman of the Arizona School Facilities Board (SFB). The Arizona Auditor General's Office and SIS Special Agents learned that Crow failed to disclose his interest and his son's interest in Red Tree Consulting, LLC (Red Tree), a construction consulting company they owned and which benefited from three projects awarded by the SFB. The indictment covered three contracts handled by the SFB in March 2016, September 2017 and November 2017, while Crow served as a member of the SFB. In January 2022, Crow was indicted on four counts of Conflict of Interest. In April 2022, Crow pled guilty to two misdemeanor counts of Amended Conflict of Interest. In May 2022, he was sentenced to six months of concurrent unsupervised probation and ordered to pay a fine. Crow no longer serves on the SFB.

State v. Ernesto Perez, et al - An Arizona Department of Corrections (DOC) investigation revealed that between November 2016 and December 2016 inmates Ernesto Perez, Reginald Martinez, Francisco Fimbres, Gerald Denslow and Pedro Luna conspired, orchestrated and facilitated the introduction of dangerous drugs into the Arizona State Prison Complex Lewis-Barchey Unit for the purpose of sales and distribution. DOC investigators learned that the five male inmates collaborated with five female civilians, Delia Olivas, Marlena Perez, Rachael Santa-Cruz, Collette Peshlakai and Ymelda Quiroz to purchase, acquire and smuggle dangerous drugs into the correctional facility. The ten defendants were charged with Conspiracy, Possession of Dangerous Drug (Methamphetamine) for Sale in an Amount Over the Statutory Threshold, Illegally Conducting an Enterprise and Use of a Wire Communication or Electronic Communication in a Drug Related Transaction. The defendants have all pled guilty and have been sentenced. Perez, Martinez, Fimbres, Denslow and Luna all received additional prison time consecutive to their current prison term. Olivas, Perez, Santa-Cruz, Peshlakai and Quiroz all received probation. Depending on their level of involvement, some defendants also received jail time.

State v. William Lenhart, et al - In September 2021, William Lenhart and Justin Chambers were each charged with Unlawful Campaign Contribution by a Corporation, for directing funds from corporations to candidates for mayor in the City of Kingman. A Mohave County Attorney's Office investigation revealed that Lenhart moved \$2,000 from a company named SDIP VB LLC to the Richard Anderson for Mayor Campaign in 2016 and that Chambers moved \$2,500 from Chambers Realty Group LLC to the Committee to Elect Jen Miles in 2018. Arizona law prohibits corporations, including LLCs, from making direct financial contributions to candidate campaign committees other than through political action committees. Chambers and Lenhart both pled guilty to a misdemeanor of Amended Unlawful Campaign Contribution by a Corporation. In January 2022, Lenhart was sentenced to one-year probation, mandatory community service and ordered to pay a fine. In February 2022, Chambers was sentenced to one-year probation, mandatory community service and ordered to pay a fine.

State v. Eris Lance Joe - Eris Lance Joe was identified by undercover Homeland Security Investigations (HSI) investigators when he was offering images of child sexual exploitation for downloads in chat rooms through the online chat service called "Chatstep." Using IP address records, investigators traced Joe's activity to two residences in Flagstaff belonging to his mother and girlfriend. A search warrant identified graphic depictions of child sexual exploitation on a laptop belonging to Joe in a closet in his mother's home. Joe was arrested by HSI Flagstaff. Joe was charged with 10 counts of Sexual Exploitation of a Minor. Joe pled guilty to two counts of Sexual Exploitation of a Minor. In April 2022, he was sentenced to 10 years in prison, followed by lifetime probation. Joe must also register as a sex offender.

State v. Larry Herrera - In June 2018, the AGO received a complaint from the Executive Director of the Arizona Clean Elections Commission (ACEC). The complaint involved Lorenzo Herrera, who was running for the State Senate. Herrera was accused of submitting fraudulent applications in order to obtain funds through the ACEC. Herrera was charged with Attempted Fraudulent Schemes and Artifices, Aggravated Taking the Identity of Another, Forgery and Perjury. He pled guilty to Amended Fraudulent Schemes and Practices and Perjury. In July 2021, Herrera was sentenced to three years of supervised probation and ordered to complete 300 hours of community service.

State v. Victor Manuel Aguirre - In November 2020, the AGO received a complaint concerning convicted felons in the Pima County Jail registering to vote and voting on November 3, 2020. An SIS investigation revealed that Victor Aguirre falsely completed a voter registration form indicating that he had not been convicted of a felony or that his rights had been restored. Aguirre, however, had previously been convicted of five felony offenses and had not had his rights restored since his most recent conviction in 2018. Agents confirmed with election officials that Aguirre was registered to vote in September 2020 and in fact voted in October 2020. Aguirre was an inmate in Pima County Jail at the time he registered and casted his vote. In August 2021, Aguirre was charged with False Registration and Illegal Voting. In July 2022, he pled guilty to Amended Attempted Illegal Voting and was later sentenced to six months in prison and his voter registration privileges were revoked.

State v. Katrice Thompson, et al - In December 2017, Phoenix Police Department detectives reported that Compass Fiduciary Group employee Katrice Thompson forged and presented a Chase Bank check for the amount of \$1,076, to pay for childcare at "Kindercare." The check presented by Katrice was actually a check from the account of a Compass Fiduciary Group client. SIS Special Agents took over the investigation and discovered that Katrice was using her position of trust at Compass Fiduciary and accessing clients' funds for her and her husband, Hector Freeman's benefit. Katrice also involved her sister, Kayisha Thompson. Katrice was charged with 72 counts, Freeman was charged with 41 counts and Kayisha was charged with three counts that included Fraudulent Schemes and Artifices, Theft, Forgery, Money Laundering, Taking the Identity of Another and Fraudulent Use of a Credit Card that involved 14 different victims. Katrice pled guilty to Money Laundering, Theft, Fraud Schemes and two counts of Taking the Identity of Another. In January 2022, she was sentenced to three years of prison, followed by five years of supervised probation. She was also ordered to pay restitution of \$46,696. Freeman pled guilty to Fraud Schemes, Theft and Money Laundering. In February 2022, he was sentenced to 1.5 years in prison, followed by five years' supervised probation. Kayisha pled guilty to misdemeanor Theft. In March 2022, she was sentenced to one year of supervised probation.

CRIMINAL DIVISION

FRAUD & SPECIAL PROSECUTIONS SECTION

State v. Kenneth Nelson - In November 2020, the AGO received a complaint concerning convicted felons in the Pima County Jail registering to vote and voting on November 3, 2020. Kenneth Nelson had previously been convicted of a felony offense and had not had his rights restored since that conviction in 2007. An SIS investigation revealed that Nelson had illegally registered to vote and casted a vote while he was an inmate at the Pima County Jail. Nelson voted in the 2018 primary and general elections and in the 2020 general election. In September 2021, Nelson was charged with False Registration and three counts of Illegal Voting. He pled guilty to Amended Illegal Voting. In April 2022, he was sentenced to 210 days in prison and his voter registration privileges were revoked.

State v. Carl R. Ramirez - At the beginning of March 2020, Carl Ramirez began employment with the Arizona Department of Economic Security (DES) as a full-time Senior Investigator. In August 2020, while still employed with DES, Ramirez returned to work as a police officer with the Phoenix Police Department. DES investigators determined that Ramirez's time cards and payroll records revealed his in-person shift with Phoenix Police overlapped with his Monday-Thursday teleworking shift for DES. Ramirez collected full-time pay from both agencies for seven weeks, but completed full-time work for Phoenix Police only. In June 2021, he was indicted on charges of Fraudulent Schemes & Artifices, Theft and Computer Tampering. Ramirez is no longer employed by Phoenix Police or DES. In December 2021, Ramirez pled to Attempted Fraud Schemes & Artifices and Theft. He was later sentenced to 18 months of probation. Ramirez previously surrendered his police officer certification as part of his sentencing. He was also ordered to pay restitution to DES in the amount of \$7,352.

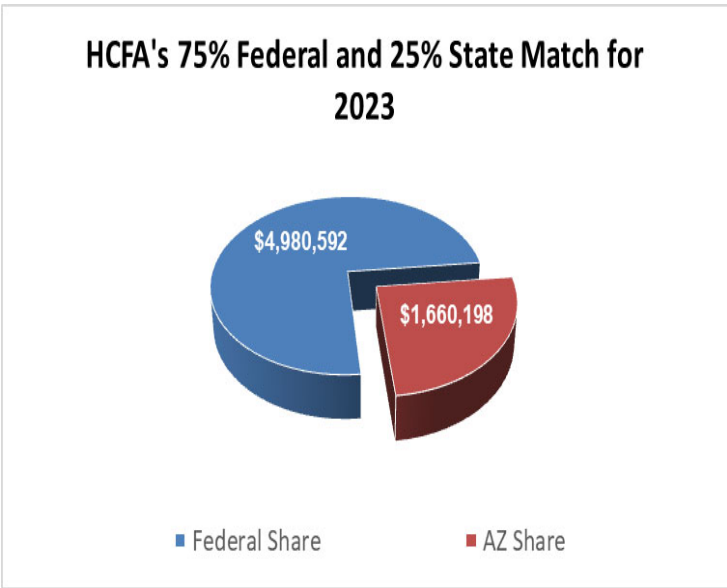
CRIMINAL DIVISION

HEALTHCARE FRAUD & ABUSE SECTION

The Healthcare Fraud & Abuse Section (HCFA), formerly known as Arizona’s Medicaid Fraud Control Unit (MFCU), investigates and prosecutes health care fraud crimes that impact the State’s \$21 billion dollar Medicaid program administered by the Arizona Health Care Cost Containment System (AHCCCS) for its 2.4 million members. In addition, HCFA is responsible for investigating allegations of patient abuse and neglect that take place within health care facilities that receive AHCCCS funding. The type of crimes that HCFA pursues include the falsification of medical records; the filing of phony or inflated Medicaid billing claims; thefts from AHCCCS clients; embezzlements from 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. HCFA has staff in all three Criminal Division offices: Phoenix, Tucson and Prescott.

Impact of the Federal Grant

For the 37th consecutive year, HCFA has received Health & Human Services Office of Inspector General (HHS-OIG) certification and funding. The federal government will provide HCFA \$5 million dollars (75%), which the state will match with \$1.7 million dollars (25%). Together this will pay for all the Section’s personnel and operations for FFY23.



CRIMINAL DIVISION

HEALTHCARE FRAUD & ABUSE SECTION

In early 2022, HHS OIG released their annual MFCU statistical summary for FFY21 which lists criminal case data submitted by all 53 of the nation's MFCUs. HCFA has again been recognized as one of the nation's top performing MFCUs. Data for the most recent year reveals that HCFA was in the number three position in the crucial metric of number of criminal indictments obtained for the year. Adjusting for differences in staff size, Arizona's HCFA was by far one of the most productive of the 53 states and territory MFCUs in obtaining criminal indictments.

Overview of Accomplishments

During this past year, HCFA continued to partner with other law enforcement agencies engaged in investigating prescription drug crimes, including the United States Drug Enforcement Administration (DEA), Health and Human Services Office of Inspector General (HHS-OIG), the Federal Bureau of Investigation (FBI), 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 numerous licensed health care professionals in Arizona who had engaged in illegal drug diversion.

HCFA has two experienced SIS Special Agents who work under the direction of the DEA Drug Diversion Task Force supervisors in Phoenix and Tucson. HHS-OIG continues to provide HCFA with a highly experienced HHS-OIG Special Agent who works every day with HCFA Special Agents. This collaborative partnership continues to create a seamless process for HCFA prosecutors to receive criminal case submittals from HHS-OIG. In FY22, the Arizona MFCU and HHS-OIG opened 11 joint criminal investigations. 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 FY22, HCFA received 94 criminal allegations/complaints regarding fraud, patient abuse and the financial exploitation of vulnerable adults. Of the 94 formal criminal case referrals, 73 new cases were opened for full investigation, including 62 fraud cases and 11 patient abuse/financial exploitation cases. This year, HCFA had 334 cumulative matters and closed 122 matters. HCFA charged a total of 63 new defendants and sentenced 50 defendants. For FY22, HCFA had obtained orders for \$3,049,031 in recoveries for criminal and civil cases combined. A major contributor to HCFA's impressive recoveries was the participation with other states' MFCUs and the United States Department of Justice in 38 civil cases that targeted national health care and pharmaceutical companies that were alleged to have engaged in improper trade practices. In FY22, three cases reached settlements including \$1,486,189

which was recovered from those companies and returned to the government, with \$455,446 provided directly to the AHCCCS program and \$1,030,743 submitted to the federal government.

In Arizona, there has been no other agency at the state level that can approach HCFA’s level of expertise, extensive resources and successful working history of collaborative multi-agency efforts with regard to the investigation and prosecution of drug diversion crimes. Since 2009, HCFA has convicted 391 persons who have been involved in prescription drug crimes, including:

23 MDs, DOs and Podiatrists
9 Nurse Practitioners and Physician’s Assistants
17 Pharmacists
34 Pharmacy Techs
33 Registered Nurses
3 Licensed Practical Nurses
107 other health care workers
165 doctor shoppers/forgers/street associates

Major Cases

State v. David Bektashi et al - The AGO originally received a complaint from a Nurse Practitioner who alleged that his personal identifying information was being used to pass numerous fraudulent prescriptions for Oxycodone throughout the Valley. An SIS investigation revealed that a group of 11 suspects were passing at least 37 forged prescriptions representing over 6,000 narcotic pills with a street value of approximately \$170,000. When arrested, the ring leader, David Bektashi, was in possession of approximately 500 fraudulent prescriptions containing the identifying information of 21 different health care providers. The 11 suspects were indicted with 125 felony counts, including Fraudulent Schemes and Artifices, Participating in a Criminal Syndicate, Assisting a Criminal Syndicate and Conspiracy. In March 2022, David Bektashi pled guilty to Participation in a Criminal Syndicate, Conspiracy to Commit Acquisition of Narcotic Drugs by Fraud and Aggravated Taking the Identity of Another. He was sentenced to 15.75 years of prison and ordered to pay \$5,000 in restitution to the primary nurse practitioner victim. The remaining co-defendants pled guilty to various drug related offenses and were sentenced to supervised probation with varying jail terms.

State v. William J. Timmons et al - SIS Special Agents along with AHCCCS OIG and the Department of Economic Security (DES) initiated a Medicaid fraud investigation into William Timmons and Joseph O’Malley, former officers with Hacienda Healthcare. The investigation revealed Timmons and O’Malley improperly allocated direct and indirect costs, inflated reported expenses and engaged in improper billing from 2013 through 2018, resulting in an overpayment of at least \$10,895,648 from AHCCCS to Hacienda. Defendants were charged with several counts of Fraud Schemes & Artifices. In November 2021, Timmons was sentenced to three years supervised probation and ordered to pay \$274,500 to the AGO and to pay \$500,000 in restitution to AHCCCS. In January 2022, O’Malley pled guilty to Attempt to Commit Illegal Conducting of an Enterprise and Fraudulent Schemes and Practices. In February 2022, O’Malley was sentenced to two years of supervised probation. O’Malley was ordered to pay \$183,000 to the AGO. As noted last year, Hacienda paid \$11,000,000 to the State in a civil settlement.

CRIMINAL DIVISION

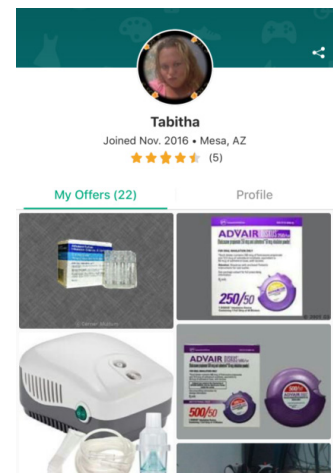
HEALTHCARE FRAUD & ABUSE SECTION

State v. Nichole Goss - The AGO received a report from the Tucson Adult Protective Services staff about a series of jewelry thefts that had been reported by residents confined to the COVID Unit of a local assisted living facility. SIS Special Agents began working with a Tucson Police detective checking local pawn shop records. The investigation revealed that Nichole Goss, a certified nursing assistant (CNA) had an extensive history of pawning jewelry. In fact, many of the pawn transactions correlated with her work schedule. The investigation revealed that Goss had pawned a yellow gold bracelet. The bracelet had been reported missing by a 98-year-old resident of the home's COVID unit. The bracelet was shown to the victim's daughter who identified it as belonging to her mother. Goss was charged with Trafficking in Stolen Property and two counts of Theft of a Vulnerable Adult. In January 2022, Goss pled guilty to Theft of a Vulnerable Adult. In February 2022, she was sentenced to three years of supervised probation and ordered to pay \$535 in restitution. In addition, the Arizona State Nursing Board revoked Goss' CNA credentials.



State v. Aileen Durazo Larranaga - Caregiver Aileen Larranaga was assigned to provide care to a wheelchair-bound resident at Ohana Senior Care Home. SIS Special Agents learned that Larranaga came into possession of the resident's banking information and proceeded to make more than \$5,000 in online purchases with his money. She even made unauthorized withdrawals from his bank account. In total, Larranaga stole more than \$20,000 from the victim. Larranaga was charged with Fraud Schemes & Artifices and Theft from a Vulnerable Adult. In October 2021, Larranaga pled guilty to Theft and Financial Exploitation of a Vulnerable Adult. She was sentenced to 14 days in jail and ordered to pay \$20,985 in restitution.

State v. Tabitha Delvalle - AHCCCS OIG referred this case to HCFA when it was discovered that a family of seven AHCCCS recipients were regularly obtaining pharmacy exceptions for their asthma-related prescriptions and then selling those items on the OfferUp website for cash. The investigation included two undercover buys from Tabitha Delvalle that led to her indictment on 59 criminal charges including Fraudulent Schemes & Artifices and multiple counts of Sale of Prescription Drugs. In March 2022, Delvalle pled guilty to Fraudulent Schemes and Artifices. She was sentenced to three months in jail, followed by five years of supervised probation. She was also ordered to pay \$23,518 in restitution to AHCCCS.



CRIMINAL DIVISION

SOUTHERN ARIZONA WHITE COLLAR & CRIMINAL ENTERPRISE SECTION

The Southern Arizona White Collar & Criminal Enterprise Section (SAWCCE) prosecutes all criminal cases under the Attorney General's statutory jurisdiction. SAWCCE specializes in white collar fraud investigations and prosecutions including securities and investment fraud, business embezzlement, AHCCCS and DES public benefits fraud, identity theft, money laundering and other economic-based crimes. SAWCCE also concentrates on targeted street gang related prosecutions and 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 cash across Arizona's southern border. 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 specialize in 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 works proactively with SIS 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 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

In FY22, SAWCCE filed new cases on 251 defendants, while managing 378 total defendants in active litigation and resolving cases against 319 defendants. For criminal enterprise drug interdiction, total seizures with approximate wholesale values included: 56,300 fentanyl pills valued at \$228,718 and 426 pounds of fentanyl powder valued at \$3,961,966; 99.27 pounds of methamphetamine valued at

\$148,905; 92.77 pounds of heroin valued at \$988,874; 110.11 pounds of cocaine valued at \$1,323,543; 4.29 pounds of marijuana valued at \$4,290. SAWCCE also assisted 969 economic crime victims with court-ordered restitution of approximately \$764,300 and obtained approximately \$146,049 in court-ordered fines.

Major Cases

State v. Benjamin Speights - In January 2020, Benjamin Speights of Los Angeles, California illegally parked his commercial truck on a highway exit outside Benson, Arizona. A DPS trooper noticed the parking violation and wanted Speights to move his truck. While talking to Speights, the trooper became suspicious that Speights was hiding something. During the investigation, the trooper discovered that Speights possessed twenty-six electronic devices containing a large number of videos and still-images of child sexual abuse. It was also discovered that Speights had previously been convicted of Lewd and Lascivious Acts with a Child under 14 years of age in 2006. Speights was charged with Possession of Marijuana, Possession of Drug Paraphernalia and eleven counts of Sexual Exploitation of a Minor. Speights pled guilty to Sexual Exploitation of a Minor, a dangerous crime against children. In December 2021, He was sentenced to 21 years in prison and was ordered to register as a sex offender.

State v. Lloyd Jorgenson, et. al. - In the Spring of 2016, the Marine Corps League, Thunder Mountain Detachment, that manages the Marine Corps Toys for Tots Foundation in Cochise County, received a donation of a toy and memorabilia collection. Due to the size of the collection, the Marine Corps Toys for Tots Foundation stored portions of the donated collection in storage units, including storing fifty-five footlockers at McGee's Storage Facility. In January 2019, a representative from the Foundation discovered that the footlockers and their contents had been stolen from McGee's Storage. Notably, the lock on the storage unit did not show any evidence of forced entry or damage. In March 2019, the Federal Bureau of Investigation (FBI) received information that Lloyd Jorgenson had approached a witness and offered to broker a sale of the footlockers and toy collection. The FBI also learned that Gustavo Chavez and Melinda Stewart were storing some of the lockers at their home. Through an undercover operation, the FBI arranged to purchase forty of the footlockers still filled with toys from Jorgenson. At that time, FBI agents arrested him. Jorgenson admitted to stealing the footlockers and toy collection from the storage unit and ultimately attempting to sell the stolen property. Jorgenson, Chavez and Stewart were indicted on charges related to the theft and sale of stolen property. Chavez and Stewart were sentenced last fiscal year. In February 2022, Jorgenson pled guilty to Burglary and Theft. In March 2022, he was sentenced to one year in prison, followed by seven years of probation. Because of the investigation, the FBI recovered most of the footlockers containing the toy and memorabilia collection. The FBI is working with the Toys for Tots program to return the seized footlockers and collection so the toys can be provided to the children in need.

State v. Jarley Barnett-Munoz - In April 2022, Jarley Barnett-Munoz was stopped in a shuttle at the Interstate 19 Border Patrol Checkpoint. Border Patrol agents located 1.514 pounds of fentanyl pills in her bra. Barnett-Munoz was arrested for transporting a narcotic drug for sale. She admitted to officers that she was going get paid for transporting the packages to someone in Tucson. In June 2022, Barnett-Munoz pled guilty to Attempted Transport of a Narcotic Drug for Sale. She was later sentenced to 180 days in jail followed by three years of supervised probation.

CRIMINAL DIVISION

SOUTHERN ARIZONA WHITE COLLAR & CRIMINAL ENTERPRISE SECTION

State v. Francisco Porchas - A Department of Homeland Security (DHS) investigation revealed that from October 2017 through December 2017, Francisco Porchas funneled money, obscuring the true owner of the money, by allowing unknown people to deposit \$64,200 into his bank account. Porchas would then promptly make wire transfers to send most of the money to third parties in Mexico. When Porchas was arrested, he admitted that he was paid to open a bank account and transfer the funds. In June 2022, Porchas pled guilty to Securing the Proceeds of an Offense. He was sentenced to 52 days in jail, followed by three years of unsupervised probation.

State v. Rosa Maria Ordonez - Rosa Maria Ordonez was the finance manager for the Tucson Unified School District's Pueblo High School bookstore. She was tasked with receiving payments from Pueblo students, parents and donors for various school-related purposes. The school district also entrusted her with cash to make change at school sporting events and in the bookstore. In August 2018, Ordonez stopped showing up for work, ultimately resigning in September 2018. An Auditor General investigation revealed that Ordonez stole cash and failed to deposit checks that she received on behalf of the district between June and August 2018. In September 2021, Ordonez was charged with Theft and violating the Duties and Liabilities of a Custodian of Public Money. In February 2022, Ordonez pled guilty to two counts of Theft of \$1,000 or more. She was later sentenced to three years of probation and ordered to pay restitution of \$6,365 to the school district.

State v. Amy Lyn O'Neill - Since 2015, Amy Lyn O'Neill was the President of the Jimmy Jet Foundation, a non-profit that serves the Air National Guard's 162nd Fighter Wing members, their families and the Tucson community by sponsoring scholarships, assisting disabled and needy members by providing home reconstructions and renovations along with health support and transportation. In 2017, she also became the Foundation's treasurer. An SIS investigation revealed that O'Neill embezzled \$84,444 from the Foundation by using Foundation funds to make her personal mortgage payments. She also withdrew more than \$18,000 in cash from Foundation accounts. To cover up her theft, O'Neill transferred money from the Foundation's investment account to replenish the money she was stealing from the day-to-day operations accounts. In November 2021, O'Neil was charged with Theft and two counts of Fraudulent Schemes and Artifices. At the request of the members of the Jimmy Jet Foundation, O'Neill was offered a plea of Solicitation to Commit Theft. As part of the guilty plea, O'Neill agreed to pay back full restitution to the victims of \$84,444, including a \$65,000 payment that she made before sentencing. In June 2022, O'Neill was sentenced to 30 days in jail, followed by four years of probation.


CRIMINAL DIVISION

SOUTHERN ARIZONA WHITE COLLAR & CRIMINAL ENTERPRISE SECTION

State v. Hector Aleman - Hector Aleman worked in customer service at Pima Federal Credit Union (PFCU) where he used his position to form a friendship with an elderly customer who suffers from neuro-cognitive defects, including memory loss. A Tucson Police Department investigation revealed that Aleman applied for loans in the victim's name; took money directly from the victim's bank account and gained access to and then used the victim's credit card for personal purchases. In total, Aleman stole approximately \$182,000 from the victim. Aleman learned of the death of another bank customer and designated the first victim a beneficiary of the deceased customer's account, allowing Aleman to then steal that money as well. Finally, Aleman applied for and received a personal loan in the name of yet another elderly cognitively impaired customer without his knowledge or consent. Aleman took the loan funds and deposited them into his own account. In April 2021, Aleman was charged with Forgery, Taking the Identity of Another and Fraudulent Schemes and Artifices. In October 2021, Aleman pled guilty to Attempted Fraudulent Schemes and Artifices and later was sentenced to three years in prison.

State v. Christina Lynn Wright - The daughter of an elderly male in Tucson contacted the AGO alleging that her father was being financially exploited by a young female that her father met through an online dating application. An SIS investigation revealed that Christina Wright pretended to be a girlfriend to the 81-year-old victim, who suffers from dementia. Wright collected money from the victim claiming it was for vet bills and car repairs, even though she had neither a pet nor a car. One day, the victim drove Wright to the bank drive-thru where he withdrew \$1,500 cash. Wright grabbed the money, receipt and the victim's debit card from the victim's hand then jumped out of the car and ran away. Fortunately, the victim reported the theft and the bank cancelled his debit card by the time Wright tried to use it two hours later. When police went to arrest Wright, they discovered she had credit cards belonging to a second victim. The second victim told police that his wallet had been stolen while he was shopping. Surveillance video of that incident showed Wright picking up the victim's wallet from a customer service counter. Wright left with the wallet and used the victim's credit cards at stores in a nearby mall. In April 2021, Wright was charged with Fraud Schemes and Artifices, Theft from a Vulnerable Adult, Fraudulent Use of a Credit Card and Trafficking in Stolen Property. In January 2022, she pled guilty to Solicitation to Trafficking in Stolen Property and Theft of a Credit Card. In March 2022, Wright was sentenced to concurrent terms of nine years in prison for her crimes against the first victim and six years in prison for her crimes against the second victim. Wright was also ordered to pay \$25,000 in restitution.

State v. Carol Ibarra - After a series of suspicious border crossings, a Homeland Security Investigations (HSI) case agent in Cochise County identified Carol Ibarra as a suspect. In January 2022, agents stopped Ibarra while she was crossing into the United States at the Douglas Port of Entry in a pickup truck. At




a secondary inspection, they found a secret compartment in the lining of the truck bed. Inside, agents found 33.9 kilos of fentanyl pills. Agents also recovered Ibarra's cell phone on which she had discussed plans to smuggle the pills to Phoenix. In January 2022, Ibarra was charged with Transportation of a Narcotic Drug for Sale, Illegally Conducting an Enterprise and Conspiracy. In March 2022, she pled guilty to Attempted Transportation of a Narcotic Drug for Sale and was later sentenced to 2.5 years in prison.

State v. Kassandra Baltazar - Starting in June 2019, Kassandra Baltazar sold methamphetamine, heroin and fentanyl pills to undercover Arizona Department of Public Safety (DPS) officers on nine different occasions. When Baltazar was arrested, a warrant was served on her cellphone. In addition to illicit drug activity, the phone also contained photographs of driver's licenses and Social Security cards that were later identified as having been stolen during home burglaries. DPS officers seized two pounds of heroin, 0.75 pounds of methamphetamine and 50 fentanyl pills from the undercover buys and from a safe in Baltazar's vehicle when she was arrested. Baltazar was charged with Conspiracy, Illegally Conducting an Enterprise and Transportation of a Narcotic Drug for Sale. Baltazar pled guilty to Attempted Transportation of a Narcotic Drug for Sale and Aggravated Identity Theft. In October 2021, he was sentenced to three years in prison.

State v. Elizabeth Landeros - Elizabeth Landeros was a United States Customs and Border Protection (CBP) agent. In 2018, her son was charged by the Pima County Attorney's Office for molesting an 11-year-old girl. As the case progressed, the young victim returned to Mexico to live with her mother. A man and a woman arrived at the victim's home in Mexico and attempted to bribe the family into dropping charges. When that failed, two different men threatened to harm the victim's family if they failed to drop the charges. The victim and her mother reported the threats to Pima County Sheriff's detectives. She reported that the woman who attempted to bribe them looked like Landeros. The FBI and the Department of Homeland Security (DHS) opened a joint investigation into Landeros. They learned that Landeros had used her position as a CBP agent to access law enforcement databases in order to learn personal information about the victim, including her date of birth. When the FBI interviewed Landeros, she admitted gathering the information as she planned to provide the information to her son's attorney to use in his criminal case. She denied being involved with the bribery and threats, but admitted she knew it was happening and did not intervene to stop it. Landeros was charged with Computer Tampering, Obstructing Criminal Investigations or Prosecutions and Conspiracy. In November 2021, she pled guilty to Computer Tampering and was later sentenced to three years of probation. As part of her plea agreement, Landeros was required to provide proof that she had resigned from her position with the CBP and agreed not to work in law enforcement while on probation.

State v. Walter Reed Smith, Jr. - Agents with the Department of Homeland Security (DHS) engaged in an undercover operation attempting to identify people online who were trying to lure underage children into sexual encounters by using the undercover persona of a 14-year-old girl. Walter Reed Smith Jr. contacted the undercover agents' persona on various chat apps and exchanged sexually charged text messages that included graphic images and videos of adults engaged in various sexual encounters. He also provided nude images of himself and videos of himself smoking methamphetamine. Smith and the undercover persona agreed to meet for sexual intercourse at a park in Tucson. He also offered to bring methamphetamine for the minor, saying it would entice her to perform specific sex acts. When Smith



was detained, he had condoms, lubricants, a blanket and methamphetamine. In October 2021, Smith was charged with Aggravated Luring a Minor Under Fifteen for Sexual Exploitation, Attempted Sexual Conduct with a Minor, Unlawful Possession of a Dangerous Drug for Sale and Unlawful Possession of Drug Paraphernalia. In March 2022, Smith pled guilty to two counts of Attempted Aggravated Luring a Minor under Fifteen for Sexual Exploitation. In May 2022, he was sentenced to 7.5 years in prison, followed by lifetime supervised probation and ordered to register as a sex offender.

State v. Desiree Ibarra - Desiree Ibarra called the police to report an assault and that someone had stolen her purse. When police tracked down the supposed suspects, they learned Ibarra was a drug dealer and was holding the government IDs of the two men who took the purse. Pima County Sheriff's deputies found the abandoned purse and located heroin and drug paraphernalia inside. When they made further contact with Ibarra, deputies found methamphetamine in her jacket pocket. After she was booked into the Pima County Jail, deputies at the jail found that Ibarra had hidden heroin in a body cavity. Ibarra was charged with Possession of a Dangerous Drug for Sale, Possession of a Narcotic Drug and Possession of Drug Paraphernalia. In March 2022, she pled guilty to Possession of a Narcotic Drug for Sale with two prior felony convictions and later sentenced to 9.25 years in prison.

State v. Agustin Antonio Quiroz-Samoya - During an investigation by the Counter Narcotics Alliance (CNA), Agustin Quiroz-Samoya sold to officers, or put officers in contact with others to sell, 7.5 pounds of methamphetamine and 9.2 pounds of heroin. Quiroz-Samoya admitted his involvement in selling and middling drug deals in the first case. Quiroz-Samoya was charged in two cases where he delivered large quantities of methamphetamine to undercover officers on behalf of two different drug trafficking organizations. In October 2021, he pled guilty to Attempted Transportation of Methamphetamine for Sale and Money Laundering. In the second case, Quiroz-Samoya pled guilty to Attempted Transportation of Methamphetamine for Sale and Illegally Conducting an Enterprise. In November 2021, he was sentenced to 3.5 years in prison, followed by five years of supervised probation.

State v. Obrien Miseen French - While detectives with the Counter Narcotics Alliance (CNA) performed surveillance as part of a larger methamphetamine shipping investigation, they saw Obrien French carry shipping supplies into a hotel room. They later saw French leave with a packed shipping box that he loaded into a car. When the car was stopped, CNA detectives found 10.22 pounds of methamphetamine. French was indicted on Transportation of a Dangerous Drug for Sale, Conspiracy and Illegally Conducting an Enterprise. In March 2022, French pled guilty to Illegally Conducting an Enterprise and was later sentenced to 6.5 years in prison for his role in the drug enterprise.

State v. Joseph James Mierzejewski - An investigation by SIS Special Agents revealed that James Mierzejewski was participating in an organized retail theft ring that defrauded various retail stores in Southern Arizona including Target, Home Depot and Walmart. Mierzejewski would enter retail stores and place an incorrect Universal Product Code (UPC) on an item; however, the switched UPC code included a significantly lower marked price than the retail value of the item Mierzejewski was purchasing. He would then pay the lower purchase price at the register and resell those same items at pawn shops for a profit. In April 2022, he was charged with Fraudulent Schemes and Artifices, two counts of Trafficking in Stolen Property and two counts of Organized Retail Theft. In July 2022, Mierzejewski pled guilty to Theft and Attempted Trafficking in Stolen Property and later sentenced to one year in prison, followed by four years of probation.

CRIMINAL DIVISION

SPECIAL INVESTIGATIONS SECTION

The Special Investigations Section (SIS) is a law enforcement component of the Criminal Division which conducts complex criminal investigations related to crimes including vulnerable adult abuse, consumer fraud, drug trafficking, human smuggling, environmental crimes, medical fraud, money laundering, white collar crimes, retail theft, sexual exploitation, political corruption, youth tobacco enforcement, antitrust, and computer crimes. In addition to conducting criminal investigations, SIS provides investigative support to AGO attorneys as well as law enforcement agencies throughout the State. SIS also 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.

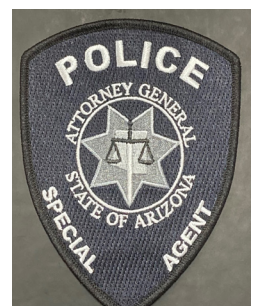
Overview of Accomplishments

In FY22, SIS opened 583 cases. This year, SIS Major Fraud Units devoted resources to advance public corruption cases with Criminal Division prosecutors. SIS has successfully met unprecedented investigative demands. In addition, Special Agents work with other AGO attorneys assisting with Consumer Fraud litigation. The significant rise in duty agent contacts can be attributed to the complaints received for COVID-19 and Unemployment-related fraud. AGO initiatives continue to target the dismantling of the financial structures of drug trafficking organizations and have resulted in record-setting increases in asset forfeitures. FY22 statistics also indicate calls for assistance from the public and other law enforcement agencies which were at high levels.

Law Enforcement Assists 77
TRAC – Financial Inquires 1078
Duty Agent Contacts 5,608

Major Cases

Many of the successfully prosecuted cases previously outlined by other Sections in this report were investigated by Special Agents assigned to SIS. SIS has several Units including the Arizona Financial Crimes Task Force (AFCTF), Financial Remedies (FRU), Major Fraud (MFU1 & MFU2), Healthcare Fraud & Abuse (HCFA) and Tucson.



CRIMINAL DIVISION

SPECIAL INVESTIGATIONS SECTION

Arizona Financial Crimes Task Force (AFCTF)

Special Agents assigned to the Arizona Financial Crimes Task Force (AFCTF) have investigated numerous complex drug investigations, including wire interception, fraud schemes and sex trafficking organizations. Below is a highlight of some of the matters the AFCTF worked on.



During FY22, the AFCTF conducted a large complex wire interception investigation into a criminal syndicate responsible for utilizing an organized group of Money Service Businesses (MSBs) to launder illegal drug proceeds into Mexico for multiple Mexican cartel led drug trafficking organizations. It was determined that the Phoenix area MSBs moved millions of dollars of illegal drug proceeds by structuring large amounts of cash into groups of smaller wire transfers, while utilizing numerous false identities, to avoid detection and reporting requirements. After identifying the pattern, Task Force agents were able to monitor the couriers transporting the illegal drug proceeds to the MSBs. Agents conducted surveillance of the MSBs, revealing numerous drug trafficking organizations that provided the taskforce with the opportunity to disrupt and/or dismantle their group and ultimately dismantling the MSB syndicate. The investigation resulted in the seizure of 242 pounds of methamphetamine, fentanyl, heroin and cocaine with a street value of approximately \$1,651,000. In addition to vehicles and properties, approximately \$204,000 in cash was seized. In total, more than 110 Search Warrants were drafted and executed. In addition to the complex wire interception, the AFCTF also provided analytical support to the Phoenix Police Department VICE Squad tasked with combating human trafficking. The analytical support assisted with the arrests of 362 individuals and rescued 28 victims.



Financial Remedies Unit (FRU)

Special Agents in the Financial Remedies Unit (FRU) not only assist prosecutors in civil forfeiture, they also are assigned to various task forces to coordinate efforts with law enforcement agencies at the local and federal levels. Special Agents assigned to FRU completed over 392 follow-up assignments to support civil forfeiture case litigation along with investigating criminal cases that involve fraud schemes, identity theft and pandemic unemployment assistance fraud.

A Special Agent is assigned to work with the Drug Enforcement Administration Task Force (DEA TF) to assist with drug trafficking and money laundering organizations. During FY22, the DEA TF investigated and arrested 68 drug traffickers and seized 14.6 pounds of heroin, 1,146.4 pounds of methamphetamine, 84 pounds of cocaine, 1,612,080 fentanyl pills, 134.4 pounds of fentanyl powder, 58 guns and \$1,238,687 in cash.



The AGO also continued to partner with the Federal Bureau of Investigation (FBI) National Security Task Force (NSTF). The mission of the NSTF is to detect, prevent, preempt and disrupt threats against the United States. During FY22, the Special Agent assigned to the NSTF assisted in no less than 13 criminal investigations and successfully prosecuted seven suspects through the AGO. As a member of the NSTF, the Special Agent has been successful in bringing together federal, state and local law enforcement partners as well as other investigative resources to accomplish the overall mission of the NSTF. One notable investigation involved Chauncey Hollingberry who routinely harassed and threatened employees at the AGO via his YouTube Channel. In May 2022, Hollingberry was sentenced in federal court to two years of prison, followed by five years of supervised probation.

The AGO continued to partner with the Social Security Taskforce (SSA TF). The mission of the task force is to combat fraud by investigating statements and activities that raise suspicion of disability fraud by claimants, medical providers, interpreters or other service providers. Special Agents assigned to the were assigned 73 new disability investigations, 18 administrative complaints and 13 criminal fraud complaints of which 55 investigations were administratively closed. Special agents were able to save the SSA and State of Arizona approximately \$1,928,913 in tax payer funds.

CRIMINAL DIVISION

SPECIAL INVESTIGATIONS SECTION

HIDTA Taskforce

Special Agents are assigned to the High Intensity Drug Trafficking Area (HIDTA) Maricopa County Drug Suppression Task Force (MCDST), with a focus on disrupting, dismantling and combating drug trafficking and money laundering. Below highlights the drugs and assets that were seized in FY22:

Drug Seizures	
Fentanyl Pills	514,000 pills
Fentanyl Powder	86 pounds
Cocaine	45 pounds
Methamphetamine	697 pounds
Heroin	18 pounds
Marijuana Flower	644 pounds
Marijuana Plants	2,102 plants
THC Concentrate	24.3 pounds
THC Vape Pens	29,648 pens
Psilocybin Mushrooms	17 pounds
LSD	167,000 DU's
DMT	30 grams powder 10 gallons in solution
Ecstasy	372 DU's
Ketamine	8 grams
Alprazolam (Xanax)	1,000 DU's
Promethazine	9 pints
MDMA	11.5 grams
Property	
US Currency	\$1,695,500
Guns (rifles/handguns)	278
Vehicles	51
Law Enforcement Operations	
Arrests	141

Healthcare Fraud & Abuse Unit (HCFA)

As noted in the HCFA Section, two Special Agents are assigned to the Drug Enforcement Administration Task Force (DEA TF). Below highlights some of the matters they worked on in FY22.

- Obtained successful indictments on multiple healthcare employees to include two doctors, nurse practitioner, registered nurse and an office manager.
- Obtained an indictment on a leader of an opioid distribution ring in which the suspect was also the suspect in a double homicide.
- Worked multiple cases alongside the DEA that involved the large fraudulent acquisition of promethazine w/codeine sales.
- Worked alongside DEA to investigate opioid overdose deaths.
- Taught two basic narcotic investigation courses for various police agencies throughout the State of Arizona.

Major Fraud Units (MFU1 & MFU2)

State v. Keith Moore, et al - Keith Moore and Cachita Smith engaged in a sophisticated and complex fraud scheme. An investigation by SIS Special Agents along with Glendale Police Department, Scottsdale Police Department, Gilbert Police Department and Mesa Police Department revealed that Moore and Smith had people break into vehicles and steal women's purses, identification cards, checkbooks and bank cards. They would then recruit women, often homeless and drug-addicted, to pose as the victims of the car burglaries. They made the women presentable, giving them wigs to match the appearance of the victims based on the victims' driver's license photos. The women would then go into banks and try to withdraw money while assuming the victim's identity. The defendants provided these women with the victim driver's license, bank card and withdrawal slip and then coached them on what to do while inside the bank. Often the defendants would be on the phone talking or texting the women directions or requesting updates while the women were inside the banks. Smith pled guilty to Conspiracy to Commit Fraudulent Schemes and Artifices, Fraudulent Schemes and Artifices and Aggravated Taking the Identity of Another. In February 2022, she was sentenced to 3.5 years in prison. Moore pled guilty to Fraudulent Schemes and Artifices, Taking Identity of Another, with one prior felony conviction, Fraudulent Schemes and Artifices, Aggravated Taking the Identity of Another and Influencing a Witness. In February 2022, he was sentenced to 4.5 years in prison, followed by seven years of intensive probation. Moore was also charged in another matter for Tampering with a Witness and Influencing a Witness as he attempted to influence Smith's testimony against him by offering her money. He pled guilty to Influencing a Witness. In February 2022, Moore was sentenced to three years supervised probation upon release from prison.

State v. Melissa Collins - Melissa Collins was identified by facial recognition from an Arizona MVD photo where she applied for a driver's license in a victim's name. Collins was one of the suspects working for Keith Moore and Cachita Smith who would use IDs and checkbooks stolen in auto burglaries to deposit stolen checks and withdraw cash from victim's accounts. Collins was charged with two counts of Fraudulent Schemes and Artifices, Theft, two counts of Taking the Identity of Another, False Swearing and nine counts of Forgery. In October 2021, she pled to Fraud Schemes and Forgery and was later sentenced to 2.5 years in prison, followed by five years of supervised probation.

CRIMINAL DIVISION

SPECIAL INVESTIGATIONS SECTION

State v Kenneth Edward Nelson - Kenneth Edward Nelson engaged in text message conversations with an SIS Special Agent, whom he believed to be an adult female selling children for sex exploitation. Additionally, Nelson stated during this chat that he was looking to purchase infant to toddler children. He also stated he has video recordings of himself having sex with children in the past and that he is in possession of those videos. Nelson is a registered sex offender, stemming from a case where he attempted to meet with a child who he was going to purchase for the purpose of sexual exploitation. Special Agents along with the Internet Crimes Against Children (ICAC) Task Force and conducted a search warrant on Nelson's residence which secured additional evidence of child exploitative images. In November 2021, Nelson pled guilty to Attempt to Commit Child Sex Trafficking, with one prior felony conviction and Attempted Exploitation of a Minor. In January 2022, he was sentenced to 10 years in prison, followed by lifetime probation and must register as a sex offender.



Tucson Major Fraud Unit (TUC)

State v. Dean Alan Dufek - The SIS Special Agent assigned to the Tucson Internet Crimes Against Children (ICAC) Task Force received a tip from a multimedia instant messaging app and service, identifying two images uploaded to their server from a user with an IP Address in Tucson. These images depicted the sexual exploitation of children. Investigative search warrants revealed the subscriber information for the identified IP address. Surveillance and follow-up by law enforcement confirmed the identity of the suspect to be Dean Alan Dufek. A search warrant served at Dufek's residence revealed contraband on his personal cell phone. A forensic download of this device revealed over 200 images of child sexual abuse imagery. Dufek was charged with Sexual Exploitation of a Minor. In July 2021, Dufek pled guilty to Attempted Sexual Exploitation of a Minor. He was sentenced to five years in prison, followed by five years of probation and was ordered to register as a sex offender.

State v. Saul & Martha Escamilla -The Santa Cruz County Sheriff's Office (SCCSO) responded to the residence of Saul Escamilla due to a reported home invasion. SCCSO deputies obtained a search warrant and found \$35,000 in cash in the master bedroom of the home, wrapped in a manner consistent with narcotics trafficking. Escamilla admitted to the deputies that the money was his; however, denied it was proceeds from illegal drug sales. He admitted that he did not deposit the money in the bank so that he could maintain his AHCCCS eligibility. The case was referred to SIS Special Agents who conducted an investigation with AHCCCS OIG. The investigation revealed that the Escamilla's submitted false application information and defrauded AHCCCS over a number of years. The Escamilla's were charged with Theft, Fraudulent Schemes & Artifices and Money Laundering. In July 2021, Escamilla pled guilty to

Solicitation to Commit Theft. In January 2022, he was sentenced to 1.5 years in prison. In January 2022, Martha was sentenced to three years of supervised probation. They were ordered to pay restitution of \$44,023 to AHCCCS.

Consumer Fraud Unit (CPA)

Investigators assigned to the Consumer Fraud Unit (CPA) assist consumer attorneys investigating individuals and businesses that violate the Arizona Consumer Fraud Act. The information below is a highlight of some of the matters CPA agents worked on this fiscal year.

Juul Labs, Inc - The AGO obtained a consent agreement against e-cigarette maker Juul Labs, Inc. (Juul), requiring the company to pay \$14.5 million dollars and make significant changes to its business practices to ensure Juul products are not marketed or sold to youth in Arizona. The AGO alleged that Juul marketed its highly-addictive nicotine products to appeal to young people while misleading them on the risks associated with those products, Juul failed to implement appropriate protective measures to ensure its products were not sold to underage consumers and that Juul misled all consumers regarding its products' true nicotine concentration. \$12.5 million dollars of the settlement will be used for programs to stop youth vaping, such as education programs, cessation programs and impact abatement programs.

CashCall, Inc - The AGO obtained a \$4.8 million dollar consent judgment against lender CashCall, Inc , its owner J. Paul Reddam and a subsidiary, WS Funding, LLC for predatory lending practices. Arizona consumers took out personal loans with interest rates as high as 169 percent, greatly exceeding that allowed under Arizona law. The lender engaged in schemes, including using a South Dakota company with a purported Native American tribal affiliation as a façade for marketing and issuing unlawful, high-interest loans to Arizona consumers. In addition to providing restitution for consumers who were harmed, the judgment requires defendants to cease all collections and to forgive all outstanding loans.

CMS Financial Group - The AGO obtained a \$1.6 million dollar judgment against Mark Smith and his debt collection businesses, including CMS Financial Group, John Lee Group & Associates and TD Financial Solutions Group Arizona. In addition to the judgement, Smith is also permanently banned from participating in any debt collection activities. Smith's debt collection businesses impersonated law enforcement officers, government officials, process servers and law firm personnel in order to intimidate consumers into paying alleged debts which they had no authority to collect. Intimidation tactics used included threatening to garnish wages and tax refunds, place liens on homes and vehicles, freeze bank accounts, send law enforcement to their places of employment and arrest consumers. Smith's debt collection businesses also frequently used Caller ID spoofing software to make it appear that their calls were coming from government agencies.

ABC Nissan, LLC & Pinnacle Nissan, LLC - The AGO obtained judgments totaling \$505,000 from settlements with two Valley based auto dealerships ABC Nissan and Pinnacle Nissan, both owned by Berkshire Hathaway Automotive. These Nissan dealerships engaged in false advertising by advertising low vehicle prices online then refusing to sell those vehicles for the advertised prices. The dealerships would tell consumers they had to purchase certain "add-on" accessories, such as nitrogen in the tires, an

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exterior protective coating, door edge guards and door cups or window tint. These add-on accessories raised the vehicle price above the advertised sales price of the vehicle. The judgments also require the two dealerships to advertise the true price of their vehicles, give consumers accurate information regarding costs and provide transparency regarding add-on accessories.

Youth Tobacco Compliance Program

In FY22, the Youth Tobacco Compliance Program conducted 2,730 undercover inspections of tobacco retailers overall, resulting in 716 citations issued to clerks and businesses that sold tobacco products to underage youth volunteers. Additionally, investigators conducted approximately 2,177 website inspections of online tobacco vendors.

Background & Training Compliance

A Special Agent is assigned to conduct background investigations for all new employees of the Special Investigations Section and maintain training compliance for the section. As part of the employment process, all staff of the Special Investigations Section must complete an Employment Background Investigation. During the last year a total of 16 background investigations were completed; in addition to maintaining training compliance for SIS that includes 54 sworn Special Agents.

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OFFICE OF VICTIM SERVICES

The mission of the Office of Victim Services (OVS) is to promote and facilitate justice and healing for people affected by crime in Arizona. OVS provides a variety of mandated and non-mandated services to victims in cases in which the State is investigating and represented by the AGO. In addition, to help ensure compliance with victims' rights statewide, OVS has statutory authority to provide financial and technical support through various nationally recognized programs 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

The 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 or federal review or under capital appeal. In FY22, the investigation-based advocates provided over 12,000 services to more than 800 victims. The prosecution/appellate advocates provided over 42,000 notifications and more than 95,000 advocacy services to more than 8,700 victims. OVS continues to surpass expectations in terms of victims served and services provided by the Advocate Program staff. During FY22, 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 in Phoenix and Tucson.

The Advocate Program staff continued providing a high number of services to victims. On average a prosecution-based advocate carries a caseload of 1,404 victims while the program maintains an average victim satisfaction rate of 4.1/5.0. These numbers demonstrate the high level of dedication and professionalism of advocates as they continued to focus on the needs of their victims and to ensure compliance with victims' rights, incorporating lessons and practices learned during the pandemic, including virtual victim meetings and increased electronic mail notification. Between both programs, 150,294 services were provided to victims during the year, a more than 20% increase in services from the previous year. Advocates assisted victims with impact statements, property returns, restitution, attendance of virtual hearings, discussions before and after the virtual hearings and provided updates and empathetic listening and crisis services by phone and email. Additionally in FY22, Arizona resumed executions which resulted in direct services to eight surviving family members of two homicide victims in two capital cases. These cases required weekly and then daily contact and notification, over the course of approximately 10 weeks each, to the family members once the Arizona Supreme Court filed the Warrant of Execution.

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Based on the unique caseload and expertise of the AGO, the Advocate Program Manager was selected and invited to share OVS practices and knowledge statewide about Restitution and Challenges in Victims' Rights at the Arizona Victim Assistance Academy, how to serve victims of crime in the post-conviction process for both the Arizona Prosecuting Attorney Advisory Council's (APAAC) Annual Victim Advocate and Annual Prosecutor Conferences, and nationally at the National Organization for Victim Assistance (NOVA).

Major Cases

State v. Tyler Ehredt - Tyler Ehredt was identified as a member of an online chat group in which sexually explicit material of an infant was distributed. Ehredt later admitted to having sexual contact with at least seven minors, only one whose identity was determined. This conduct was used in negotiating a plea agreement that would increase the prison term, but precluded the State from filing any additional charges in the future. The identified minor victim was represented by his mother. She was highly involved and indicated her family wanted to address the court at sentencing. The FSP prosecutor agreed to make a special request to the court given the family's ties to the case and the defendant's offenses. The advocate shared with the mother and her husband what to expect during the proceeding and prepared them for speaking to the court. The court granted the request and the minor victim's father spoke on the family's behalf. He shared a moving statement about how the defendant's actions impacted not only the young victim, but the entire family. He spoke about forgiveness and his hopes for the defendant's rehabilitation while serving his prison sentence. The advocate offered emotional support as the mother listened tearfully to her husband's statement. After the hearing the advocate debriefed with the victim's parents and answered questions regarding expectations moving forward. They showed gratitude to the AAG and advocate for ensuring their inclusion in the case and making them feel heard. Feeling heard and having the ability to witness justice in the court system permitted the family to continue moving forward on a path of recovery. After pleading guilty to three counts of Sexual Exploitation of a Minor, Ehredt was sentenced to 16 years in prison, followed by a lifetime or probation. Ehredt also must register as a sex offender.

State v. Gary Simson - Gary Simson was charged with Child Sex Trafficking, Luring a Minor for Sexual Exploitation, Sexual Conduct with a Minor and numerous drug charges. The advocate quickly built rapport with the family. The 15-year-old minor victim in this case was actively represented by her parents. Early in the case the mother shared the complexities of raising her daughter given the behavioral and mental health issues she has exhibited since being victimized. The advocate empathized with her, reminded her that receiving help is nothing to be ashamed of and talked about the reactions to trauma and the recovery process. The mother expressed frustration towards the defendant's lack of remorse in the case



especially considering all of the physical evidence. The advocate took time during each call to validate her experience. The family had many questions about the criminal justice process and shared that their anxieties were alleviated while participating in the process. The parents attended most of the hearings and expressed gratitude for everyone involved in the prosecution of this case taking the time to ensure their questions were answered and they were kept well informed about the case. After pleading guilty to Luring a Minor for Sexual Exploitation, Attempt to Commit Aggravated Luring of Minor for Sexual Exploitation and Possession of Dangerous Drugs, Simson was sentenced to four years in prison, followed by a lifetime or probation. Simson also must register as a sex offender.

Agency Support Team

The Agency Support Team (AST), nationally recognized for its innovative multidisciplinary programs, continues to lead statewide efforts to promote uniformity and efficiency with victims' rights compliance through its various support and leadership programs to criminal justice agencies. During FY22, the AST led and participated in 148 task forces, committees and commissions provided over 2,800 technical assistance services and conducted 56 victims' rights presentations to 3,005 participants. The AST also reviewed 26 new allegations of victims' rights violations, distributed over 270,000 victims' rights forms to 127 law enforcement agencies and, through its Victims' Rights Program (VRP) dispersed over \$2.2 million dollars to 56 criminal justice agencies to support their mandated victims' rights services. As a direct result of the coordinated efforts of the 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 the Arizona criminal justice system. Those changes include: increased awareness and understanding of the post-conviction process and victims' rights in post-conviction; 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. As these issues and challenges arise, the OVS finds ways to include them in outreach training curriculum. As such, the Outreach Program successfully addresses these issues while conducting OVS' high quality, engaging webinars, while meeting the requirements of those who accredit the presentations such as Arizona Police Officer Standards Training (AZPOST), Committee on Judicial Education (COJET) and Victims of Crime Act (VOCA). While training presentations have remained largely virtual in the BigMarker platform, AST was honored to be selected and invited to present various trainings on Arizona's victims' rights at national conferences, such as Parents of Murdered Children, the National Association of Victim Assistance in Corrections, and the National Center for Victims of Crime and several workshops at APAAC conferences.

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OFFICE OF VICTIM SERVICES



National Crime Victims' Rights Week

As part of leadership and collaborative efforts, the OVS continued to lead and participate in committees, commissions and task forces. A major accomplishment of the AGO Victims' Rights Advisory Committee (VRAC) was the creation of an educational animated video of the post-conviction process. In an effort to help educate victims on the process and the victims' rights involved, in partnership with the Arizona Bar Foundation, a workgroup of VRAC developed the video that has received praise from the victim community in Arizona and beyond. The video has been widely distributed around the state, is available on the AGO and Supreme Court websites, is included in trainings, provided to victims in letters and is being made available to non-profit groups serving victims in the post-conviction phase such as Parents of Murdered Children, Homicide Survivors and law groups representing victims. The video can be viewed by visiting the link:

<https://youtu.be/VrIIIiJBQm4>



Agency Support Team (AST)/Victims' Rights Program (VRP) FY22 Survey Responses

AST programs solicit feedback from Victims' Rights Program (VRP) fund recipients and presentation attendees in order to make changes for the betterment of OVS' programs. An illustration of some of the feedback received is listed below:

"All of the VRP staff members are extremely courteous, responsive and helpful."

"I thought the presenter was amazing. The victim stories at the end were very interesting and the interactive polls were very helpful. I think overall everything I learned in this training will be very helpful in my advocacy work."

"We have found that the assistance from [the VRP staff] to be extremely helpful to adhere to the mandated victims' rights laws we are required to provide."

"The information about how to assist a victim after sentencing was extremely interesting. That's often when victims reach back, out but I have not always been aware of how to help them so this will make me a better advocate."

"The material was very engaging and presented well. You can tell your office has really embraced and worked well through the pandemic because this virtual presentation was phenomenal."

"As laws change we have reached out to the VRP staff for technical assistance."

"We continue to learn through each interaction with VRP staff."

"Without this funding, our agency would find it extremely difficult financially to provide notification to victims."

"Both presenters were very prepared and knowledgeable. Both presented what could be somewhat dry information, and added aspects to bring me back to the point that at the end of everything is a crime victim and their surviving family."

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OFFICE OF VICTIM SERVICES

Victim Awareness Activities

National Crime Victims' Rights Week

In FY22, OVS worked with statewide partners to create a virtual recognition event to honor victims of crime and service providers from throughout Arizona. The theme: Rights. Access. Equity for all Victims was highlighted throughout the event. The Attorney General presented the Distinguished Service Awards to the winners through a video recognition.

The recording of the statewide event can be viewed by visiting the link https://www.youtube.com/watch?v=us_l9R2j8o8

OVS Staff in Phoenix and Tucson recognizing National Crime Victims' Rights Week



AGO Phoenix OVS staff



AGO Tucson OVS staff

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