



Attorney General  
Mark Brnovich

2021  
ANNUAL REPORT

# CONTENTS

04	About the Office
06	Message from AG Brnovich
08	Executive Office
10	Arizona Peace Officer's Memorial
12	Operations
27	Solicitor General's Office
46	State Government Division
72	Civil Litigation Division
98	Child & Family Protection Division
112	Criminal Division

# 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.**

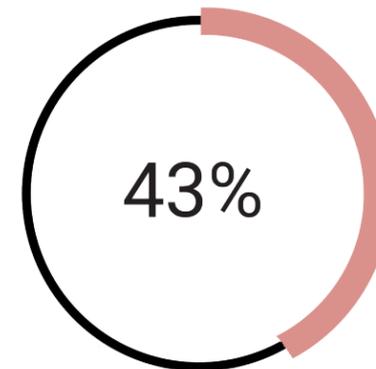
The Attorney General's Office has jurisdiction over Arizona's Consumer Fraud Act, white collar crime, organized crime, public corruption, environmental laws, civil rights laws, and crimes committed in more than one county. Additionally, this Office prosecutes cases normally handled by county attorneys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

# ABOUT OUR EMPLOYEES

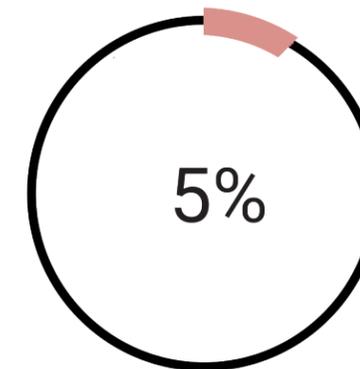
The Attorney General's Office is the largest law office in the State. The Office is divided into:

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

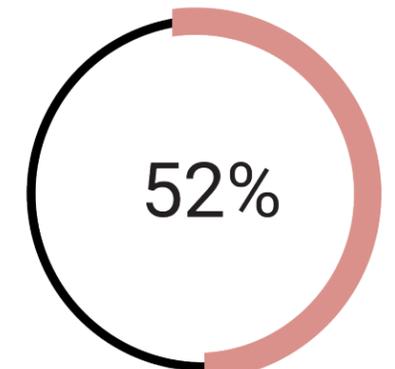
The office is comprised of a wide variety of employees including attorneys, special agents, and legal support staff, among others.



ATTORNEYS



SPECIAL AGENTS



OTHER EMPLOYEES

# ATTORNEY GENERAL MARK BRNOVICH



Mark Brnovich currently serves as Arizona's 26th Attorney General. He was first inaugurated in 2015, and again in 2019 after winning re-election. He's spent most of his professional life serving as a prosecutor at the local, state, and federal levels. Brnovich met his wife Susan while they both worked as prosecutors for the Maricopa County Attorney's office. He worked in the Gang/Repeat Offender Unit and prosecuted many difficult and high profile cases from 1992 to 1998. Brnovich then went on to work as an Assistant Attorney General with the Arizona Attorney General's Office (AGO) from 1998 to 2003, where he developed an expertise in gambling law. He later went on to serve as an Assistant United States Attorney for the District of Arizona where he prosecuted public integrity crimes, as well as crimes occurring in Indian Country.

Brnovich is known for restoring public confidence in the office of "Arizona's Top Cop" and for assembling some of the nation's most talented public servants for his administration. In March 2021, he argued at the United States Supreme Court to protect Arizona's commonsense election-integrity restrictions on ballot harvesting and out-of-precinct voting in *Brnovich v DNC*. In 2015, Brnovich also argued at the United States Supreme Court in defense of the "one-person, one-vote" principle. He has been featured on 60 Minutes in defense of capital punishment and has initiated national public education efforts to combat human sex trafficking. Additionally, Brnovich has secured more than \$200 million in consumer restitution, debt and timeshare fee savings, and event ticket refunds since taking office in 2015. This amount far exceeds the restitution secured by the AGO from 2000-2014 combined.

Brnovich has been recognized by the National Federation of Independent Business as a "Champion of Small Business" and was elected by his bi-partisan colleagues to serve as the Chairman of the Conference of Western Attorneys General.

His wife Susan was confirmed by the United States Senate to serve as a U.S. District Judge for the District of Arizona. Brnovich has two teenage daughters and lives in Phoenix.

“

The true measure of success in every case is how well justice was served. We have a sacred duty to uphold the rule of law and maintain the public's confidence. This annual report highlights the incredible efforts of some of the most talented and dedicated public servants in the country, and we are proud to have them here at the Arizona Attorney General's Office.

“

Our attorneys and staff are steadfast in their dedication to justice and service to the people of Arizona. It is an honor to work with such an amazing group of professionals here at the Arizona Attorney General’s Office.



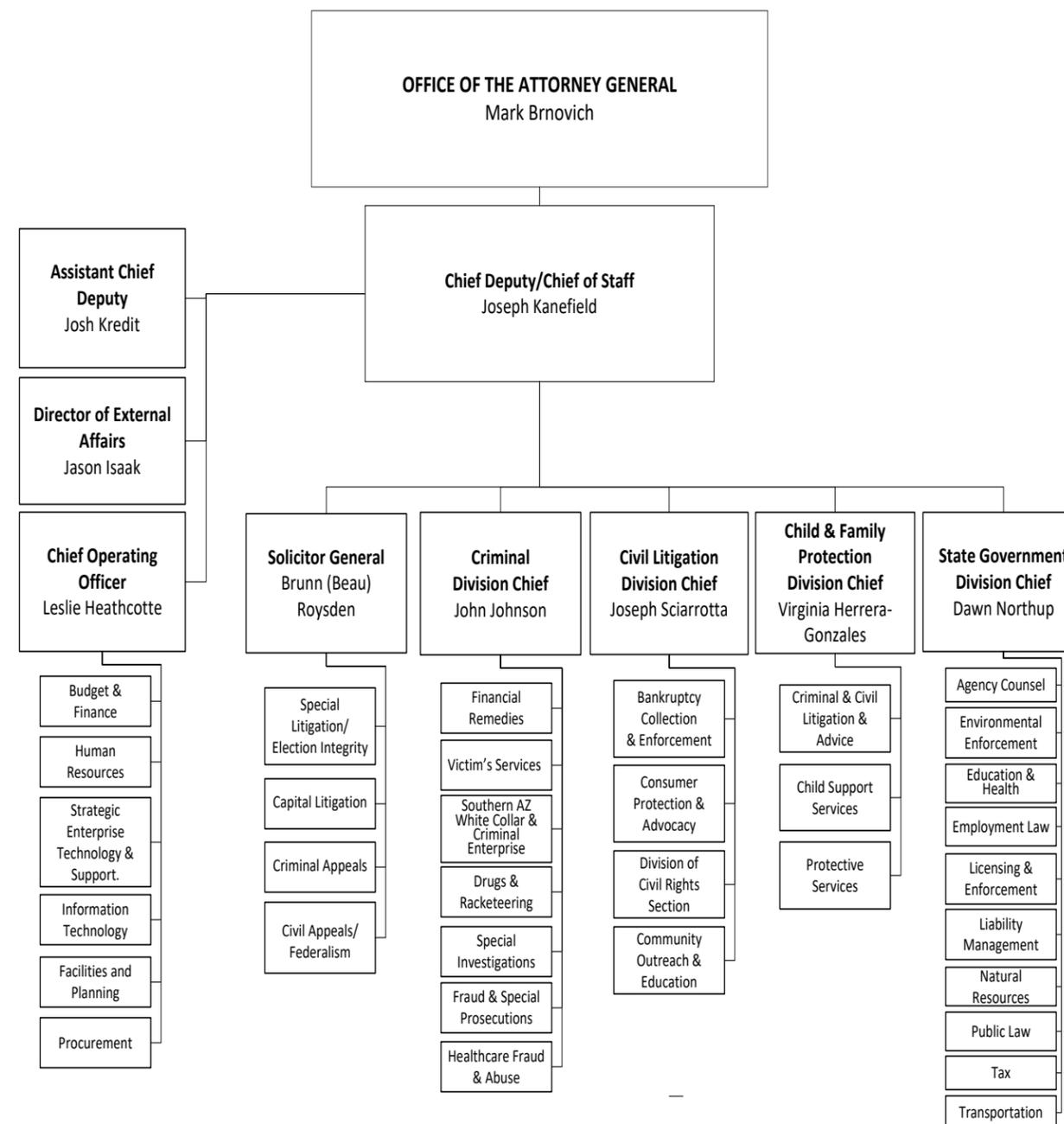
**Joseph Kanefield**  
Chief Deputy/Chief of Staff

Joseph A. Kanefield serves as Chief Deputy/Chief of Staff under Arizona Attorney General Mark Brnovich. Before coming to the AG’s office, Joe was a partner at the national law firm Ballard Spahr whose government-centric practice focused on election and campaign finance law, constitutional law, civil and appellate litigation, government relations, public-private partnerships, procurement, administrative law, gaming, consumer, and state and local tax matters. Joe has extensive experience as a litigator at all levels of federal and state courts. He was the Practice Leader of the firm’s Political and Election Law Practice Group.

Joe also served as General Counsel to Arizona Gov. Jan Brewer, advising Gov. Brewer and the State of Arizona in litigation involving the state budget, civil rights, immigration, gaming, and health care issues. Before joining the Governor’s Office, he served in the Arizona Secretary of State’s office as State Election Director and in-house counsel. He also was an Assistant Attorney General and an attorney with the Arizona Department of Revenue. He is a past president of the State Bar of Arizona.

Joe attended Arizona State University and received his J.D. from the University of Arizona College Of Law.

# ORGANIZATIONAL CHART



# ARIZONA PEACE OFFICERS MEMORIAL

## Refurbishment and Renovation to the Arizona Peace Officers Memorial

Attorney General Brnovich serves as the statutory Chairman charged to lead the Arizona Peace Officers Memorial Board, the committee created by legislative act in 1986 that is responsible for overseeing the Arizona Peace Officers Memorial located in Wesley Bolin Plaza. The Memorial was originally dedicated in 1988, and includes the names of more than 330 Arizona peace officers who have died in the line of duty, dating back to Territorial Days.

Having now existed for more than 30 years, the Memorial was in need of refurbishment and site improvements to help ensure the monument will continue to properly honor Arizona's law enforcement heroes who have paid the ultimate price for generations to come. To that end, the AGO helped secure \$1,000,000 in funding from the Legislature during the 2019 legislative session using re-appropriated penalties and fees received from AGO civil settlements to provide the necessary improvements to the Memorial.

For more than a year, the AGO and representatives from the Memorial Board met with community stakeholders including architects, construction experts, and family members and colleagues who have lost members of law enforcement to in the line of duty deaths. Ultimately several improvements to the existing Memorial were proposed and construction on the Memorial began in January 2021 and ended in August of this year.

The improvements to the Memorial and the surrounding area retain the original beauty of the monument, while providing much needed additions including eight new granite panels for the etching of law enforcement in the line of duty death, dramatic lighting improvements, ADA accessibility ramps, improved electrical, new concrete, and design changes and improved access to the Wesley Bolin common area directly west of the Memorial. In addition, more than a dozen misspellings and other historical name errors were corrected.

The annual Memorial service took place on September 29, 2021.



# OPERATIONS



Leslie Heathclotte  
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 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.

Fiscal Year 2021:

- 82 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 continuation of group health coverage under the same terms and conditions as if the employee had not taken leave. If an employee is not eligible for leave under the FMLA, the request for leave is considered as potentially an accommodation request or other type of leave based on the circumstances of the request.

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

### Fiscal Year 2021

- Approximately 176 requests for Medical Leave (Including 11 cases under the Expanded FMLA)
- Management of approximately 89 Continuous leave requests and 87 Intermittent leave requests

### COVID-19 Response

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

- Intake process for employee requests
- Monitoring and on-going assistance for COVID-19 related requests
- Verbal and written communications with employees and supervisors
- Questionnaire for potential exposure and COVID-19 diagnosed cases
- Notifications related to positive COVID-19 cases
- Collaboration between sections within the Operations Division in response to COVID-19 related requests

# OPERATIONS

## HUMAN RESOURCES

- FFCRA federal leave process, forms, communication templates, eligibility checklist and designation for COVID-19 related leave
- Attendance of weekly ADOA COVID-19 Teleconferences

### July 2020 – June 2021:

- Intake and management of more than 210 matters from employees related to COVID-19
- 72 on-going accommodation requests related to COVID-19 that were initiated in FY2020

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

### Fraudulent Unemployment Claims

Unemployment assistance provided during the pandemic to Arizona residents, unfortunately, had unintended consequences of fraud. In response to this fraudulent activity, the Human Resources Section, collaborated with our Special Investigations Section, to identify active employees who were victims of the fraud. Human Resources team members contacted more than 143 current, former and retired employees to provide information about reporting the fraudulent activity.

### Worker's Compensation

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

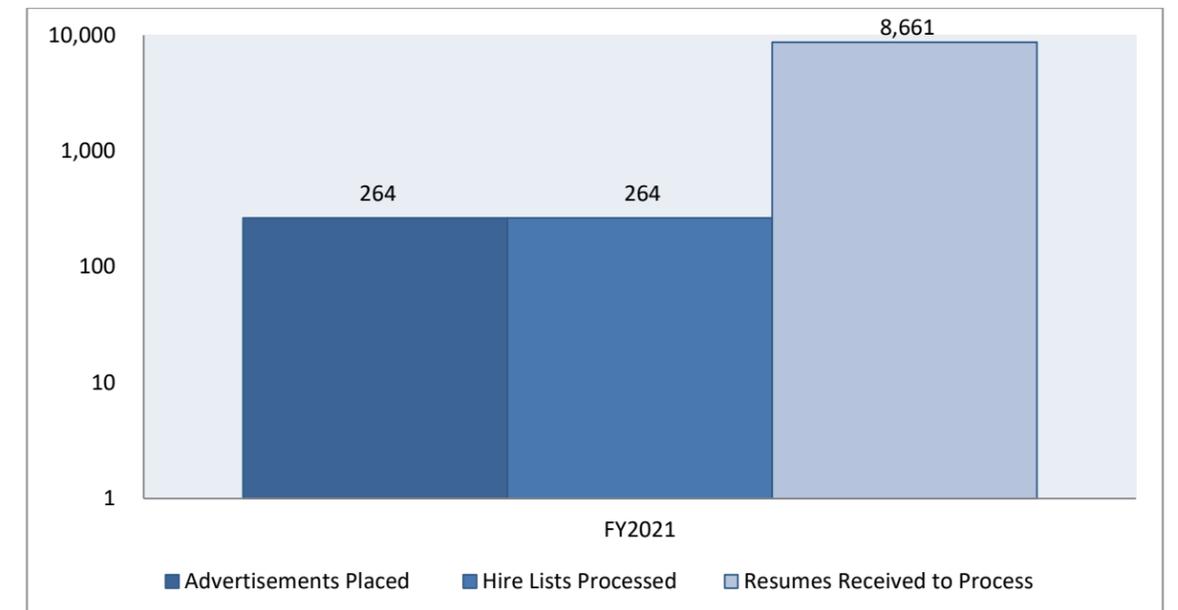
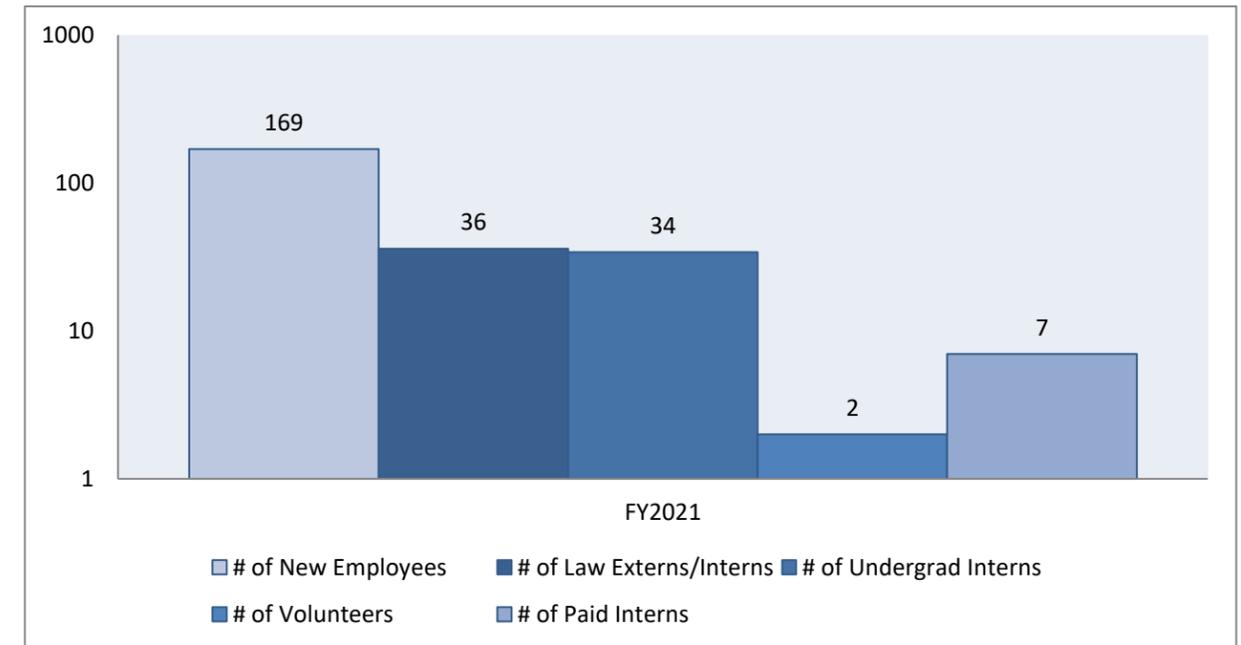
### Fiscal Year 2021:

- 7 cases

### Annual Accomplishments

- ASRS Employer Conference
- Benefit Open Enrollment (100% participation rate)
- EEO Plan
- Families First Coronavirus Response Act (FFCRA) implementation

- Intern Program
- Long Term Disability Update
- Merit Incentive Program for FY2021
- New Employee Orientation Benefit Presentation
- OSHA Report
- PSPRS Cancer Insurance Program for FY2021
- Public Records Requests
- Record Retention Audit
- Recruitment Tool Upgrade
- Workplace Harassment Training



# 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:

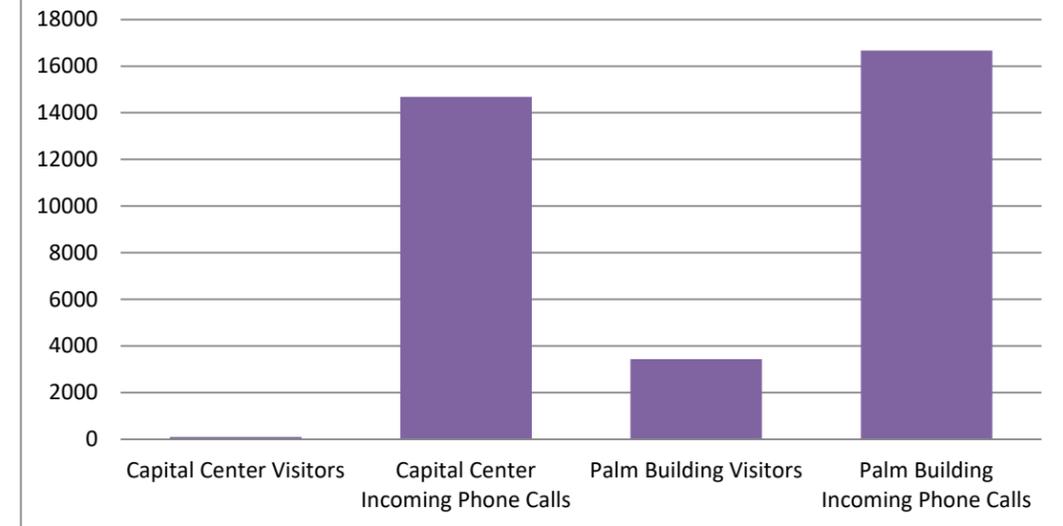
- **Daily Operations:** Coordination of maintenance/building renewal, tenant improvement projects, surplus, agency fleet vehicles, parking assignments, employee move/furniture requests and telecommunications service requests across the agency as well as consultation with division management in the area 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, main building receptionist functions, electronic imaging, and copy center services that support the needs of the agency.

### Fiscal Year 2020 Accomplishments

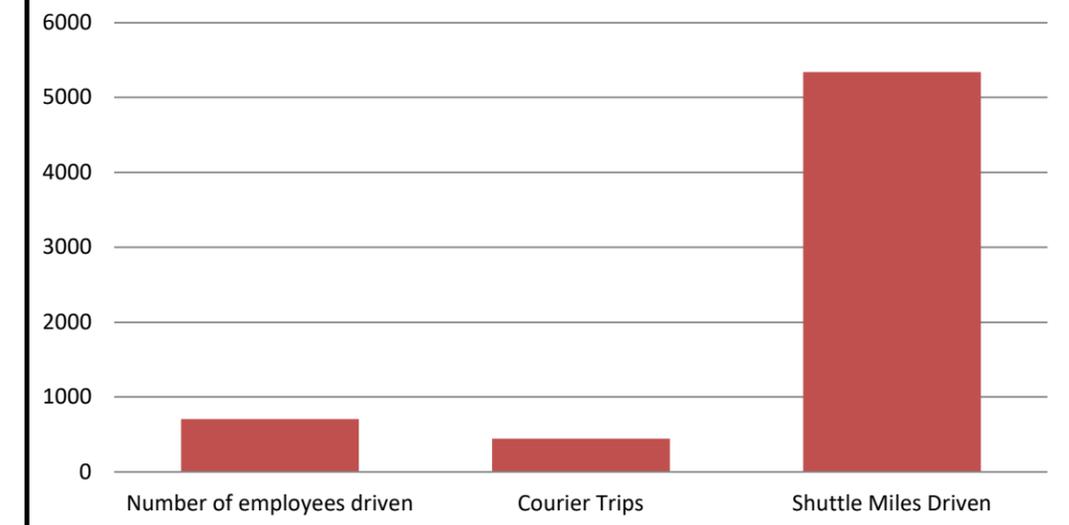
- Enhanced cleaning and sanitization practices throughout all areas
- Purchased and distributed personal protective equipment for employee and visitor safety
- Cross-trained employees in all areas of Facilities in order to better serve customers
- Assisted telecommuting employees by opening/scanning mail when possible
- Streamlined several mail functions in order to expedite services
- Completed major construction and installed new cubicles to enhance work space efficiency through design and restructuring
- Worked with the Information Services Section to install new video conferencing equipment in several conference rooms
- New paint, ceiling grid, flooring and electrical work throughout several areas
- Renovated multiple restrooms throughout building
- Managed several furniture remodel projects including design and installation



### Reception (Palm Building & Capital Center)

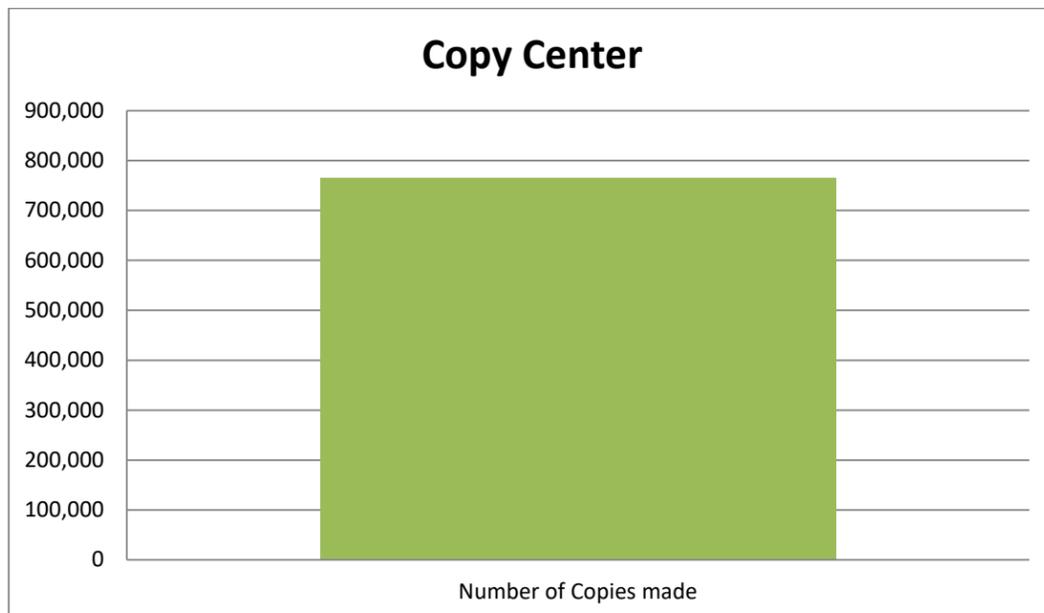
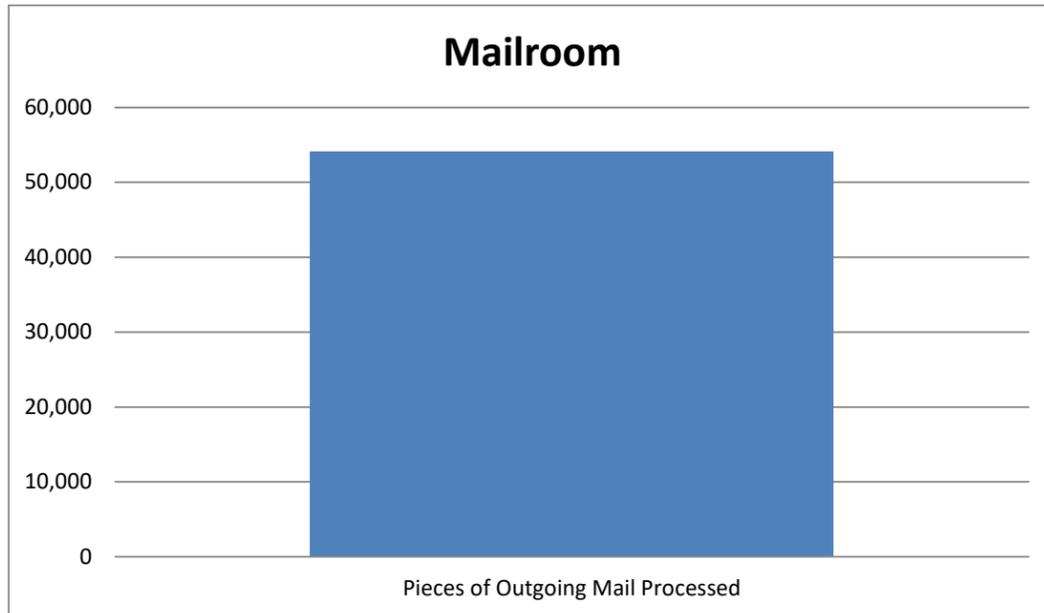


### Employee Shuttle (Palm Building)



# 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

Move to offsite Datacenter - The ISS Engineering team has moved 90% of the CapCenter server room equipment to the offsite commercial datacenter. The commercial datacenter offers higher levels of power and cooling reliability. This move paves the way for direct connectivity between all of our sites and the datacenter.

Upgrades to AG core networking - ISS has replaced the core networking components responsible for providing connectivity for our printers in the CapCenter and Palm facilities. The new switches offer greater management and reduced recovery time should an issue occur.

Legal Files Web Conversion - The ISS Software team has worked closely with Legal Files and Elli Balstad to test the new version of the application with an upgraded version of the supporting database. These predictive tests go hand in hand with successful migrations and improved performance.

Heightened Security - ISS is implementing upgraded network firewalls to increase security capabilities and performance. The bandwidth usage of the office has increased over time and these new firewalls are sized to accommodate the increased workload.

# OPERATIONS

## PROCUREMENT

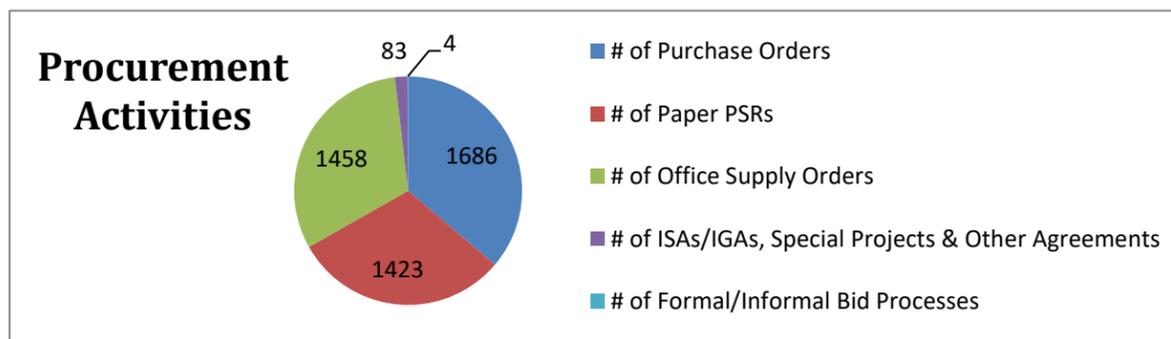
The Procurement Section (PRS) is responsible for establishing contracts and purchasing goods and services as well as management of contracts for the office. The PRS endeavors to provide high professional procurement standards including (1) a valued resource to the office providing effective procurement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

### Responsibilities Include:

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

### Overview of Accomplishments

- Solicit and award the Outside Counsel Contract for Calendar Year 2020 to approx. 100 firms.
- Assist with the award and distribution of \$2.5 million for the Law Enforcement Equipment Funding Program for local law enforcement agencies to purchase safety equipment.
- Solicit and award a contractor for Real Property Management services including the sale and management of seized/forfeited properties.
- 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 2018 and 2019.
- Facilitate the Agreement between the Arizona Peace Officers Memorial Board and Core Construction for the update of the Peace Officers Memorial at Wesley Bolin Park.
- Negotiate multiple Outside Counsel Agreements to support special needs of other Agencies; (4 Agreements).
- Negotiate multiple Cost Share Agreements with the AGO and other State Attorneys General Offices; (3 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).

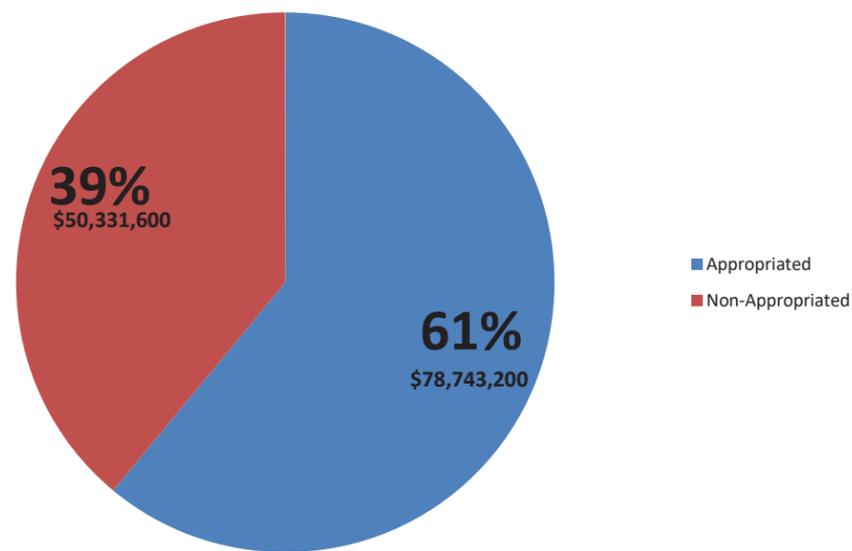


# OPERATIONS

## BUDGET & FINANCE

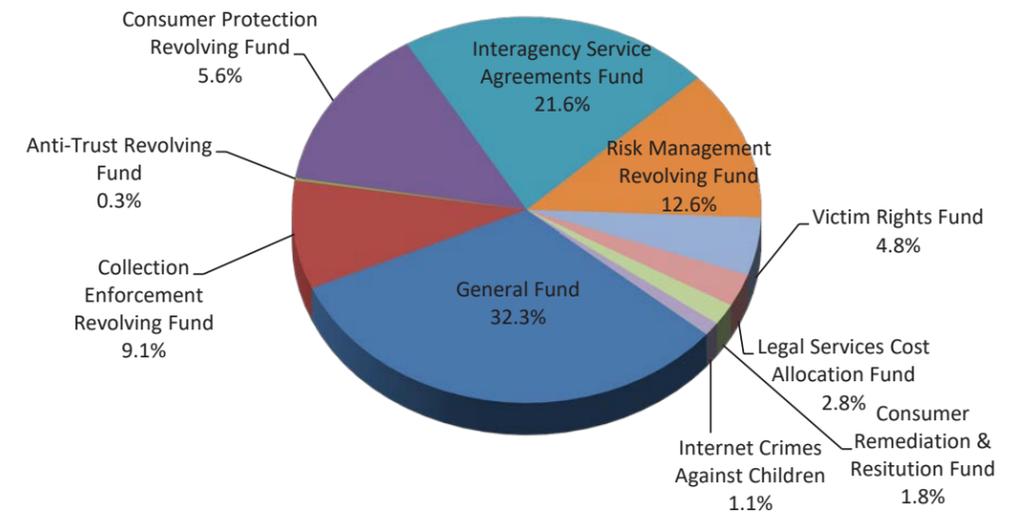
The FY21 Attorney General's Office budget totaled \$129,074,800. The fund sources consisted of 61% appropriated funds and 39% non-appropriated funds. Appropriated funds are subject to legislative appropriation and authority to spend must be authorized by the Legislature in the Budget Reconciliation Bill and signed by the Governor. Non-appropriated, or continuously appropriated, funds are controlled by Statute and the amount of revenue in the fund that is available to support expenditures. Non-appropriated funds are State funds and are subject to public monies regulation.

**AGO FUND TYPE FY21**



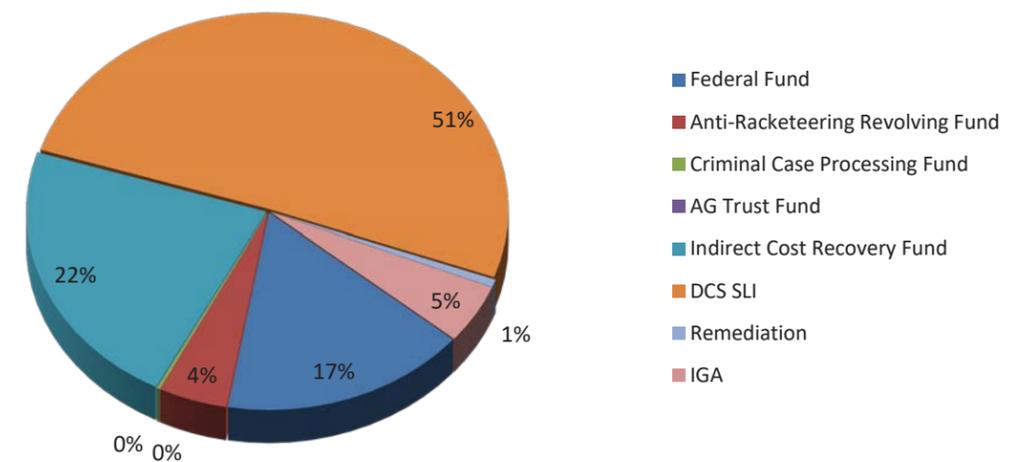
In FY21 the AGO was appropriated \$78,743,200 from 10 appropriated fund sources consisting of the State General Fund, Collection Enforcement Revolving Fund, Anti-trust Revolving Fund, Consumer Protection Revolving Fund, Interagency Service Agreement Fund, Risk Management Revolving Fund, Victim Rights Fund, Legal Services Cost Allocation Fund, Consumer Remediation sub-fund, Internet Crimes against Children Fund.

**SOURCES OF APPROPRIATED FUNDING**  
\$78,743,200



In FY21 the AGO non-appropriated expenditure plan totaled \$50,331,600 deriving from 8 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 APPROPRIATED FUNDING**  
\$78,743,200

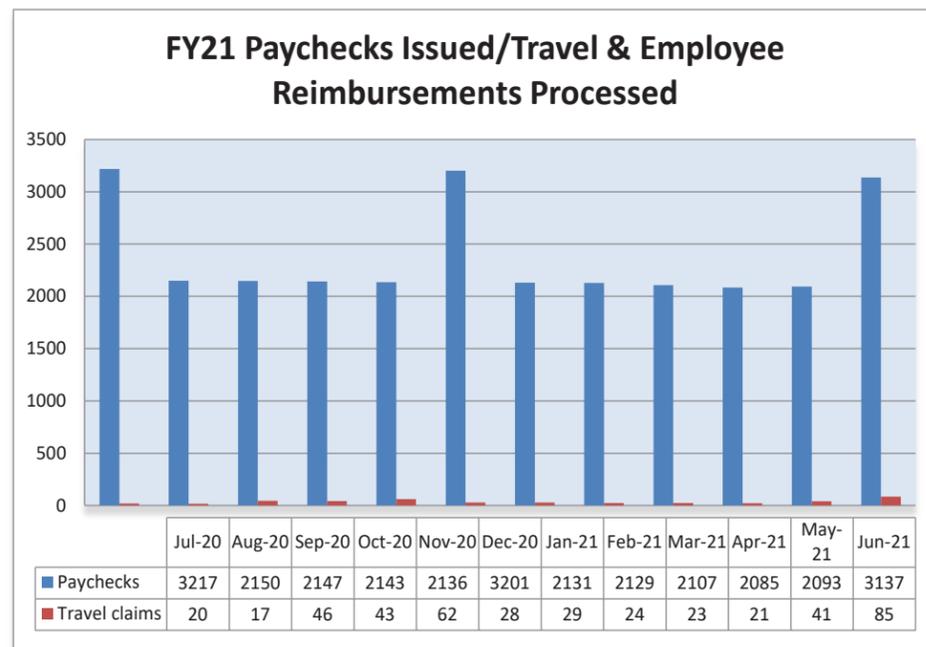


The AGO also has pass-through fund sources where monies are passed to other state agencies and municipalities. These funds are the Anti-Racketeering Revolving Fund-Pass through, Prosecuting Attorney's Advisory Council Training Fund, Child & Family Advocacy Center Fund, & the Attorney General CJEF Distributions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

# OPERATIONS

## BUDGET & FINANCE

- Payroll issued 28,676 paychecks to employees as well as 439 travel & employee reimbursements
- Delinquent travel claims received were down 35%
- Accounts Payable paid out over 1,300 claims to vendors in FY21 totaling \$21.4 million dollars
- 1,207 transfers were completed between the AGO and other state Agencies
- 514 Deposits processed totaling more than \$58.3 million dollars



# OPERATIONS

## STRATEGIC ENTERPRISE TECHNOLOGY SECTION

Strategic Enterprise Technology & Support (SETS) focuses on leading strategic and critical projects for the AGO, and providing desktop support to AGO staff.

### Strategic/Critical Projects

*Office 2019/Adobe DC Upgrades* - CLD was the first Division to be upgraded to Legal Files Web. In April 2021 we began a "Pilot" with a few key people in CLD to test an upgrade to Office 2019 and Adobe DC. Once that pilot group had sufficient time to utilize the new software, a plan was made/executed to move the rest of the CLD staff over to the new software. On Go Live morning, SETS team members were onsite to assist the upgraded staff with completion of the required setup steps. SGO, the other Division that is already using Legal Files Web, completed their Office 2019/Adobe upgrade pilot in June. The upgrade for the rest of the SGO staff will be performed within the first part of FY 2022.

*Legal Files Web* -- We continued to provide Legal Files Web training on an as needed basis for new staff that are hired by CLD and/or SGO. In conjunction with ISS, certain SETS team members worked to create specifications for an HDM document conversion program that will be needed to move an unlinked archive document from HDM into a specifically identified Legal Files Web case. When the conversion program was provided by Legal Files, SETS and ISS collaboratively tested that program and returned issues to Legal Files for their correction. That testing cycle continued until the two teams believed that the program was functioning as needed.

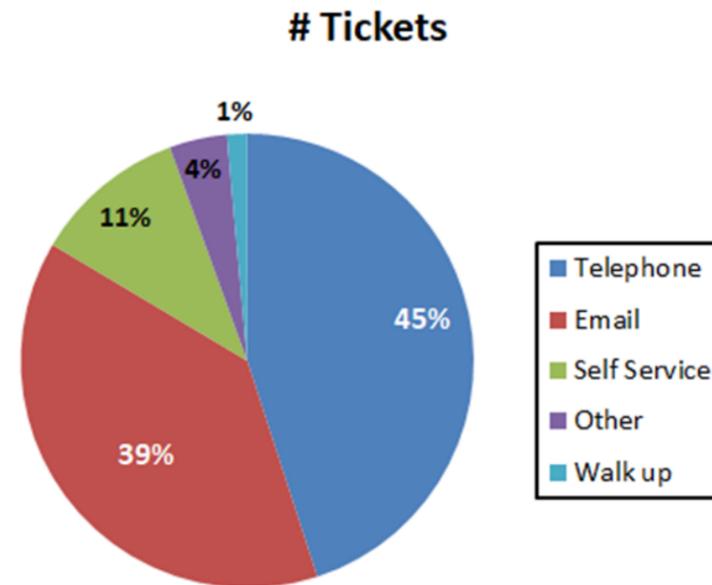
### Enterprise Technology Support Team

The Enterprise Technology Support (a.k.a. Helpdesk) team is the bulk of SETS employees. This team has staff assigned to the Phoenix area Palm and CAP buildings, along with the Tucson Congress office. This team handles issues from all of the Attorney General offices around the state.

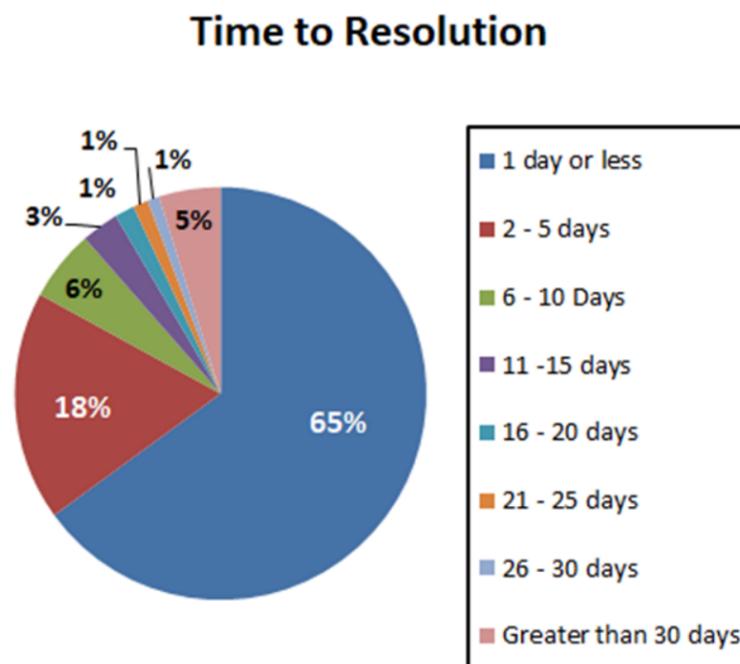
*New Employee Orientation for Support Team Members* -- At the beginning of the fiscal year, this group created a new "Technician Training Program" for newly hired Support Team members. AGO has software that is unique to AGO and the processes followed for employee setup are unique. This training orients the new support team member to those and other AGO specifics/procedures that are followed by ETS staff. The goal of this training is to enable the new team member to quickly become effective at addressing service requests and in resolving AGO issues.

Support Provided to AGO Staff -- During FY2021, 10,730 issues were recorded in the Footprints system. Of those issues submitted, 98% were closed as of 6/30/2021.

The Enterprise Technology Support (ETS) team has to manage issues that are reported through several input streams. For FY2021, the telephone was the most common method for issue reporting, with email being a close second.



The ETS team strives to resolve issues as quickly as possible, but some issue resolution is more elusive than others. For the tickets that were submitted during FY2021, 65% were resolved in 1 day or on the same day with over 80% being resolved within 5 days.



# 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 Lacey Gard, 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 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, *Brnovich v. DNC*—a U.S. Supreme Court case argued personally by the Attorney General—resulted in the Court upholding two commonsense Arizona election-integrity laws. 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

*NCAA v. Alston* — The Special Litigation Section filed an amicus brief on behalf of Arizona and seven other states with the U.S. Supreme Court supporting college athletes' claim that certain of the NCAA's restrictions on non-monetary compensation were contrary to the federal antitrust laws. The U.S. Supreme Court agreed with the Section's position, unanimously holding that the NCAA's restrictions violated the Sherman Antitrust Act.

*Shires v. Carlat* — The Special Litigation Section filed an amicus brief with the Arizona Supreme Court supporting taxpayers' claim that the City of Peoria violated Arizona's Gift Clause by subsidizing the development of a private university. The Arizona Supreme Court agreed with the Section's position and unanimously held that the City of Peoria had violated the Gift Clause.

*Fernandez v. Commission on Appellate Court Appointments* — The Special Litigation Section successfully defended the Commission on Appellate Court Appointments against claims that, when creating the list of individuals who could be selected for the Independent Redistricting Commission, it nominated two individuals who were not constitutionally qualified. The Section prevailed on plaintiffs' request for a temporary restraining order and then successfully moved to dismiss plaintiffs' claims. Plaintiffs chose not to appeal the trial court's dismissal ruling.

### 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. The parties are currently engaged in written discovery and will soon be beginning depositions. Attorneys in GAU also are involved in the multi-state antitrust litigation against Google.

### 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, after spending its first year in existence editing and correcting the Elections Procedures Manual, supporting the defense of Arizona's election integrity laws in state and federal court, and ensuring compliance by Arizona election officials with Arizona law, spent the second year focused on issues related directly to the 2020 primary and general elections.

In July of 2020, the Unit, joining just a handful of states, launched an online election complaint form for persons to submit election-related complaints to EIU. In advance of the primary, the Unit received just under 100 complaints, ranging from concerns with unsolicited politically-related text messages, letters, and emails to concerns over instructions provided by the Maricopa County Recorder's Office with early ballots. The Unit took civil action on several complaints, including investigating and ultimately enjoining the Maricopa County Recorder from issuing unlawful instructions to voters for the 2020 General Election.

In the days leading up to the 2020 General Election, the Unit received around 150 complaints, including concerns about duplicate ballots being sent to voters, more concerns over unsolicited texts, emails, and letters, and a vendor solicitation offering illegal ballot harvesting services. The criminal and civil divisions of the Unit jointly issued a cease and desist letter against the vendor offering illegal ballot harvesting services. The Unit also investigated and took actions to stop the Maricopa County Superintendent's Office from continuing to distribute the same unlawful early ballot instructions that the Arizona Supreme Court enjoined. The Unit also attempted to stop the Maricopa County Recorder from implementing "virtual voting" that would have enabled voters to engage in a video call with a special election board to cast a ballot. As a result, the Court made clear that such procedures could be used only in very limited circumstances.

Since the election, the Unit has received over 3,000 complaints. While the vast majority contain generalized grievances about the conduct of the election, any complaint 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.

As to issues handled by the civil division, the first significant batch of complaints came from concerns over the use of Sharpies at voting locations. After carefully reviewing the issues, the Unit found Maricopa County had purchased new equipment that required quick-dry ink to prevent ink smudges that render the optical scanners unusable. Unfortunately, the County's failure to proactively inform voters of this departure from previous limitations on the use of such writing negatively impacted voter confidence, which was exacerbated by confusing and misleading information on County and State websites regarding voters' ballot status. As a result, the Attorney General encouraged the Maricopa County Board of Supervisors to expand their hand count to alleviate voter concern.

The Unit also supports the Office's participation in elections-related cases, including *Arizona Democratic Party v. Hobbs* (Ninth Circuit – deadline to sign early voting envelope), *Brnovich v. DNC* (formerly *DNC v. Hobbs*) (SCOTUS – Voting Rights Act), and *Mi Familia Vota v. Hobbs* (Ninth Circuit – voter registration deadline).

### **Open Meeting Law Enforcement Team (“OMLET”)**

The OMLET received 221 open meeting law complaints, of which 152 were closed and 25 resulted in violations.

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. The Court has not yet issued a decision.

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

GAU received 190 referrals from the Secretary of State's Office finding reasonable cause that political committees and lobbyists failed to file reports required under A.R.S. §§ 16-926, -927, and 41-1232.02 and 41-1232.03. Of those, GAU sent 146 notices of violation, and of those, 30 ultimately resulted in final orders imposing civil penalties.

### **S.B. 1487 Investigations**

The GAU received one request for an investigation from legislators under A.R.S. § 41-194.01. The Office's statutorily-required investigation led to the Pima County Board of Supervisors revoking a county moratorium on evictions.

# SOLICITOR GENERAL'S OFFICE

## SPECIAL LITIGATION SECTION & ELECTION INTEGRITY

### **Class Action Fairness Efforts**

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

### **Class Action Fairness Effort Highlights**

The team filed a brief in the U.S. Supreme Court in support of a petition for writ of certiorari in *Threatt v. Farrell*. The brief continued the office's efforts in this case by arguing that the Court should grant certiorari to address the district courts' use of a lodestar cross-check to determine the reasonableness of attorney fee awards in class action settlements.

The team also continued its efforts in *In re: Google LLC Street View Electronic Communications Litigation* by filing a brief in the Ninth Circuit arguing for reversal of the district court's approval of this settlement. The brief highlighted the dangers of cy pres class action settlements, which divert settlement funds away from class members. The brief argued that the settlement's purported injunctive relief was duplicative of relief that 39 State AG's obtained in 2013 and that the settlement could not be approved when the entire \$13 million cash fund was being sent to cy pres recipients and class counsel instead of to the class members. An SLS attorney participated as amicus curiae in oral argument before the Ninth Circuit in February 2021. This brief joins the teams' prior briefs, including at the Supreme Court, regarding the dangers of cy pres settlements.

In *In re: Samsung Top-Load Washing Machine Marketing, Sales Practices and Products Liability Litigation*, the team filed a brief in the Tenth Circuit arguing that in class action settlements where a defendant has already agreed to a maximum, uncontested fee amount, fee reversion arrangements (often called “kickers”) divert settlement proceeds away from class members and elevate the interests of class counsel and defendants over the interests of the class, reflecting the ever-present conflicts and disadvantages consumers face in the class action settlement process. An SLS attorney participated as amicus curiae in oral argument before the Tenth Circuit in March 2021. The Court issued an opinion in May 2021 holding as a matter of first impression that settlements with these types of arrangements require “heightened scrutiny.”

## Procurement Investigations

GAU brought a school procurement investigation against Colorado River Unified School District (CRUSD) stemming from a related open meeting law investigation. The Office entered into a consent judgment with the defendant that requires monitoring, training, audits, and payment of investigative costs.

GAU brought a school procurement investigation and lawsuit against East Valley Institute of Technology (EVIT) based upon a self-report from EVIT's investigator. The Office conducted approximately 10 examinations under oath to attempt to uncover any further procurement violations by the former superintendent. The Office entered into a consent judgment with the defendant that requires monitoring, training, audits, and payment of investigative costs.

GAU sent a representative to revise and amend the current Arizona Administrative Rules regarding school procurement, in particular, the rules regarding the cost of provider evaluations.

GAU continued its monitoring with two school districts with which it formerly entered consent judgments, Scottsdale Unified School District (SUSD) and San Tan Charter Schools (San Tan). GAU oversaw the required special audits for SUSD and San Tan.

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.

# 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 2021. SGO attorneys reviewed and/or drafted more than 406 appellate briefs in fiscal year 2021, including nearly 324 in the Arizona Court of Appeals and 24 in the Ninth Circuit. SGO civil appellate attorneys also participated in over 34 moot court exercises.

*Duff v. Honorable Kenneth Lee* – The Civil Appeals Section successfully defended Pima County's trial "Fast Track" system for expediting low-dollar cases and providing trial experience for younger attorneys.

*Sha'quia G. v. Dep't of Child Safety*, 251 Ariz. 212 (App. Apr. 2021) – The Section successfully convinced and the court of appeals held that the juvenile court had properly exercised temporary emergency jurisdiction under the Uniform Child Custody and Jurisdiction Enforcement Act (UCCJEA) because although California was the children's home state when the dependency began and California had previously initiated a child welfare investigation, it had not issued a custody determination.

*Jessica P. v. Dep't of Child Safety*, 251 Ariz. 34 (App. Mar. 2021) – The Section prevailed in the Arizona court of appeals on its position that the ADA's requirement of reasonable accommodations is consistent with and subsumed within DCS's general statutory obligation to make reasonable reunification efforts and concluded that Mother had neither identified any specific ADA-required services that DCS had failed to provide nor demonstrated any prejudice.

### 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 fiscal year 2021, the federalism team took part in high-profile litigation in both state and federal court, and pressed for pro-consumer regulatory reform. *AACJ v. Brnovich* – The Federalism Unit successfully defended important aspects of the State's victim's rights laws against a First Amendment challenge brought by criminal defense attorneys at the federal district level. The federalism unit continues to defend the State's statute as there is ongoing litigation at the Ninth Circuit Court of Appeals.

*Americans for Prosperity Foundation v. Bonta* – The unit led a multi-state amicus brief on behalf of 22 states in an important Supreme Court case. At issue was whether California could, consistent with the First Amendment, compel non-profits to disclose their major donors and then maintain that information in a system that has repeatedly leaked that information. The Supreme Court reversed the Ninth Circuit’s decision permitting California to compel such disclosure in a 6-3 victory.

*Arizonan Democratic Party v. Hobbs* – The unit obtained a stay pending appeal in an important election case. The district court had concluded that the State’s law requiring voters to either sign their mail-in ballots when they send them in or cure failures to sign by election day was unconstitutional. The unit obtained a stay pending appeal from the Ninth Circuit within a month, which prevented the injunction from going into effect for the 2020 election.

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

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

*Arkansas Times v. Waldrip* – Arizona led an amicus brief on behalf of 16 states supporting Arkansas’s defense of its law requiring public contractors to certify that they are not engaged in a boycott of Israel. Following submission of Arizona’s brief, the Eighth Circuit agreed to rehear en banc a decision in favor of the plaintiff challenging Arkansas’s law. Arizona has a statute equivalent to Arkansas’s, which has also been subject to challenge.

*Brnovich v. DNC* – The unit successfully convinced the U.S. Supreme Court to review 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. The State then obtained a 6-3 landmark victory in the U.S. Supreme Court in a case argued personally by the Attorney General. The decision is widely recognized as one of the most significant decisions of the Supreme Court’s October 2020 Term, and one of the most significant election cases in the last several years.

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

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

*Mi Familia Vota v. Hobbs* – The unit successfully obtained a stay pending appeal of a district court decision that struck down Arizona’s deadline to register to vote, with one Ninth Circuit judge observing that the district court’s decision was “an obvious abuse of discretion.”

# SOLICITOR GENERAL’S OFFICE

## CIVIL APPEALS SECTION & FEDERALISM UNIT

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

*New York Rifle & Pistol Association, Inv. v. Bruen* – Arizona co-led, with Missouri, an amicus brief on behalf of 23 states in support of a petition for certiorari involving an important Second Amendment challenge. The Second Circuit had upheld a New York law that prevents most citizens from carrying firearms outside the home. The Supreme Court agreed to hear the case in November.

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

The Federalism Unit has also initiated several challenges to Biden Administration policies in the first five months it was in office. In particular, the unit has challenged the Biden Administration’s (1) de facto moratorium of removals of aliens with final orders of removal, (2) cancellation of construction of the border wall and Remain in Mexico policies under the National Environmental Policy Act (NEPA), (3) the abandonment of the Public Charge Rule, and (4) prohibition on States cutting taxes under the American Rescue Plan Act and its implementing regulations. These challenges are ongoing and none have yet reached a final decision.

Second Amendment – the Federalism Unit filed a number of amicus briefs in high-profile appeals involving the Second Amendment. The Unit filed briefs in *New Jersey Pistol & Rifle Assoc. v. Grewal* in both the Third Circuit and the U.S. Supreme Court, *Miller v. Bonta* in the Ninth Circuit, and *Duncan v. Bonta* in the Ninth Circuit.

# SOLICITOR GENERAL'S OFFICE

## 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.

### 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 often voluminous and consume a tremendous amount of the Section's resources. This additional burden has been amplified by the effect of the United States Supreme Court's decision in *Martinez v. Ryan*, 566 U.S. 1 (2012), which not only effectively eliminated a robust procedural defense available to the State to defend against ineffective-assistance claims, but also has been interpreted by the Ninth Circuit to permit liberal evidentiary development of those claims. However, in May 2021, the United States Supreme Court granted a petition for writ of certiorari filed by the Section. In the fall, the Court will consider the interaction between *Martinez* and a habeas statute limiting federal evidentiary hearings. If the Court rules in our favor, that decision will significantly curtail evidentiary development in federal court going forward.

The COVID-19 pandemic also continues to result in some case delay, though this delay is resolving. For much of the fiscal year, restrictions intended to slow the virus's spread prevented expert evaluations and other necessary prison visitation. Death-row inmates have requested and received numerous continuances of pleadings and evidentiary hearings, citing their attorneys' inability to perform

investigative tasks and carry out other obligations that require in-person contact. 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 in April 2020 for expedited capital review procedures pursuant to Chapter 154 of the Anti-terrorism and Effective Death Penalty Act. DOJ determined that Arizona's mechanism for appointing counsel in state post-conviction cases meets the requirements for compensation and competency set forth in 28 U.S.C. § 2265(a). 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. 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 will undergo specialized testing to determine their precise beyond-use date, after which the State will seek execution warrants. Twenty inmates have exhausted their of-right appeals and are statutorily eligible to be executed.

### Significant Cases

#### United States Supreme Court

*Shinn v. Kayer* -- George Kayer shot and killed his friend, Delbert Haas, along a Yavapai County roadside to avoid paying a gambling debt. A divided three-judge panel of the Ninth Circuit granted habeas relief based on his sentencing counsel's purported ineffectiveness. Because Kayer's ineffective-assistance claim had been raised and adjudicated in state court, the Ninth Circuit should have applied extraordinary deference under the Anti-terrorism and Effective Death Penalty Act (AEDPA) and should have only granted relief if the state-court decision was subject to reasonable disagreement. The panel, however, failed to adhere to these standards, instead awarding Kayer a new trial based on its speculation that different decisions at sentencing could have led to a different result on appeal. Arizona sought rehearing en banc; the court denied the petition but eleven judges joined a dissent authored by Judge Carlos Bea, which laid bare the three-judge panel's disregard for AEDPA. The United States Supreme Court agreed with the dissent in a per curiam opinion, finding that "[t]he Ninth Circuit resolved this case in a manner fundamentally inconsistent with AEDPA." The court reversed the Ninth Circuit's ruling, thereby reinstating Kayer's death sentence.

#### Significant Cases - Arizona Supreme Court

The Section's attorneys successfully defended a number of convictions and death sentences in the

# SOLICITOR GENERAL'S OFFICE

## CAPITAL LITIGATION SECTION

Arizona Supreme Court this fiscal year, and also successfully persuaded the court to reverse a case granting a new sentencing. These cases are:

*State v. John Montenegro Cruz* – 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.

*State v. William Craig Miller* – In 2006, Miller killed a family of five, including two minors, in their home. Miller committed the murders in order to prevent two of the family members from testifying against him in an unrelated arson case. The Arizona Supreme Court affirmed his convictions and sentences on direct appeal. However, on post-conviction review years later, a superior court judge set aside all five of Miller's death sentences based on his attorneys' failure to object to a jury instruction defining the A.R.S. § 13-751(G)(1) (significant impairment) mitigating factor. The instruction at issue was the then-current Revised Arizona Jury Instruction (RAJI) adopted by the State Bar with input from all stakeholders, including defense attorneys. The State successfully petitioned the Arizona Supreme Court to review the case. That court reversed, finding that counsel had acted consistent with prevailing professional norms by not objecting to the RAJI. The court further determined that the post-conviction judge had incorrectly analyzed the issue of prejudice by ignoring the multiple aggravating factors, and that the judge overlooked that the trial court's instructions, viewed as a whole, enabled the jurors to fully consider all of Miller's proffered mitigation. The supreme court thus reversed and reinstated Miller's death sentences.

*State v. Allyn Akeem Smith* – Smith shot to death the mother of his infant child, and also wounded the child by shooting her in the leg. Smith raised numerous issues on appeal, including a claim that the trial court erred in denying his motion to suppress Cell Site Location Information, which placed him at the scene of the murder, because police seized that information without a warrant. His issues also included a claim of racially discriminatory jury selection under *Batson v. Kentucky*, and a challenge to the former A.R.S. § 13-751(F)(5) pecuniary-gain aggravating factor. The Arizona Supreme Court found no reversible error and affirmed Smith's convictions and death sentence.

*State v. Robert Allen Poyson* – Poyson killed three people in Golden Valley in 1996 and was sentenced to death for each murder. Twenty-two years later, the Ninth Circuit granted habeas relief after concluding that the Arizona Supreme Court had applied an unconstitutional test when reviewing Poyson's mitigating evidence. The United States Supreme Court denied Arizona's petition for writ of certiorari. The case then returned to the Arizona Supreme Court to correct the constitutional error the Ninth Circuit perceived. The state supreme court conducted a new independent review, applied the correct constitutional standard in reviewing Poyson's mitigation, and again affirmed his three death sentences.

### Ninth Circuit

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

*John Sansing v. Charles L. Ryan, et al.* – In 1998, Sansing murdered Trudy Calabrese, a church worker bringing his family a food box. Sansing had requested the food box for the sole purpose of robbing its deliverer to obtain drug money. As his four children looked on and his wife assisted, Sansing bound Calabrese and beat her unconscious. He then dragged her into the bedroom, where he raped her and stabbed her in the abdomen. Sansing thereafter placed Calabrese's body in the backyard. A judge sentenced Sansing to death. The Arizona Supreme Court affirmed his sentence, concluding, in relevant part, that acknowledged error under the United States Supreme Court's decision in *State v. Ring*, which requires a jury trial on aggravating factors, was harmless beyond a reasonable doubt. Among other arguments, Sansing challenged the Arizona Supreme Court's harmless-error ruling in his federal habeas proceeding. A divided panel of the Ninth Circuit affirmed the district court's denial of habeas relief, concluding that the Arizona Supreme Court's decision was reasonable under AEDPA's deferential standard.

*Robert Lee Walden v. David Shinn, et al.* – Walden raped and murdered Miguela Burhans in her Tucson apartment in 1991 and was sentenced to death. He separately murdered two other women (for which he did not receive the death penalty) and raped two others. After the district court denied habeas relief, Walden appealed to the Ninth Circuit, arguing that his trial for Burhans' murder was unconstitutionally joined with his trial on the two rape charges, that the trial court erroneously admitted faulty witness identifications, and that the district court erred by denying his request to amend his habeas petition with various claims, including allegations of sentencing counsel's ineffectiveness. In a unanimous opinion, the Ninth Circuit rejected Walden's arguments and affirmed the district court's denial of relief.

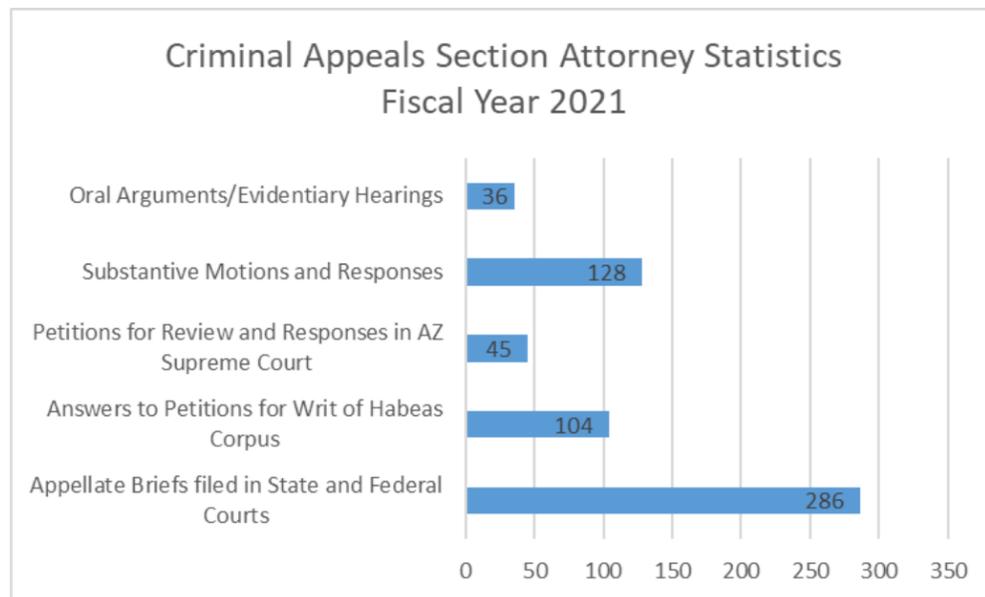
*Murray Hooper v. David Shinn, et al.* – On New Year's Eve of 1980, Hooper, William Bracy, and Ed McCall—all "hit men" from Chicago, acting at the behest of a crime-organization head—invaded the home of Pat and Marilyn Redmond. The crime organization sought to take over Pat Redmond's Phoenix printing business. The group killed Pat Redmond and his mother-in-law Helen Phelps, and seriously injured Marilyn Redmond. A judge sentenced Hooper to death. After a lengthy appellate odyssey in state and federal court, Hooper's case reached the Ninth Circuit, where he raised a multitude of claims, including that the State failed to timely disclose exculpatory evidence and that he was unconstitutionally shackled at trial. The Ninth Circuit rejected Hooper's arguments and unanimously affirmed the district court's denial of habeas relief.

# SOLICITOR GENERAL'S OFFICE

## CRIMINAL APPEALS SECTION

The Criminal Appeals 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 their non-capital felony convictions. The Criminal Appeals 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 petitions. In addition to representing the State in criminal appellate litigation, the Section provides periodic legal advice to County Attorneys throughout Arizona regarding criminal trial prosecutions.

In fiscal year 2021, the Criminal Appeals Section’s attorneys filed a total of 563 briefs, habeas answers, petitions for review, responses to petitions for review, and other substantive motions and responses. Attorneys in the Criminal Appeals Section also represented the State or ADCRR in 36 oral arguments/evidentiary hearings—many of which were conducted telephonically or remotely, in light of the COVID-19 pandemic.



Members of both the Criminal Appeals Section and Capital Litigation Sections also continue to provide legal education seminars and training (both in-house and outside of the AGO, primarily with the Arizona Prosecuting Attorneys Advisory Council) on a variety of criminal, evidentiary, and procedural issues

to prosecutors throughout the State. Attorneys in both sections also serve on the Arizona Supreme Court’s Capital Case Oversight Committee, the Arizona Forensic Science Advisory Committee, the State Bar’s Criminal Jury Instructions Committee, and the State Bar’s Criminal Rules Committee.

### 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.

In fiscal year 2021, the Section filed four amicus briefs in the Arizona Supreme Court supporting the City of Phoenix’s Prosecutor’s Office (*State v. Patel*), the Maricopa County Attorney’s Office (*State v. Soto-Fong et al.* and *State v. Wise*), and Legal Services for Crime Victims in Arizona (*R.S. v. Thompson (Vanders)*). The Section also filed two amicus briefs in the Arizona Court of Appeals, at the court of appeals’ invitation, in two other criminal appeals where the AGO was not already involved (*State v. Furlong and Smith v. Carlisle*).

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 contributed to significant operational challenges in the 2021 fiscal year, including delays in docketing new matters and having attorneys and staff become familiar with a new internal document management system. Ultimately, however, the Section’s attorneys and staff navigated these challenges with ease and maintained a high level of productivity that was essentially the same as the prior fiscal year. Trial courts temporarily delayed criminal prosecutions in most counties due to COVID-19, which caused a slight delay of incoming criminal appeals in fiscal year 2021. Now that counties are resuming trial proceedings, the number of new appellate criminal matters is expected to increase in fiscal year 2022. Novel legal issues relating to COVID-19 and fair-trial/due process claims are also beginning to percolate on appeal and will presumably be a subject of litigation for the Section in fiscal year 2022.

The Criminal Appeals Section caseload remains heavy but manageable, and the quality of the Section’s work is excellent.

The Criminal Appeals Section prevailed in dozens of significant cases of statewide importance in the Arizona Supreme Court and the Arizona Court of Appeals. The most notable victories are those that resulted in published opinions, which are briefly summarized below.

# SOLICITOR GENERAL'S OFFICE

## CRIMINAL APPEALS SECTION

### Arizona Supreme Court

*State v. Gomez*, 250 Ariz. 518 (2021) -- the Arizona Supreme Court granted the State's petition for review and held that DNA evidence--which was inconclusive in regard to matching the defendant--was nonetheless admissible to help establish that a man other than the victim's husband touched her genitals to show that a crime occurred. The court of appeals' ruling in this case, which the supreme court vacated, had held that the inconclusive DNA was inadmissible; such a ruling would have had a detrimental effect on many criminal prosecutions that depend on critical DNA evidence.

*State v. Mixton*, 250 Ariz. 282 (2021) -- the Arizona Supreme Court granted the State's petition for review from a fractured opinion of the court of appeals that interpreted article II, § 8 of the Arizona Constitution. The supreme court held in a 4-3 opinion that neither the federal nor the state constitutions require a search warrant or court order for law enforcement to obtain the IP ("internet protocol") address and ISP ("internet service provider") subscriber information of a suspect when law enforcement has reason to believe that the suspect has committed a crime. This opinion is particularly important to law enforcement officers who prosecute cybercrime, including dangerous crimes committed against children.

*State v. Hernandez*, 250 Ariz. 28 (2020) -- the Arizona Supreme Court held, as matter of first impression, that evidence is "obviously material" for the purpose of giving an adverse-inference jury instruction regarding lost or destroyed evidence when, at the time the State encounters the evidence during its investigation, the State relies on the evidence or knows the defendant will use the evidence for his defense. In this case, the supreme court granted the State's petition for review and held that the trial court did not abuse its discretion in concluding it was reasonable for the State to not collect fingerprint and DNA evidence from interior of a stolen car, and thus, the adverse-inference instruction was not warranted.

### Arizona Court of Appeals

*State v. Fristoe*, 2 CA-CR 2019-0064, 2021 WL 2010324 (Ariz. App. May 20, 2021) -- the Arizona Court of Appeals upheld a challenge under the Fourth Amendment and article II, § 8 of the Arizona Constitution to Google's reporting of images depicting sexual exploitation of minors to law enforcement's National Center for Missing and Endangered Children.

*State v. Vargas*, 486 P.3d 214, 219 (App. 2021) -- the Arizona Court of Appeals reviewed numerous

claims of prosecutorial error upon remand from the Arizona Supreme Court, which had clarified the legal standard that appellate courts should apply to such claims, and concluded that there was no prosecutorial error at all, let alone cumulative error.

*State v. Turner*, 2 CA-CR 2019-0276, 2021 WL 1782541 (Ariz. App. May 5, 2021) -- the Arizona Court of Appeals addressed various legal issues, including rejection of claim that muting police body cameras violated due process.

*State v. Gomez*, 489 P.3d 398 (Ariz. App. 2021) -- the Arizona Court of Appeals held that aggravated assault using a deadly weapon or dangerous instrument and aggravated assault causing temporary but substantial disfigurement were distinct and separate offenses, and therefore defendant's dual convictions did not violate double jeopardy principles. This is an important opinion defining the unit of prosecution for crimes that are frequently charged in Arizona.

*State v. Rodriguez*, 251 Ariz. 90, 484 P.3d 669 (App. 2021) -- the Arizona Court of Appeals held that Arizona's vulnerable-adult-abuse statute's unit of prosecution is each harm, and thus each harm inflicted can be separately charged without violating double-jeopardy clause.

*State v. Griffin*, 250 Ariz. 651 (App. 2021) -- the Arizona Court of Appeals held that (1) a defendant could be charged with violating Arizona's fraudulent scheme and artifice statute related to his avoidance of his sex offender registration requirements; (2) substantial evidence supported defendant's conviction; and (3) as a matter of first impression, the period of incarceration a defendant served as a result of a conviction later vacated could be considered for purposes of a sentencing enhancement.

*State v. Cabrera*, 250 Ariz. 356 (App. 2021) -- the Arizona Court of Appeals held that a defendant could not introduce his own statement as an excited utterance where--despite a police officer's characterization of a statement as an "excited utterance"--the record did not actually show that the defendant was excited or startled at the time he made the statement.

### Additional Areas of Responsibility

#### Legal Ethics

The ethics counsel chairs the Office's ethics committee and provides guidance on ethical issues. The office's ethics committee met on an as-needed basis and met once this past fiscal year to decide whether to report an attorney to the State Bar of Arizona; the committee voted unanimously a report was unneeded. During the year, ethics counsel responded to numerous ethics questions from employees throughout the AGO. The questions encompassed a broad range of ethical issues pertaining to confidentiality, conflicts of interest, inadvertently received communications, and many others. Many of these questions were resolved the same day when received. There were, however, some more complex questions where ethics counsel researched, analyzed, and provided advice in a prompt manner. Ethics counsel continued to review AGO employees' requests for outside employment to guard against potential conflicts of interest. If ethics counsel determined there was a potential for a

# SOLICITOR GENERAL'S OFFICE

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.

Some notable projects from the past fiscal year include an office-wide ethics CLE explaining Arizona's attorney-discipline process and its importance taught by General Brnovich and ethics counsel on November 2, 2020. Anecdotally, the CLE was well received. Unfortunately, the State Bar opened investigations into some members of the AGO. Ethics counsel answered these employees' questions, assisted in the process of getting some individuals outside counsel, assisted outside counsel when asked, and assisted employees who did not have counsel to respond to their bar charges. Lastly, ethics counsel assisted the State Government Division by providing guidance on how to ethically withdraw from the representation of the Secretary of State's Office in the event of Arizona House Bill 2891's passage.

## Attorney General Opinions

The Solicitor General's Office coordinates the drafting and publication of Attorney General opinions. In fiscal year 2021, the Attorney General received 18 new opinion requests and drafted the following Attorney General opinions:

- *Information Collected under A.R.S., Title 15, Chapter 19 and Public Records Requests, No. I20-010 (August 3, 2020)*
- *Interpreting provisions in A.R.S. Title 48, Chapter 6, Articles 1 and 4 Concerning A County Board of Supervisors Establishing A Domestic Water Improvement District, No. I20-011 (August 4, 2020)*
- *Constitutionality of Pima County's Policy Prohibiting Employees From Making Political Contributions For Any Candidates For Any Elected County Office, No. I20-012 (December 17, 2020)*
- *Emergency Powers of the Governor, Counties and Municipalities, No. I21-001 (February 17, 2021)*
- *Whether the Arizona State Schools for the Deaf and the Blind meet federal definitions of "local educational agency", No. I21-002 (April 2, 2021)*
- *Whether Pima County Resolution No. 2020-96 Violates Executive Order 2021-06, No. I21-003 (Informal Opinion) (April 6, 2021)*
- *Authority of Governor to Negotiate Gaming Compacts with Indian Tribes Under A.R.S. § 5-601, No. I21-004 (April 19, 2021)*

## 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 tracked library usage, streamlined procedures for ordering books, increased legal research training opportunities, drafted successful grant proposals for the Office, reduced the library budget monies spent on print materials, created a virtual law library on the Office's Intranet, and placed an increased emphasis on electronic research tools.

The library budget supports specialized electronic research databases and print materials. The only print materials that continue to be purchased are treatises and practice materials that are not available on-line, and in which inter-library loans for this material would be difficult if not impossible to attain.

An electronic catalog launched this fiscal year. This catalog allows AGO researchers throughout the state to identify research materials in specific AGO libraries and easily determine if print materials can be borrowed. The catalog also links researchers to web-based research guides and provides links to research databases accessible to state employees via remote access.

Training emphasis was placed on the new Westlaw Edge platform, including Practical Law, Drafting Assistant, Litigation Analytics, and Quick Check. In all, 15 training webinars were held and 370 attorneys and paralegals were trained. Assistance with specialized research and grant-writing projects were delivered to requesting AGO sections in fiscal year 2021. 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. 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

*Arizona Independent Redistricting Commission* -- The Independent Redistricting Commission (IRC) convenes every ten years, following the decennial census, to independently establish new congressional and legislative voting districts in Arizona which meet the requirements laid out in the Arizona Constitution. The AGO is legal counsel for the IRC unless and until outside legal counsel has been properly appointed and procured. From January 2021 until April 2021, the ACS attorneys provided the IRC with representation until the IRC selected outside counsel. The IRC stops operations once the new districts are established. Accordingly, ACS attorneys who represented the 2021 IRC helped get the IRC up and running, which was the equivalent of starting a state agency up from initial formation. This process began with advising the IRC during its selection of the 5th IRC commissioner, who ultimately

serves as the Commission Chair. Thereafter, ACS attorneys provided day-to-day legal advice on a myriad of topics, including open meeting law and employment law (with the help of ELS attorneys), while also representing the IRC in answering an open meeting law complaint.

*Scott McCarty v. ASRS* -- The superior court ruled in ASRS's favor, holding that Mr. McCarty's appeal to purchase service at the cost methodology used prior to a 2004 statute change was barred by the statute of limitations. Had ASRS lost, for Mr. McCarty alone, the difference between what he requested to pay and what the current statute requires he pay would be \$318,144.07. Taking it to all pre-statute change employees, the actuaries estimated an increase in the unfunded actuarial accrued liability that would be passed on and charged to current employees and employers of up to \$920.8 million.

*Banner/Aetna Protest of Employee Benefits Contract* -- On June 3, 2020, the State Procurement Office (SPO) received a protest of the contracts awarded to Blue Cross Blue Shield of Arizona and United Healthcare under the Employee Benefits (Medical) solicitation and request for stay of the contract awards from Banner/Aetna. ADOA estimates that this contract set is worth \$5 billion.

With legal assistance from ACS, the procurement officer's decision was issued on July 1, 2020 denying the protest. Banner/Aetna appealed to the ADOA Director on July 27, 2020. With legal assistance from ACS, SPO filed its agency report on August 17, 2020. The Director's decision denying the protest was issued on October 7, 2020 (shortly before open enrollment began on October 19, 2020). Banner/Aetna did not appeal the decision to the superior court.

*Katiah v. Shinn* -- Plaintiffs filed special actions seeking mandamus relief in the form of orders requiring Department of Corrections Shinn to release them to home detention because ADCRR allegedly could not safeguard their lives and health during the COVID-19 pandemic. Their requests were premised on alleged violations of their Eighth Amendment and Equal Protection rights, and A.R.S. §§ 31-106 and 107, which are not applicable to Director Shinn. ACS filed motions asking the Court to decline jurisdiction or, in the alternative, to dismiss the complaints for failure to state a claim upon which relief could be granted. The Court agreed and dismissed the actions.

*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 proper ticket form prior to public sale. During the last fiscal year, ACS conducted 160 individual game reviews, for more than 80 different games, which led to the approvals as to form.

*Bonds* -- ACS reviewed 19 projects for Industrial Development Bond funding, totaling over \$182,000,000.00.

*Personal Property Leases* -- ACS reviewed and approved, as to authority and form, third-party personal property leases for the State with an aggregate value of more than \$3,593,295.00.

*Real property leases/contracts/agreements* -- ACS reviewed over 64 leases, contracts and other agreements for various agencies.

*Lien Foreclosure Complaints* -- ACS resolved over 53 lien foreclosure complaints that impacted interests held by the Superior Court Clerks of Court in the various counties.

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



### Case Highlights

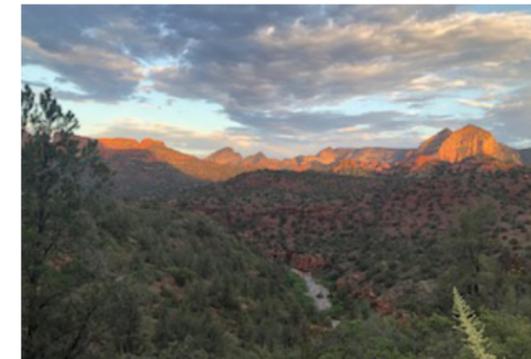
*State of Arizona v. Johnson Utilities, LLC* -- EES obtained court approval of an ADEQ settlement agreement to remedy violations of the state's drinking water laws, Clean Water Act, and Aquifer Protection Permit Program at the Johnson Utilities facilities in Pinal County. Under the consent decree, Johnson Utilities agreed to transfer its utilities to EPCOR Water Arizona, Inc. and agreed to the removal of \$10.3 million from a pending rate case at the Arizona Corporation Commission. This settlement will improve the compliance of this large utility provider in Pinal County without substantially increasing customer rates.

*Center for Biological Diversity v. Arizona Department of Environmental Quality* -- Before the Arizona Water Quality Appeals Board, EES successfully defended ADEQ's decision to issue an aquifer protection permit to Prize Energy Resources, Inc. for helium recovery in Apache County. The appellants argued that ADEQ violated legal and technical standards and sought to have ADEQ's permit decision overturned. Following briefing and oral argument, the Water Quality Appeals Board ruled that the appellants offered insufficient evidence to support their claim that they were adversely affected by the permit decision.

*San Carlos Apache Tribe and Arizona Mining Reform Coalition v. Arizona Department of Environmental Quality* -- In the Maricopa County Superior Court, EES successfully defended ADEQ's decision to renew a Clean Water Act permit issued to Resolution Copper, LLC for a copper mine near Superior, Arizona. The appellants argued that Resolution Copper's new construction was a "new source" that triggered new restrictions. The superior court rejected the appellants' arguments and upheld both ADEQ's and the Water Quality Appeals Board's determination that the changes to the mine were not new sources within the meaning of the applicable state and federal regulations.

*State v. Gold Paradise Peak, Inc. and Sino Vantage Group, Inc.* -- EES obtained court approval of ADEQ's settlement agreement with Gold Paradise Peak, Inc. and Sino Vantage Group, Inc. for violations of Arizona's water quality laws at the Azurite and Sundance mines near Prescott, Arizona. The defendants constructed and operated mining facilities without obtaining discharge permits from ADEQ. Under the consent judgment, the defendants agreed to bring the mine facilities into compliance with the Clean Water Act and Aquifer Protection Permit Program under an approved schedule. The defendants agreed to pay \$150,000 to ADEQ for its costs and agreed to pay a \$600,000 penalty if they fail to successfully meet their requirements for achieving compliance.

*State v. Mohawk Utility Company* -- EES successfully obtained court approval of an ADEQ settlement with Mohawk Utility Company for violations of the state's drinking water laws at the company's facilities in Wellton, Arizona, where it provides drinking water to approximately 267 residents. Under the agreement, Mohawk will follow a compliance schedule to meet sampling and reporting requirements, water storage requirements, and operator certification requirements. Mohawk will face a \$10,000 civil penalty if it fails to meet its compliance deadlines.



*State v. Vast Mountain Development, Inc.* -- EES obtained court approval of an ADEQ settlement with Vast Mountain Development, Inc. and Solid Gold, Inc. for violations of the Aquifer Protection Permit Program at their mining operations in Yavapai County, Arizona. Under the consent judgment, the defendants agreed to a schedule for achieving compliance at their mining facilities, and the defendants agreed to pay \$15,000 for ADEQ's costs and a \$100,000 civil penalty if they fail to meet the compliance requirements in the judgment.

## Significant Matters

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



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

*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 the State Commission for Postsecondary Education.

### Health Unit

#### Major Case Highlights: State Court

Health Unit attorneys handled in three appellate matters this year; one of the appellate cases was settled after briefing and the Arizona Supreme Court denied two petitions for review in two other cases. Additionally, the court of appeals issued a published opinion in favor of ADHS. *Heritage at Carefree LLC v. Arizona Department of Health Services*, 249 Ariz. 447 (App. 2020), review denied (Jan. 5, 2021). Health Unit attorneys also participated in four federal court cases, two of which involved collaborations with other AGO sections. Two of the cases were voluntarily dismissed during discovery and the other two are ongoing.

#### Significant Programs

*Emergency Medical Services and Trauma Systems* – Any person or entity that wants to operate a ground ambulance service must be granted a Certificate of Necessity (CON). The Health Unit completed briefing on an appellate case concerning a CON application, which was ultimately settled. The Health Unit also advised and represented ADHS with respect to several applications for an initial CON and applications to amend a CON during the past year; three of which went to administrative hearings with two set for future hearing dates. The Health Unit also provided legal advice concerning administrative enforcement actions against the certificates held by Emergency Medical Certified Technicians whose actions were determined to be a threat to the health and safety of Arizona residents. These enforcement actions resulted in censure or probation and one license revocation. The Health Unit also provided legal advice on current rulemaking revisions for Arizona Administrative Code, Title 9, Chapter 25, Articles 7-10, and 12, as well as general legal advice on a weekly basis.

*Health Care Institution Licensing* – ADHS licenses health care institutions in Arizona, including hospitals, nursing homes, assisted living facilities, behavioral health facilities, and outpatient clinics, among others. Health Unit attorneys represented ADHS in multiple enforcement meetings and informal settlement conferences, and provided weekly advice in matters involving hospitals, outpatient treatment centers, assisted living facilities, and behavioral health facilities. In addition to providing legal advice, Health Unit attorneys represented ADHS in 18 health care licensing matters this past year, the majority of which resulted in settlement agreements, including five civil money penalty enforcement actions to enforce the right to recover \$71,000 in civil money penalties. Additionally, Health Unit attorneys defended ADHS against a federal lawsuit brought by Planned Parenthood of Arizona, Inc. and other plaintiffs that challenged statutes that were enacted in 2009 and 2011. Plaintiffs voluntarily dismissed their case during discovery. The Health Unit worked with other AGO sections who were also representing state defendants in this lawsuit.

*Hospital Data Reporting* – Hospitals are required to report hospital discharge data and cost reports to ADHS. When hospitals violate these reporting requirements, ADHS brings an enforcement action to assess civil money penalties against them. Last year, with the Health Unit’s assistance, ADHS resolved five enforcement actions. ADHS assessed a total of approximately \$180,000 in civil money penalties. The hospitals paid a portion of the penalties upfront with the remainder deferred, to be discharged following sustained compliance with the reporting requirements.

*Sober Living Home Licensing* – ADHS began licensing sober living homes in FY20 pursuant to A.R.S. § 36-2061 et seq. In the first full year of licensing sober living homes, ADHS has ensured that this community is properly and safely licensed. ADHS sought enforcement against 19 facilities for operating without a license. Health Unit attorneys represented ADHS at informal settlement conferences and drafted settlement agreements aimed at getting these providers to come into compliance and to safely become licensed. The program received civil money penalties from these facilities in an amount totaling \$2000. Additionally, Health Unit attorneys successfully defended ADHS against a petition for a temporary restraining order in a federal lawsuit, which the plaintiff sober living home association ultimately voluntarily dismissed. They also defended ADHS against a HUD complaint brought by the same association.

*Medical Marijuana* – ADHS is responsible for the administration and supervision of the Arizona Medical Marijuana Act (AMMA). Health Unit attorneys provided legal advice to this program and handled related administrative, superior court, and appellate litigation for ADHS. ADHS processed approximately 900-1100 medical marijuana card applications per day, and regulated 117 operating medical marijuana dispensaries. The Health Unit provided advice and helped ADHS efficiently manage this complex, highly regulated, and growing industry. Attorneys in the Health Unit represented ADHS in approximately 100 administrative appeals from medical marijuana cardholder and medical marijuana dispensaries. Additionally, Health Unit attorneys successfully defended ADHS in a judicial review of an administrative decision on a denial of a medical marijuana cardholder’s application, defended ADHS in three ongoing superior court cases brought by medical marijuana dispensaries, and successfully represented ADHS against a medical marijuana dispensary’s petition for review.

# STATE GOVERNMENT DIVISION

## EDUCATION & HEALTH SECTION

*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. Health Unit attorneys provide legal advice on the interpretation and enforcement of applicable law, rulemakings, and the legal implication of health and safety issues surrounding radioactive materials. Health Unit attorneys reviewed enforcement letters and notices related to the regulation of radiation, provided guidance on the assessment of civil money penalties for activities that are licensed or are required to be licensed, and provided advice about naturally occurring radiation abandoned by former licensees. In addition, Health Unit attorneys negotiated and drafted settlement agreements to resolve complex matters between ADHS and the regulated community. In the spring of 2021, the Bureau of Radiation Control engaged in a review of its rules related to the administrative hearing process. Health Unit attorneys provided legal advice and reviewed the rules that were earmarked to expire.

*Medical Radiological Technologists and Laser Technicians Certification* – The ADHS Bureau of Special Licensing is responsible for the certification and regulation of the medical radiologic technologists and laser technicians. This year, Health Unit attorneys reviewed the notices of intent to revoke the licenses of two radiologic technologists and one notice of intent to suspend a radiologic technologist’s certification and represented ADHS at informal settlement conferences. ADHS settled the matters.

*Licensed Midwife Program* – ADHS’s Bureau of Special Licensing 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 against one midwife that resulted in a settlement where the midwife surrendered her license.

*Child Care Licensing* – The Bureau of Child Care Licensing licenses and regulates child care facilities and child care group homes. Child care facilities provide services to five or more children not related to the proprietor while child care group homes are residential facilities that service five to ten children through the age of twelve years. Health Unit attorneys provided legal advice concerning enforcement issues such as cease and desist orders, notices of intent to revoke a license, and notices of assessment

of civil money penalties. Health Unit attorneys represented ADHS at informal settlement conferences and drafted consent agreements that protected the health and safety of enrolled children, imposed escalated enforcement, resolved underlying issues of non-compliance, and resulted in civil money penalties totaling more than \$3,000.

*Bureau of Vital Records* – ADHS is responsible for the registering, amending, producing, and protecting all vital records (birth and death certificates) for the State of Arizona. The Health Unit attorneys provide advice to the Bureau of Vital Records and represents ADHS in superior court and federal court proceedings and administrative matters. Health Unit attorneys represented ADHS in more than 30 administrative actions before the Office of Administrative hearings, 15 superior court matters, and one ongoing federal court case.

*Women, Infants, and Children Program (WIC)* – Health Unit attorneys represent the Arizona WIC Program that the ADHS Bureau of Nutrition and Physical Activity administers. The AZ WIC Program provides nutritional support to pregnant, breastfeeding, and postpartum women, infants and children less than five years of age. AZ WIC also administers the Farmers’ Market Program that provides farm fresh foods to recipients of WIC benefits, works with store owners to provide WIC approved foods, and collaborates with physicians to assess the nutritional risk of adult and child participants. Health Unit attorneys provide legal advice to AZ WIC 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. Health Unit attorneys also review contracts and AZ WIC presentations for legal issues and provide advice related to ADHS’s dietetic internship program that gives AZ WIC employees an opportunity to earn a dietetic nutritionist certificate.

*Arizona State Hospital (ASH)* – ASH provides mental health treatment and housing to the most seriously mentally ill residents of Arizona. Health Unit attorneys provide daily legal advice to ASH on a wide variety of issues and represent the State in all superior court civil commitment proceedings for patients admitted to ASH’s civil campus, represent ASH at Psychiatric Security Review Board hearings concerning forensic campus patients who are committed to ASH as guilty except insane, represent ASH in matters at the Office of Administrative Hearings involving grievances made by individuals who are seriously mentally ill, and address issues relating to superior court guardianship matters concerning any ASH patient. Health Unit attorneys and staff weekly prepare numerous superior court filings related to committed persons at ASH, all of which must be filed in paper. In the past year, Health Unit attorneys participated in 109 superior court civil commitment hearings, 77 Psychiatric Security Review Board hearings, and three administrative hearings in the Office of Administrative Hearings. Health Unit attorneys also contributed to a team consisting of LMS, ELS, and EHS attorneys who are defending a federal lawsuit brought by an ASH patient.

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

# STATE GOVERNMENT DIVISION

## EDUCATION & HEALTH SECTION

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

Health unit attorneys also provide legal advice to ACPTC and represent ADHS in SVP matters throughout the state. Health Unit attorneys advised the ACPTC about various requests and inquiries, including facility records requests under A.R.S. § 36-3712(B) and issues raised under the SVPA. This year, on behalf of ADHS, Health Unit attorneys and staff reviewed and filed 98 annual reports under A.R.S. § 36-3708, and 294 quarterly reports and 132 monthly reports under A.R.S. § 36-3710(F), all of which must be filed in paper. Additionally, Health Unit attorneys defended ADHS against claims made by SVPs about the ACPTC, including a successful denial of a petition for review. Additionally, this year, Health Unit attorneys worked collaboratively with Maricopa County Superior Court staff to implement virtual platforms to conduct proceedings from the ACPTC.

*Procurement Office* – Health Unit attorneys review various contracts for ADHS and provide regular advice regarding the Procurement Code, RFIs, RFPs, IGAs, ISAs, MOUs, and Protests. This past year, Health Unit attorneys reviewed and/or approved 445 contracts from ADHS.

*Arizona Commission for the Deaf and the Hard of Hearing (ACDHH)* – Health Unit attorneys represent 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. Health Unit attorneys advise ACDHH; attend quarterly board meetings; review agendas, meeting minutes, and investigation results; assist with drafting complaints; represent ACDHH in administrative hearings; and provide advice related to rulemakings. Last year, Health Unit attorneys reviewed six investigative reports concerning licensed interpreters and drafted three enforcement action notices that resulted in civil money penalties being assessed and paid. Health Unit attorneys also advised ACDHH about an emergency rulemaking that was necessary because two performance testing entities ceased testing during the COVID pandemic. As a result, it became impossible for two classes of interpreters, Legal A Licensees and Provisional Licensees, to comply with licensure rules that required the licensees to pass the performance test necessary for licensure or license renewal. In the early spring of 2021, ACDHH successfully amended its rules which allowed Legal A Licensees and Provisional Licensees to continue to provide sign language interpreting services to the courts.

*Civil Money Penalties* – The Health Unit attorneys participate in the review, negotiation, and proceedings for administrative enforcement actions taken by ADHS against licensed persons or entities. In total, Health Unit attorneys assisted ADHS in the assessment of approximately \$354,000 in civil money penalties for FY 2021, approximately \$180,000 was deferred.

## Education Unit

Education Unit attorneys were involved in cases before federal and 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 Board of Education in cases of alleged unprofessional conduct by certificated persons.

Education attorneys represented the State Board of Education and the Superintendent of Public Instruction in a recent Court of Appeals decision decided in the State's favor that involved defending legislation restricting the State's obligation to reimburse TUSD for desegregation expenses: *Pima County, et. al., v. State, et. al.*, 1 CA-TX 20-0001. Education Unit AAGs also participated in three lawsuits in Arizona Superior Court, one of which involved a recent public records case involving the Arizona State Board for Charter Schools; that case was dismissed. Education AAGs represented the Arizona Department of Education (ADE) in one federal court case, which was heard, and then dismissed. Education attorneys also have or are representing ADE in fifty-five pending empowerment scholarship account (ESA) administrative appeals before the Office of Administrative hearings involving ADE's ESA program. ESA Appeals are filed by parents who are challenging an adverse decision from ADE's ESA program.

*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. Education Unit attorneys also provide daily advice to the Empowerment Scholarship Account (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 eleven administrative hearings on ESA appeals, negotiated resolutions to ten ESA appeals, and currently have thirty-four ESA appeals pending in the next sixty days. Education Unit attorneys also provide assistance with 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

# STATE GOVERNMENT DIVISION

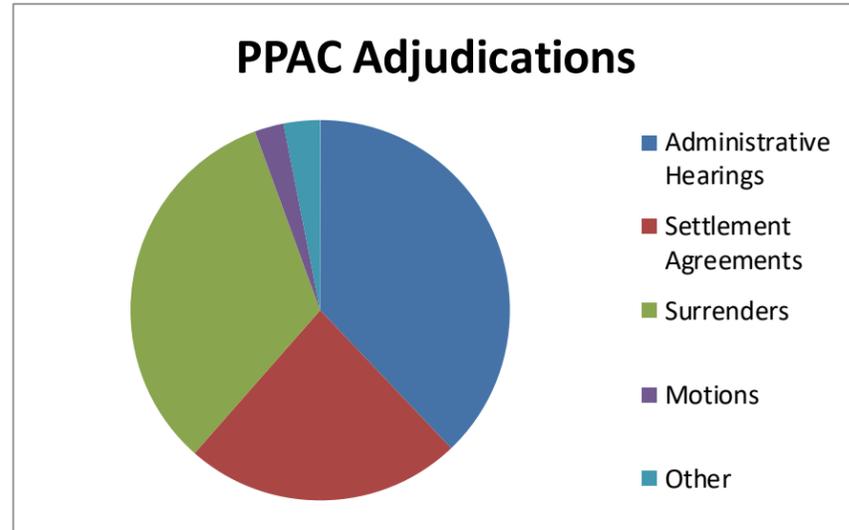
## EDUCATION & HEALTH SECTION

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 year, ADE has had eight audit appeals; four have been settled through AAG-assisted negotiations and four remain pending. 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)* – The Board has held regular public hearings despite the onset of COVID-19. In addition to providing day-to-day legal advice to Board staff, Education Unit attorneys reviewed draft Board agendas for compliance with Arizona's Open Meeting Law, attended all Board meetings to advise the Board, and participated in virtual hearings before and on behalf of the Board. The Board has facilitated robust discussions on several topics, including reports by the Board President and Superintendent of Public Instruction; achievements by students, teachers, administrators, and schools; online instruction, the allocation of state funds, and teacher discipline. Pursuant to SB1224, the Board promulgated rules to establish and oversee an appeals process for ESAs. Education Unit attorneys assisted the Board with those rules and with advice related to the ESA appeals process. Education Unit attorneys also assisted State Board staff with tracking the numerous ESA appeals through the pre-hearing, hearing, and post-hearing process that culminates in final decisions of the Board. In June 2021, the Governor signed HB 2898 into law; that law will allow ESA appeals to be heard by a hearing body of the State Board of Education instead of having hearings before the Office of Administrative Hearings.

*Professional Practices Advisory Committee (PPAC)* – The PPAC is an advisory board that holds evidentiary hearings for the Board on teacher and school administrator discipline cases. During the 2021 fiscal year, Education Unit attorneys provided regular legal advice to State Board of Education Staff and the ADE Investigative Unit staff. We also regularly attended State Board of Education meetings and participated in discussions on teacher discipline matters. Education Unit attorneys represented the State in 161 adjudicated cases in which teachers or school administrators were alleged to have committed professional misconduct. We conducted 61 administrative hearings before the PPAC, drafted 38 settlement agreements, obtained 53 surrenders of educator certificates, defended three motions for rehearing, each of which was denied, and defended one motion for review, which was granted in part. Of the 61 administrative hearings, 29 resulted in revocation of the educator's certificates, 15 resulted in a suspension of the educator's certificate, five resulted in the educator's application for a certificate being granted, and eight resulted in the educator's application for a certificate being denied. Education Unit attorneys also wrote requests for summary revocation of certificates in five cases with

each request being approved. This graph shows the various outcomes for PPAC adjudications for FY21:



*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, responses to subpoenas, open meeting laws and public records requests. Education Unit attorneys also advised ASDB in its model of delivery of services at the three Campus-Based Schools and through the Regional Cooperatives. On May 24, 2021, Governor Ducey signed HB2863, which formally categorized ASDB as a local education agency (LEA). That law also authorized ASDB to receive federal funding received by the State for LEAs, to be responsible under state and federal accountability requirements for LEAs, requires ASDB to provide a free and appropriate education, and authorized ASDB to establish graduation criteria and procedures.

*Arizona State Board for Charter Schools* – In addition to providing day-to-day legal advice to Charter Board staff, Education attorneys reviewed and revised Board meeting agendas for compliance with the Open Meeting Law and attended all Board meetings to advise the Board. Additionally, our AAGs assisted the Board in responding to a significant number of public records requests and assisted the Board in the development of revised rules for the monitoring of charter schools. AAGs also negotiated several agreements to bring charter schools into compliance and worked with the Board with respect to the termination of charter schools that were not performing to State standards. Finally, the Education Unit Attorneys assisted the Board in its review process of approving new charters.

*School Facilities Board (SFB)* – In addition to providing day-to-day client advice on agency programs, Education Unit attorneys attended fifteen Board meetings and advised the SFB on open meeting laws and public records requests. Education Unit attorneys assisted SFB in accomplishing its objectives of improved services to school districts by advising on legislation, policies, and procedures. HB 2898 was

# STATE GOVERNMENT DIVISION

## EDUCATION & HEALTH SECTION

recently signed into law by the Governor on June 30, 2021. Under this bill, the SFB will no longer exist as an independent board and will be replaced by the new School Facilities Oversight Board, a Division of School Facilities within the Arizona Department of Administration.

*Arizona Commission for Postsecondary Education (ACPE)* – Education Unit attorneys reviewed Commission meeting agendas, attended Commission meetings and provided advice to the ACPE for compliance with open meeting law and public records law. Education Unit attorneys also assisted ACPE in its preparation for its operational and personnel changes as a result of recent legislation. Beginning in 2022, the work of the Commission will be transitioned to the Arizona Board of Regents.

*Attorney General Opinions* – Education Unit attorneys assisted with two formal Attorney General Opinions that have been issued and are currently involved in assisting with a third 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 2021, the amount recovered or agreed to in settlement agreements with public schools is in excess of \$1.0 million

# 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 one hundred state agencies, boards, commissions, and courts. ELS also provides proactive training for supervisors across state government in order to promote sound management practices and positive employee relations, thereby minimizing liability to the State. When necessary, ELS also counsels and defends client agencies against claims of harassment, disability, gender, age, race, national origin and religious discrimination, wrongful discharge and various employment-related torts. ELS attorneys regularly represent state agencies in state and federal courts and before administrative agencies such as the U.S. Equal Employment Opportunity Commission (EEOC), the State Personnel Board, and the Law Enforcement Merit System Council. ELS also represents the State in workers compensation matters that would otherwise be referred to outside counsel.

### Significant Responsibilities

ELS provided nearly 1,900 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 disabled employees and applicants in compliance with the Americans with Disabilities Act, and leave issues under the Family and Medical Leave Act.

In the last fiscal year, ELS attorneys devoted significant time and resources to advising client agencies on the requirements of State and federal law in responding as an employer to the COVID-19 pandemic, including but not limited to the requirements Families First Coronavirus Response Act.

*Extensive Training for Supervisors and Agencies Across Arizona* -- Another key component to preventing EEOC charges and employment litigation against the State of Arizona is training state employees, particularly supervisors, on compliance with state and federal employment laws including anti-discrimination statutes, wage and hour laws, and medical leave and disability laws. On at least a quarterly basis, ELS attorneys provide four-hour, in-person or virtual training sessions to hundreds of supervisory employees to ensure that every new supervisor 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, from inception through discovery and appellate oral argument before the Arizona Court of Appeals and the Ninth Circuit Court of Appeals.

ELS represents the State in employment lawsuits covered by the State's self-insurance program, as well as in some non-risk management cases. In FY 2021, ELS opened files for 11 new Risk Management lawsuits, and obtained final judgment in favor of the State in three cases, either by way of judgment on the pleadings or summary judgment, in cases asserting claims under Title VII, the Age Discrimination in Employment Act, and the Arizona Wage Act.

ELS also assisted client agencies in responding to 43 charges of discrimination filed with the federal Equal Employment Opportunity Commission (EEOC). ELS closed 32 EEOC charges. ELS attorneys and legal assistants billed over 10,500 hours on Risk Management litigation matters (lawsuits, claims and EEOC charges).

Finally, ELS attorneys partnered with the Liability Management Section in lawsuits asserting claims pursuant to Title II (public accommodations) of the Americans With Disabilities Act.

*ELS Workers Compensation Practice* -- The ELS workers compensation group opened 61 new matters and closed 53 matters. ELS attorneys and legal assistants billed more than 3,000 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.

# STATE GOVERNMENT DIVISION

## LIABILITY MANAGEMENT SECTION

The Liability Management Section (LMS) defends the State of Arizona and its employees in cases in which money damages are requested in tort and civil rights cases. LMS also provides advice to the Risk Management Section of ADOA on matters related to liability claims.

### Major Accomplishments

*LMS Appellate Practice* – LMS successfully represented the state and state officials in 74 appeals with 36 dismissed and 33 affirmed.

LMS successfully represented the state and state officials in a number of appeals.

<i>Acosta v DES</i>	<i>Harris v CO Montoya</i>	<i>Nordstrom (Rienhardt) v Ryan</i>
<i>Atwood v Shinn</i>	<i>Harry v DOC</i>	<i>Pereyda-Rios v DPS</i>
<i>Buffalo v DPS</i>	<i>Hawk v State</i>	<i>Prince v Stewart</i>
<i>Chagolla v DCS</i>	<i>Henderson adv State</i>	<i>Ramos v ACC</i>
<i>Collins v UOA</i>	<i>Keates v DCS</i>	<i>Tripati v DOC</i>
<i>Dudley v DOC</i>	<i>Larsgard v DOC</i>	<i>Uiagalelei v DOT</i>
<i>Garcia v Ryan</i>	<i>Lewis v State</i>	<i>Walker v DOC</i>
<i>Garfias-Ortega v DOC</i>	<i>Medley v DOC</i>	
<i>German v State</i>	<i>More v Ryan</i>	
<i>Graven v ATG</i>	<i>Neary v ASU</i>	

*LMS Litigation Practice* – LMS closed nearly 90 cases including 3 Trials; 3 Arbitrations; 9 Mediations; 22 Settlements; and 58 Motions Granted.

# STATE GOVERNMENT DIVISION

## LICENSING ENFORCEMENT SECTION

The Licensing & Enforcement Section (“LES”) currently represents 34 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, and the Board of Nursing. LES attorneys serve as general counsel for these agencies and provide representation in administrative disciplinary and license denial hearings before the agencies and the Office of Administrative Hearings. The attorneys also represent the agencies in the Superior Court in judicial review actions, special actions, and injunctive proceedings, as well as in the Court of Appeals. In addition, LES is responsible for providing independent legal advice to its client agencies in connection with prosecutions and adversary proceedings. LES attorneys also assist its client agencies in the rule making process, monitor and advise on proposed and enacted legislation, and ensure its clients’ compliance with open meeting and public records laws, and their respective governing statutes and rules.

### Significant Highlights

During FY21, LES opened 327 legal files. LES provided approximately 30,000 hours of legal services to our client agencies. The legal services included 2880 hours attending board and committee meetings and 4350 hours providing general legal advice. The remainder of the legal services consisted of assisting client agencies with administrative proceedings against licensed professionals and associated judicial actions.

*Administrative Disciplinary Proceedings* -- LES attorneys assisted our client agencies with disciplinary proceedings that resulted in disciplinary action against licensed professionals. The cases were resolved through administrative hearings, consent agreements or through default decisions. LES attorneys participated in proceedings that resulted in 335 license revocations (which include voluntary license surrenders and relinquishments) and 155 license suspensions (which include interim license suspensions). The cases that resulted in license revocations and suspensions involve egregious statutory violations of agencies’ practice acts where it is determined that the licensed individuals are no longer competent to practice a profession or no longer meet the requirements to hold a professional license.

*Superior Court and Arizona Court of Appeals* -- LES represented client agencies in 12 judicial review actions challenging an agency’s final decision in the Superior Court and Court of Appeals. LES attorneys’ participation in the judicial review actions include responding to motions for stays of the final decisions, assisting the agencies with preparation of the administrative record, preparing and filing responsive

briefs and participating in oral arguments before the courts. The courts affirmed the agencies' decisions in 9 of the actions, remanded 2 of the cases to the agencies for further proceedings, and dismissed 1 case. LES attorneys also filed two successful injunctive actions in superior court to enjoin the unlicensed practice of certified public accounting.

*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, proposed rules submitted by a state agency headed by a single elected official, certain proposed rules from the Corporation Commission and certain rules from the Industrial Commission. During FY21, LES reviewed 4 emergency rule packages. Three of the packages were approved. One package was initially denied but subsequently re-submitted to the Attorney General's Office with additional supporting documentation and approved.

LES client agencies collected the following civil assessments and penalties:

<b>CIVIL ASSESSMENTS AND PENALTIES</b>	
Athletic Trainers	\$ 1,500.00
Barber Board	\$ 520.00
Board of Accountancy	\$ 50,500.00
Board of Osteopathic Examiners in Medicine & Surgery	\$ 4,000.00
Cosmetology Board	\$ 23,720.00
Dental Board	\$ 500.00
Department of Liquor Licenses and Control	\$ 458,900.00
Funeral Directors & Embalmers	\$ 3,500.00
Board of Physician Assistants	\$ 2,000.00
Massage Board	\$ 1,450.00
Medical Board	\$ 18,000.00
Nursing Board	\$ 34,813.00
Pharmacy Board	\$ 140,895.00
Private Post-Secondary Education Board	\$ 1,000.00
Psychologist Examiners Board	\$ 1,500.00
Registrar of Contractors	\$ 110,650.00
Respiratory Care Examiners Board	\$ 450.00
Technical Registration Board	\$ 20,850.00
Veterinary Medical Examining Board	\$ 6,400.00
<b>TOTAL</b>	<b>\$ 881,148.00</b>

# STATE GOVERNMENT DIVISION

## NATURAL RESOURCES 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 in securing water resources and other infrastructure for the development of state trust land. NRS represents the State where its agencies claim water rights in the state water rights adjudications, with water rights claims on state trust lands comprising the majority of those claims. NRS 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

*In re Hopi Reservation HSR* -- The Water Rights Adjudication Team completed trial to quantify the federal reserved water right for the Hopi Reservation. This is the first time in history that the federal reserved water right for an Indian tribe was tried in a court of law to determine the quantity of water necessary to fulfill the purpose of the reservation. The trial spanned from September 2020 to February 2021, with 60 trial days, 7 parties, 18 attorneys, 35 expert witnesses, 35 fact witnesses, and thousands of exhibits. The parties are currently involved in post-trial briefing, and closing arguments will be held in October 2021.

NRS Attorneys assisted ASLD in completing auctions of state trust land that will yield probably more than a billion dollars for deposit into the state land trust or for direct distribution to the trust's beneficiaries, which are public schools and universities and other public beneficiaries, as well as substantially contribute to Arizona's economy. For instance, NRS assisted in the land use and infrastructure planning and auction of 1,100 acres in North Phoenix, as the first phase of development of the 3,500 acre Biscuit Flats area. Taiwan Semiconductor Manufacturing Company purchased the initial parcel and has begun construction of a \$12 billion semiconductor fabrication plant, with the possibility of building two more. Associated industries have already purchased other ASLD parcels to support the development and operation of the "fabs."

# 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 as general counsel to our client agencies and advise on all aspects of Arizona public law - such as contract matters, open meetings, conflict of interest, and public records laws - as well as federal laws and regulations. While many PLS cases begin as administrative enforcement matters litigated at the Office of Administrative Hearings, our attorneys provide legal representation through every stage of the judicial review and appeals process including before the Arizona Court of Appeals and Arizona Supreme Court.

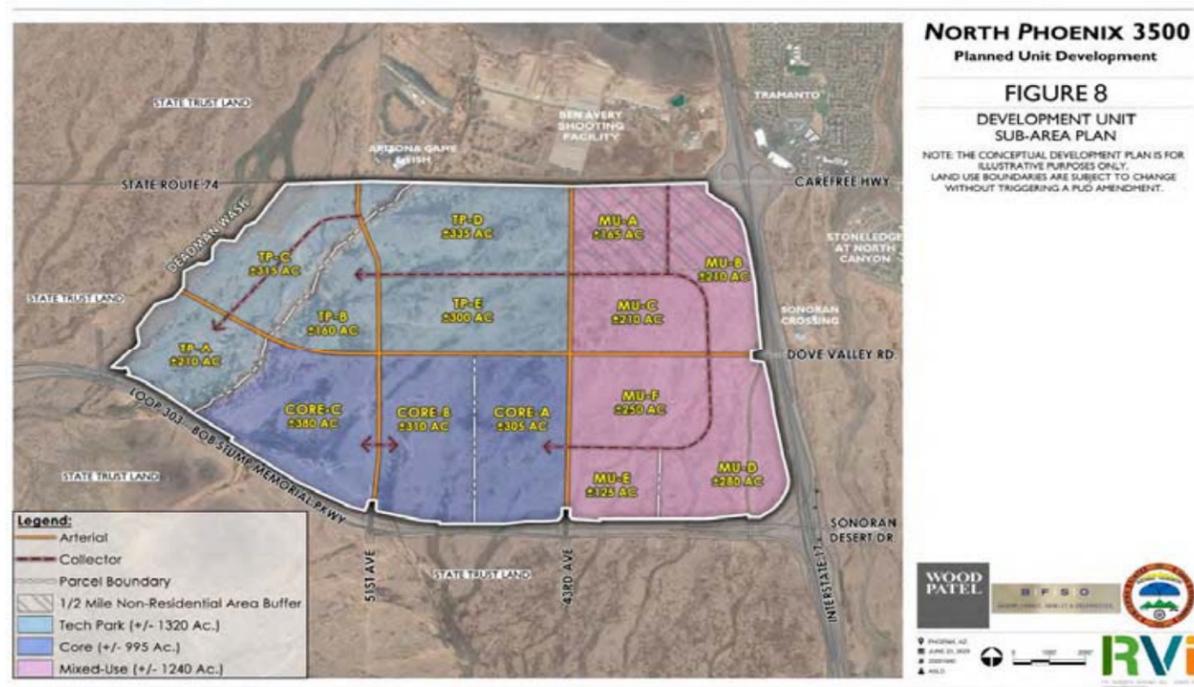
In addition to providing legal advice and representation, PLS provides training to client agencies on open meeting laws, conflict of interest laws and other topics. PLS also presents workshops to prepare investigators and other agency witnesses for administrative hearings.

## Significant Responsibilities

### Department of Agriculture

The mission of the Department of Agriculture is to support and promote Arizona agriculture in a way that encourages farming, ranching, and agribusiness while protecting the well-being of people, plants, animals, and the environment and safeguarding commerce, consumers, and natural resources. PLS advises and represents the Department in the administration of its broad range of duties. For example, the Animal Services Division regulates cattle overgrazing and trespass, and the Weights and Measures Services Division inspects gas pumps for the use of illegal "skimmers" used by thieves to record credit and debit card information. PLS attorneys also advise the Department in connection with its Industrial Hemp Program, which is governed by both federal and state laws.

When needed, PLS represents the Department in actions involving the seizure of livestock for animal cruelty and other reasons. Additionally, PLS advises a total of thirteen boards and councils that focus on particular agricultural industries, such as the Agricultural Advisory Council, the Arizona Grain Promotion and Research Council, and the Arizona Leafy Greens Food Safety Committee.



## Office of Tourism

The Arizona Office of Tourism (AOT) strives to stabilize and strengthen Arizona's economy through travel and tourism promotion. To accomplish its mission, AOT partners with local, national, and international organizations and companies to promote tourism to Arizona. PLS attorneys support the work of AOT by providing legal advice and representation as needed, including on contract and copyright issues.

## Major Case Highlights

In the Matter of Frank Rossetti – Based on complaints from a consumer and insurers, the Department of Insurance and Financial Institutions (DIFI) conducted an investigation of Frank Rossetti, a licensed insurance producer. The investigation found that Rossetti had intentionally misspelled the names of insurance applicants to obtain rates the consumers were not entitled to, altered auto insurance applications and submitted the altered applications to an insurance company, and created insurance policies without the consent of the party listed on the policy by electronically signing and approving applications for insurance as the party without the party's knowledge or consent. After lengthy negotiations in which PLS attorneys represented DIFI, Rossetti agreed to surrender his insurance producer's license. The Consent Order included an agreement that Rossetti will not apply for any license subject to regulation by DIFI for five (5) years.

In the Matter of the Collection Agency License of U.S. Collections West and Donald Darnell – PLS attorneys assisted DIFI in an enforcement action against U.S. Collections West (USCW) and its long-time president, Donald Darnell, for repeated violations of collection agency regulations. In 2010 and again in 2016, USCW and Darnell entered into Consent Orders with DIFI to resolve concerns about the company's practices. In an examination conducted in 2020, DIFI found that while many prior violations from 2016 had been resolved, USCW again violated collection agency rules by, for example, failing to investigate a consumer's claims that the debt at issue was discharged in bankruptcy, attempting to discourage a debtor from obtaining legal advice, and failing to file required abandoned property reports. DIFI issued an Order to Cease and Desist Order requiring USCW and Darnell to correct all violations and pay a civil money penalty of \$15,000. USCW and Darnell did not appeal that Order and they paid the \$15,000 penalty.

Colorado City Police Officer Cases – PLS represents the Peace Officer Standards and Training Board (POST) in POST's enforcement actions against six former officers in the Colorado City Marshal's Office who are or were members of the Fundamentalist Church of Jesus Christ of Latter-Day Saints (FLDS church). A POST investigation found that the officers improperly favored members of the FLDS church and discriminated against non-FLDS members, including but not limited to the United Effort Plan Trust (UEP) after the State of Utah removed control of the UEP from the FLDS church and installed a trustee. PLS represented POST in a three-day administrative hearing involving the POST certification of one of the officers, Hyrum Roundy. Based on the recommendations of the administrative law judge who conducted the hearing, the POST Board voted to revoke Roundy's peace officer certification in November 2020. Since then, three other officers decided to voluntarily relinquish their POST certifications rather than proceed to hearing. The cases against the remaining two officers are pending.

# 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

*ADP, LLC v. ADOR* – This is the first case in which the Arizona Tax Court has addressed the taxation of income earned by a business (transaction privilege tax) from the rental of "hosted" software, a.k.a., Software as a Service ("SaaS"). SaaS is software that is stored and run on the vendor's hardware and that is available for use by customers—retail and business—for a subscription fee. ADP provides SaaS to businesses for such things as timekeeping, payroll, etc.

ADOR recently prevailed at the Arizona Tax Court in the ADP lawsuit. ADP is deciding whether to appeal that ruling.

*Vangilder v. Pinal County and ADOR* – Voters in Pinal County approved a transportation excise tax that levied a transaction privilege tax at a rate of .5% of 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 those Pinal County retailers competitive with their counterparts in Maricopa and Pima Counties.

Plaintiffs, represented by the Goldwater Institute, sued Pinal County and the ADOR, alleging that the tax was unlawful for several reasons. ADOR agreed with Vangilder that the 0% rate 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 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.

Plaintiff 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 heard argument on December 10, 2020, and we are awaiting a decision.

# 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 also advises a wide range of boards, commissions, and committees, including the priority Planning Action Committee, the Law Enforcement Merit System Council, the Over-Dimensional Permit Council, the Arizona Council for D.U.I. Abatement, the Arizona Motorcycle Safety Advisory Committee, the Arizona Companion Animal Spay and Neuter Committee, ADOT's Homeland Security Committee, and the School Bus Advisory Council.

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

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

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

## Significant Highlights

Attorneys in the TRN Right of Way Unit continue to provide legal advice and representation related to the L202 South Mountain Freeway project. This public private partnership is ADOT's largest single construction project, with costs estimated at just under \$2 billion. Attorneys are also providing legal advice and representation on many high profile ADOT projects including ADOT's future I-10 widening project, SR 189 Nogales POE and the I-10 Broadway Curve widening.

In addition to providing daily advice, attorneys in TRN's MVD group initiated 24 automobile dealer licensing cases and assisted ADOT in collecting approximately \$105,400 in fines as a result. Those attorneys also handled 8 judicial appeals.

TRN AAGs representing DPS advised DPS on 296 out-of-state conviction records to assist DPS in determining whether to include these offenders on the internet sex offender website pursuant to ARS § 13-3827.

# 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 Section (Outreach) of the Arizona Attorney's General Office (AGO) is committed to protecting Arizona and its citizens through prevention programs and education. 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. Programs currently offered by Outreach include:

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

From FY2015 through FY2021, Outreach has provided more than 3,750 community education presentations to more than 320,000 parents, seniors, students, and other members of the community, and has participated in nearly 300 other public events, reaching more than 100,000 Arizonans. In total, Outreach has educated more than 420,000 Arizonans since 2015.

Outreach educates Arizona's communities through in-person educational presentations, often in K-12 settings, retirement homes, and community centers. During the COVID-19 pandemic, Outreach utilized an online format to deliver programs, providing live webinar presentations and pre-recorded presentations that can be viewed conveniently and remotely. In FY21, Outreach provided 361 live webinars to 9,417 Arizonans. Many Arizonans took advantage of pre-recorded programs, resulting in 1,897 views of Outreach presentations throughout the fiscal year.

Despite in-person presentations and events being limited throughout FY21, Outreach still continued to provide important information to the public through constituent communication. Outreach staff answered 2,660 calls and 1,150 emails from members of the public. Additionally, Outreach delivered 3,900 life-care planning packets as well as 35,407 scam alerts to Arizonans in either hard copy or electronic format.

Outreach prioritized the need for identity theft prevention by hosting several no-contact shred-a-thons across the state. As a result of these events, members of the public were able to safely destroy 162,750 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. 779.25 pounds of prescription drugs were destroyed.

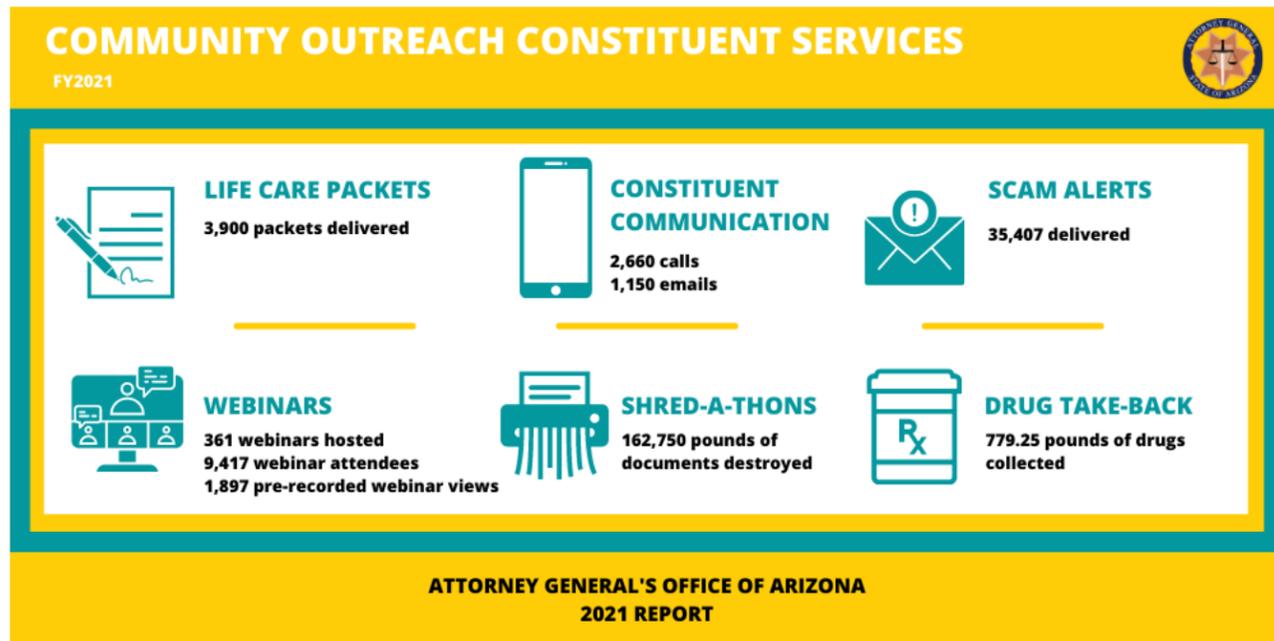
The AGO continues to coordinate strategies to stop human trafficking through training and prosecutions. The AGO recognizes prosecution alone is not enough. Increased education and awareness are essential to make people aware of this scourge and recognize human trafficking indicators. This results in fellow Arizonans helping individuals avoid becoming or remaining victims of trafficking.

Outreach offers human trafficking awareness programs for youth, parents, various industries, and the general public. The programs focus on prevention and are available to the public free of charge. Since January 2015, trainers have presented the program approximately 248 times to over 8,976 attendees while distributing over 8,000 education booklets. A significant portion of these trainings were for staff

# CIVIL LITIGATION DIVISION

## COMMUNITY OUTREACH & EDUCATION SECTION

of foster care licensing agencies and/or group homes, as well as foster families throughout Arizona. Over 100 attendees were school resource officers.



Scottsdale Shred-a-thon December 5, 2020



Mesa Shred-a-thon February 20, 2021



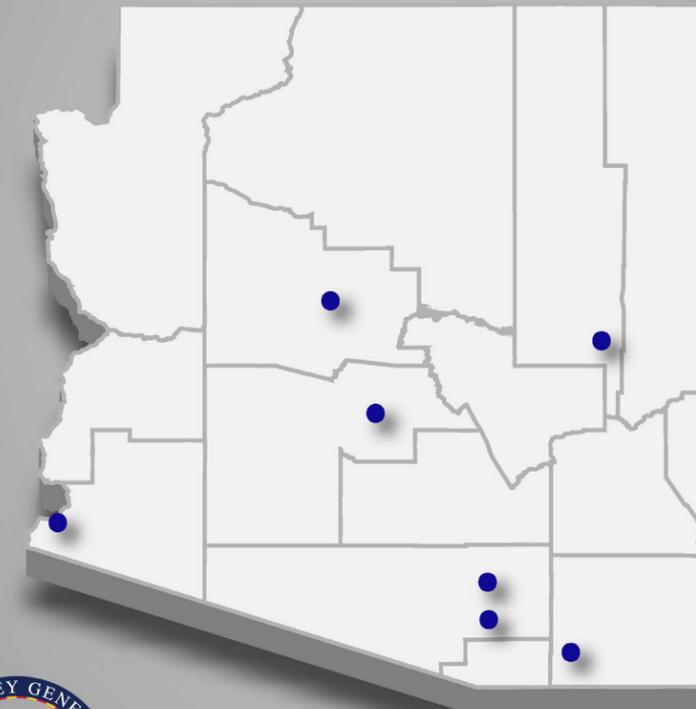
Phoenix Shred-a-thon April 10, 2021



## Shred-a-thons Hosted: 12

Pounds of Documents Destroyed: 162,750

Vehicles Served: 2,449



### Cities Served:

Surprise, Tucson, Scottsdale, Yuma, Mesa, Sierra Vista, Phoenix, Marana, Show Low, Sahuarita, Prescott Valley



# 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) brings civil enforcement actions for violations of the Consumer Fraud Act and Data Breach Notification Law, (ii) ensures that tobacco manufacturers and distributors comply with state laws, (iii) protects competition and consumer welfare by enforcing Arizona’s antitrust statutes and (iv) is responsible for administering America’s first in the nation Arizona Fintech Sandbox. With an emphasis on recovering restitution for Arizonans impacted by consumer fraud, CPA has secured over \$200 million in restitution for Arizona consumers since Attorney General Mark Brnovich took office in 2015. The dedicated CPA team regularly handle hundreds of investigations/lawsuits and process more than 13,000 consumer complaints each year.

### Overview of Accomplishments

- CPA has secured well over \$200 million in restitution and other forms of relief for Arizona consumers since 2015. This amount more than doubles the total restitution awards secured by the AGO from 2000-2014 combined.
- Led a multistate investigation into Apple secretly throttling the performance of its iPhones, and resolved the investigation with a \$113 million global settlement.
- Obtained over \$71 million in refunds for consumers who bought tickets from Ticketmaster for events that were canceled, postponed, or rescheduled due to the COVID-19 pandemic.
- Obtained a \$25 million consent agreement with Arizona Public Service, including \$24 million in consumer restitution for over 225,000 consumers. This unprecedented consumer protection investigation of a public utility resolved claims that APS failed to provide adequate information to consumers regarding their most economical rate plans.
- Secured a \$13.3 million consent judgment as part of a multistate settlement with consulting firm McKinsey & Company, resolving an investigation into the company’s profiting from the opioid epidemic through its opioid consulting work that facilitated those opioid companies’ promotion of their drugs.
- Obtained a \$5 million settlement with Honda regarding the automaker’s failure to disclose dangerous defects in airbags. The settlement included a novel repair program designed to get unsafe cars repaired as soon as possible.
- Obtained a \$22.5 million judgment against vaping company Eonsmoke, resolving allegations that Eonsmoke sold illegal vaping products and targeted Arizona youth.
- Obtained over \$7.8 million in debt relief for former students of ITT Tech.
- Obtained over \$3.1 million as part of a multistate settlement with Boston Scientific Corporation to

- resolve allegations of deceptive marketing of its transvaginal surgical mesh devices to patients.
- Obtained at least \$2 million in a settlement with the former CEO of Insys Therapeutics, a Chandler-based company that has pled guilty to federal fraud charges related to the payment of kickbacks to doctors and unlawful marketing of opioids.
- Sued Landmark Home Warranty and obtained a \$1.75 million consent agreement, including \$1 million in restitution for Landmark’s customers. The settlement resolved allegations that Landmark made promises on expedited air conditioning services on which they failed to deliver.
- \$1.4 million in a settlement with Nationstar, resolving claims that the mortgage company violated consumer protection laws during its servicing of mortgage loans.
- Received \$1.1 million as part of a multistate settlement with C.R. Bard to resolve allegations of deceptive marketing of its transvaginal surgical mesh devices to patients.
- \$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.
- \$100,000 in restitution in a settlement with two Sun City pest control companies and their owners, assisting consumers who had purchased termite warranties that the companies failed to honor.
- Secured an Assurance of Discontinuance with a local company selling over-the-counter hearing devices online, requiring the company to discontinue use of misleading or false claims like “FDA APPROVED” or “FDA REGISTERED” in its advertising.
- Added multinational engineering company Bosch to its consumer fraud lawsuit against Mercedes-Benz USA and Daimler. The State’s amended complaint alleges that Bosch developed, manufactured, marketed, tested and sold the electronic diesel control that allowed Mercedes to manipulate emissions controls.
- Sued Amazon Home Warranty (not affiliated with Amazon.com), alleging that the company misrepresented its number of years in business and created countless fake five-star reviews.
- Sued Frontier Communications for allegedly failing to provide consumers with internet service at the speeds the company promised.
- Sued an Arizona-based debt collection company and its owners, alleging that the company collected debt using illegal tactics, including pretending to be law enforcement.
- Warned consumers about scams related to economic stimulus checks.
- Warned consumers to beware of COVID-19 testing scams, in which scammers attempt to extract money or information in exchange for supposed test results.
- Partnered with retailers to launch program placing signs by gift card displays in over 1,000 stores, warning consumers about gift card scams.
- Announced participation in a bipartisan coalition of 35 attorneys general fighting unwanted and harassing robocalls, and filed an amicus brief seeking to hold companies accountable for unlawful robocalls.
- Obtained a settlement in ongoing litigation against an individual accused of rolling back odometers and advertising and selling the cars with the rolled-back odometers. As part of the settlement, the man may never sell used cars in Arizona again.
- Sued two online auction companies for allegedly engaging in “shill bidding” without disclosing that practice to consumers.
- Led a bipartisan coalition of 40 attorneys general who sent a letter urging Congress to enact new consumer protection measures for airline passengers.
- Warned consumers to be wary of companies violating the Do Not Call list in an effort to sell third-party auto warranties.

# CIVIL LITIGATION DIVISION

## CONSUMER LITIGATION UNIT

The Consumer Litigation Unit (“CLU”) protects the public from consumer fraud and provides consumer protection advocacy and public education. CLU investigates and brings actions on behalf of the state for violations of the Arizona Consumer Fraud Act and other state and federal consumer protection statutes.

### Airlines

*Letter to Congress urges implementation of safeguards for airline consumers* – Led a bipartisan coalition of 40 attorneys general who sent a letter urging Congress to enact new consumer protection measures for airline industry customers as part of a financial relief package or in separate legislation as soon as possible.

### Auto

*\$5 million settlement with Honda regarding dangerously defective airbags* – Obtained a \$5 million settlement with Honda, resolving allegations of concealed safety issues related to defective Takata airbag systems in certain Honda and Acura vehicles. The settlement prioritized \$1.65 million in restitution for Arizona consumers, as well as a \$2.13 million repair incentive program to encourage the completion of vital safety recalls.

*Man accused of odometer rollbacks permanently barred from used car sales* – Obtained a judgment against Santiago Ramirez Montelon, owner of Pacific Auto Sales in Mesa, resolving the State’s 2020 lawsuit alleging that Montelon altered odometers of vehicles, then advertised the vehicles using false mileage figures on Craigslist and then sold those to unsuspecting Arizona buyers. The settlement provides for \$30,000 in restitution and up to \$80,000 in civil penalties. Additionally, the settlement permanently bars Montelon from used car sales in the future.

*Auction companies sued for “shill bidding” on vehicles up for auction* – Sued two Phoenix-based businesses, Auction Nation and Auction Yard, for allegedly unfairly and deceptively bidding in their own auctions, which falsely drove up prices for items and, as a result, allowed the businesses collected millions of dollars from legitimate auction participants who were unaware the “house” was manipulating the auction process.

*Engineering company Bosch added to Mercedes “clean diesel” suit* – Added multinational engineering company Bosch to its consumer fraud lawsuit against Mercedes-Benz USA and Daimler. The State’s

amended complaint alleges that Bosch developed, manufactured, marketed, tested and sold the electronic diesel control that allowed Mercedes to manipulate emissions controls. Further, the State alleges Bosch’s participation was not limited to engineering the defeat device but that it also marketed “clean diesel” and communicated directly or indirectly with the public and U.S. regulators about the benefits of “clean diesel.”

*AGO warns consumers about robocalls selling third-party auto warranties* – Warned consumers about companies violating the Do Not Call list in an effort to sell third-party auto warranties, noting, among other things, that claims that your auto warranty is about to expire may not be true.

### COVID-19

*AGO warns consumers about scams related to economic stimulus checks* – Advised consumers about various types of scams related to economic stimulus checks issues as part of federal COVID-19 relief.

*AGO advises consumers to beware of COVID-19 testing results scams* – Warned consumers to be aware of COVID-19 test result scams, in which fraudsters call or text consumers promising test results in exchange for money or information.

### Debt Collection

*Debt collection company sued for using illegal scare tactics* – Sued Arizona residents Mark Anthony Smith and Deborah Ann Butler, who operated debt collection businesses CMS Financial Group, John Lee Group & Associates, and TD Financial Solutions Group AZ. The suit alleged that the defendants call consumers nationwide (including Arizonans), and make false claims and impersonate law enforcement to convince consumers to pay debts that they have no authority to collect.

*Millions in debt relief obtained for former ITT Tech students* – Secured an agreement to obtain \$7.8 million in debt relief for more than 1,000 former ITT Tech students in Arizona as part of a settlement with 48 attorneys general and the federal Consumer Financial Protection Bureau. Under the agreement, PEAKS Trust, a private loan program run by the for-profit college and affiliated with Deutsche Bank entities, agreed to provide the aforementioned relief to former students of now-bankrupt ITT Tech.

### Gift Cards

*AGO partners with retailers to launch gift card sign program in over 1,000 Arizona stores* – Partnered with CVS and the Arizona Food Marketing Alliance (AFMA) to launch a consumer fraud awareness program inside Arizona stores to combat gift card scams. Over 1,000 stores now have warning signs at gift card displays to remind consumers that gift cards can never be used to pay a government agency. Participating stores include CVS, Albertsons, Safeway, AJ’s Fine Foods, Bashas’, Food City, Circle K, and Los Altos Ranch Markets.

# CIVIL LITIGATION DIVISION

## CONSUMER LITIGATION UNIT

### Healthcare

*\$3.1 million settlement with surgical mesh manufacturer Boston Scientific* -- Obtained \$3.1 million as part of a multistate settlement with Boston Scientific Corporation to resolve allegations of deceptive marketing of its transvaginal surgical mesh devices to patients. The settlement also provides comprehensive injunctive relief requiring truthful representations about surgical mesh in the future, training reforms, and clinical trial reforms.

*\$1.1 million settlement with surgical mesh manufacturer Bard* -- Obtained \$1.1 million as part of a multistate settlement with C.R. Bard, Inc. to resolve allegations of deceptive marketing of its transvaginal surgical mesh devices to patients. Although Bard exited the surgical mesh market prior to the settlement, the settlement also provides comprehensive injunctive relief if Bard decides to re-enter the market.

### Hearing Aids

*Settlement with local company selling over-the-counter hearing devices online* -- Settled with Budget Hearing Aids and its subsidiary, Audien (Budget), to stop the company from misleading consumers about over-the-counter hearing devices. Budget owns several websites and advertised "FDA APPROVED" or "FDA REGISTERED" hearing devices, even though the U.S. Food and Drug Administration (FDA) has not approved any over-the-counter hearing aids. As a result of the settlement, the AGO required that Budget desist from using this deceptive tactic.

### 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

*Sued Landmark Home Warranty and obtained \$1.75 million settlement* -- Sued and obtained a \$1.75

million settlement with Landmark Home Warranty regarding Landmark's prior policies for emergency HVAC repairs. In the company's contracts, Landmark promised that it would "make reasonable efforts to expedite service within 24 hours" when a consumer suffered a complete loss of air conditioning in "extreme temperatures." Unfortunately, as the AGO alleged, from 2017 to 2019, Landmark defined "extreme temperatures" in a manner that was impossible for consumers to satisfy. After the AGO launched the investigation, Landmark agreed to pay current and former customers up to \$1 million in restitution plus pay the State an additional \$750,000.

*Lawsuit filed against Amazon Home Warranty over fake online reviews* -- Sued Amazon Home Warranty (not affiliated with Amazon.com), alleging that the company misrepresented its number of years in business and its ownership, and also created countless fake five-star reviews. Three individuals founded Amazon Home Warranty in 2018, including one individual who ran a previous failed home warranty company. According to the lawsuit, the company immediately started claiming that it had been in business for a decade, created fake identities to conceal the true identity of the executives, and caused fake glowing reviews to be posted online.

### Mortgage

*\$1.4 million obtained from mortgage servicer* -- Obtained over \$1.4 million in restitution as part of a multistate settlement with Nationstar, which does business as "Mr. Cooper." The settlement resolved claims that Nationstar violated consumer protection laws during its servicing of mortgage loans, which affected over 1,400 loans in Arizona and may have led to foreclosures for more than 200 Arizonans. The consent judgment also requires Nationstar to follow a detailed set of rules or "servicing standards" in how it handles certain mortgage loans.

### Opioids

*\$13.3 million obtained from firm regarding opioids consulting work* -- Obtained over \$13.3 million as part of a multistate settlement with consulting firm McKinsey & Company, resolving investigations into the company's role in working for opioid companies, helping those companies promote their drugs, and profiting from the opioid epidemic. The money, after payment of costs, will be used to abate problems caused by opioids. As part of the settlement, McKinsey also must post tens of thousands of its internal documents detailing its work for Purdue Pharma and other opioid companies for public disclosure online, and stop advising companies on potentially dangerous Schedule II and III narcotics.

*Former CEO of Arizona-based opioids company forced to pay millions* -- Announced the former CEO of Insys Therapeutics, Michael Babich, must pay at least \$2 million to settle allegations related to his role in an opioid scheme. The settlement resolved the claims against Babich in a 2019 lawsuit against Insys' founder and several former executives for engineering and engaging in a scheme in which (1) Insys paid doctors as a reward for prescribing the company's flagship opioid medication, Subsys, and (2) Insys created a call center designed to ensure that insurance companies approved and paid for Subsys prescriptions by misrepresenting the patients' medical information to the insurance companies.

# CIVIL LITIGATION DIVISION

## CONSUMER LITIGATION UNIT

### Public Utility

*\$24 million obtained for Arizona Public Service customers* -- Obtained a \$25 million consent agreement with Arizona Public Service, resolving claims that the company failed to provide adequate information to consumers regarding their most economical rate plans. The \$24 million devoted to consumer restitution went to over 225,000 consumers. APS also agreed to develop and post FAQs regarding their rate plans.

### Robocalls

*Filed amicus brief with 35-state coalition against unwanted and harassing robocalls* -- Announced that AGO is part of a bipartisan coalition of 35 attorneys general seeking to ensure their offices can continue to fight against unwanted and harassing robocalls. Additionally, filed an amicus brief in *Lindenbaum v. Realty*, arguing that the Telephone Consumer Protection Act's (TCPA) robocall ban was enforceable from 2015 to 2020.

### Tech

*Led multistate to \$113 million settlement with Apple over throttling claims* -- Obtained a global \$113 million multistate settlement with Apple, Inc. regarding Apple's 2016 decision to throttle consumers' iPhone speeds to address unexpected shutdowns in some iPhones. Arizona, along with Arkansas and Indiana, led the investigation of Apple by more than 30 states. Under the settlement, Apple paid Arizona over \$5 million and agreed to injunctive relief requiring Apple to provide truthful information to consumers about iPhone battery health, performance, and power management.

### Telecom

*Lawsuit filed against Frontier Communications over internet speed misrepresentations* -- Sued Frontier Communications in conjunction with the FTC and several other states, alleging that the company did not provide many consumers with internet service at the speeds it promised and charged many consumers for more expensive and higher-speed service than Frontier actually provided. The lawsuit alleges that Frontier advertised and sold internet service in several plans, or tiers, based on download speed, but Frontier did not provide many consumers with the maximum speeds they were promised and, instead, the speeds often fell far short of what was touted in purchased plans.

### Tickets

*\$71 million in refunds secured by investigation into Ticketmaster* -- Investigated and settled with Ticketmaster, resolving claims that Ticketmaster failed to provide refunds for postponed, rescheduled, or canceled events during the COVID-19 pandemic, despite promising to do so before the pandemic struck. Through good-faith negotiations with the AGO, Ticketmaster (working with event organizers) authorized \$71,030,000 in consumer refunds for 650 Arizona events that were canceled, postponed, or rescheduled because of COVID-19. Customers who purchased tickets for an Arizona event received an option to obtain a full refund for the event if it was canceled, rescheduled, or postponed due to COVID-19.

### Vaping

*Default judgment obtained in Eonsmoke lawsuit* -- Obtained a \$22.5 million judgment and a permanent injunction against vaping peddler Eonsmoke, LLC, resolving claims that the company sold illegal vaping products and targeted underage consumers in Arizona. The default judgment permanently barred Eonsmoke from marketing or selling its products in Arizona and required the company to pay tens of millions in civil penalties.

### Warranties

*\$100,000 obtained for Sun City consumers who lost termite warranty coverage* -- Obtained \$100,000 in a consent decree with two Sun City pest-control companies after numerous consumers alleged that they did not receive their full termite warranties. Atomic Pest Control had agreed to purchase Amera Sun City Pest Control's assets and customer list when Amera closed. However, Atomic later refused to honor the termite warranties purchased by the former Amera customers, unless those customers paid an additional \$125 fee. The companies agreed to provide restitution for consumers, to honor the existing warranties, and to pay the State's attorneys' fees.

# CIVIL LITIGATION DIVISION

## COMPETITION, INNOVATION & PRIVACY UNIT

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

*Case Against Generic Drug Manufacturers Moves Closer to Trial* – The Court designated Arizona’s dermatology complaint, the third complaint filed by the AGO in conjunction with other state attorneys general regarding collusion among generic drug manufacturers and their executives, as the bellwether lawsuit. A bellwether is a case within multidistrict litigation that is representative of all the cases that serves to educate the parties and court about the strengths and weaknesses of the many underlying cases.

*AGO, with Other States, to Appeal Court’s Decision to Dismiss Action Challenging Facebook’s Anti-competitive Practices* – The AGO joined 47 other state Attorneys General alleging that Facebook illegally maintained its monopoly power through anti-competitive means such as by purchasing or merging with competitors such as Instagram or WhatsApp.

*AGO Plays Key Role in Antitrust Action Challenging Google’s Monopolistic Conduct* – The AGO filed an antitrust complaint in federal court, along with 37 other attorneys general against Google, alleging Google illegally maintains its monopoly power over general search and related advertising markets through a series of anticompetitive exclusionary contracts and conduct. This conduct has deprived consumers of competition that could lead to greater choice, innovation, and better privacy protections. The AGO played a key role in the investigation and development of this lawsuit and continues to play a key role in the litigation of our allegations.

### **Fintech Sandbox**

Established in 2018, Arizona’s FinTech Sandbox (the “Sandbox”) was the first of its kind in the United States. The Sandbox is a regulatory alternative for companies and individuals that want to test an innovative financial product or service with consumers before getting a license in Arizona. It fosters technological innovation with an ever-present focus on consumer protection. Participants have

a regulatory safe-harbor for testing their products or services in Arizona markets and with Arizona consumers subject to consumer protection limits and requirements. Participants get access to the markets without excessive regulatory burdens which act as barriers to growth in the marketplace, but they must meet certain disclosure, monitoring, and reporting requirements to ensure consumer protection. Since the Arizona program launched, it has become a model for other states looking to pass similar legislation, and it continues to strengthen Arizona’s reputation as a business and technology friendly state.

As of June, 2021, the Sandbox has had ten participants. All of the Sandbox participants have had successful tests, leading to a better understanding about how their product or service fits in the current regulatory environment, 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.

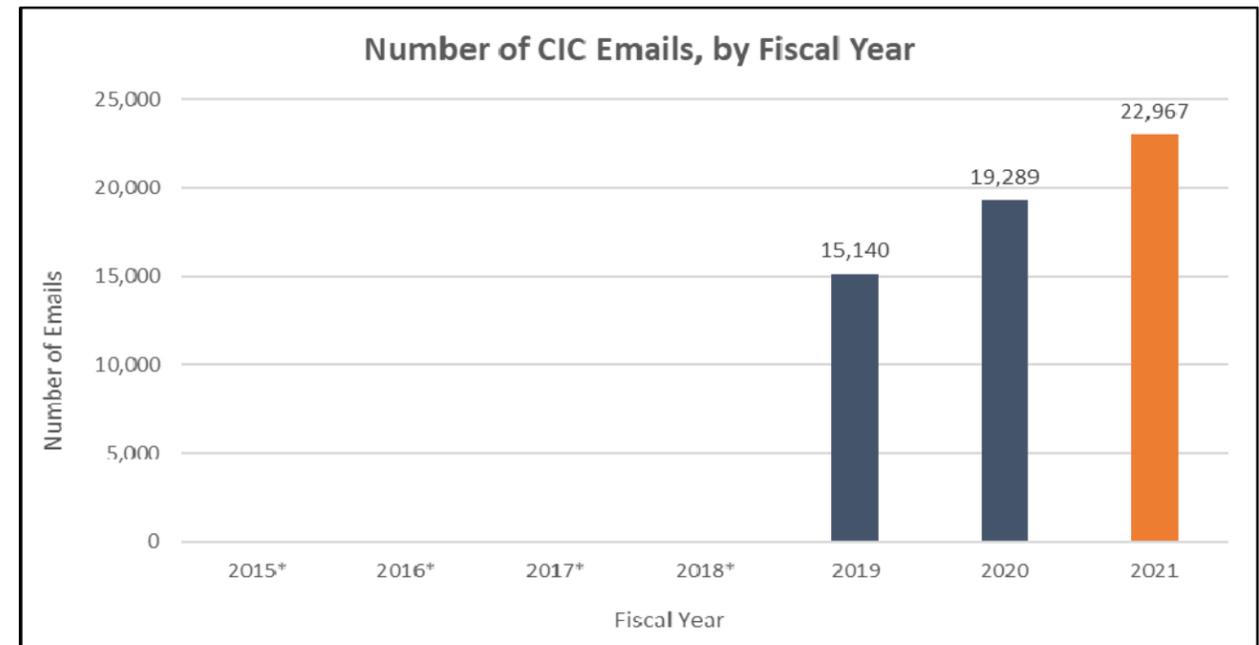
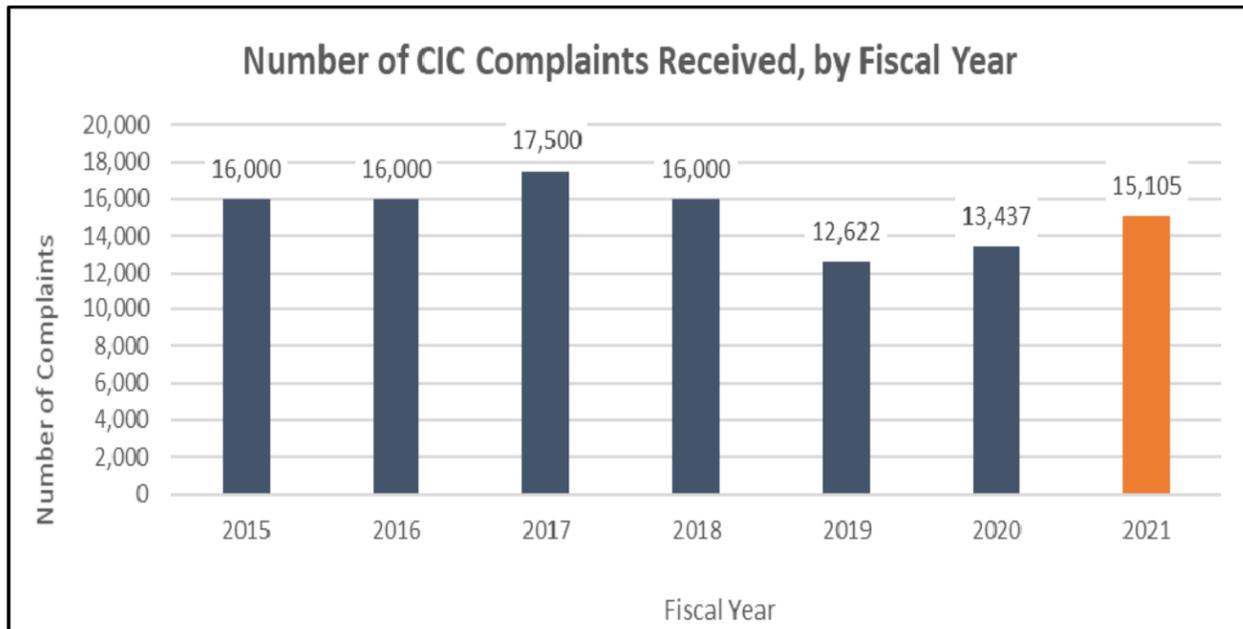
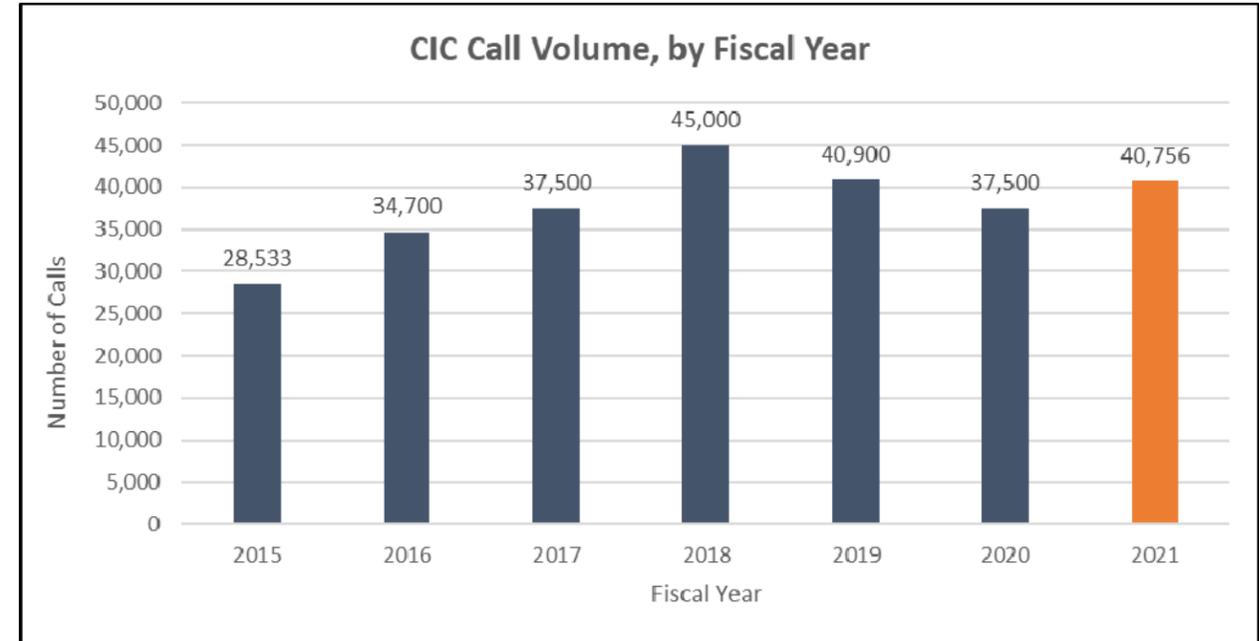
### **Data Breach**

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.

# CIVIL LITIGATION DIVISION

## 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 over 15,105 consumer complaints in fiscal year 2021. CIC staff, most of whom are bilingual in English and Spanish, answered more than 40,756 consumer phone calls throughout the year and responded to 22,967 consumer emails.

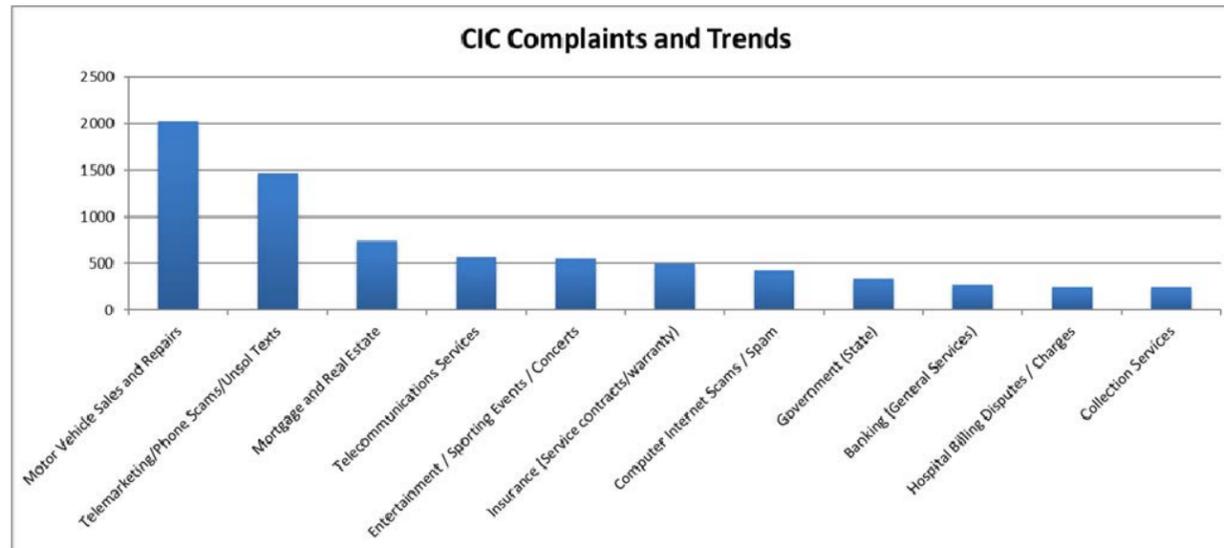


\*CIC email data not gathered until 2019

# CIVIL LITIGATION DIVISION

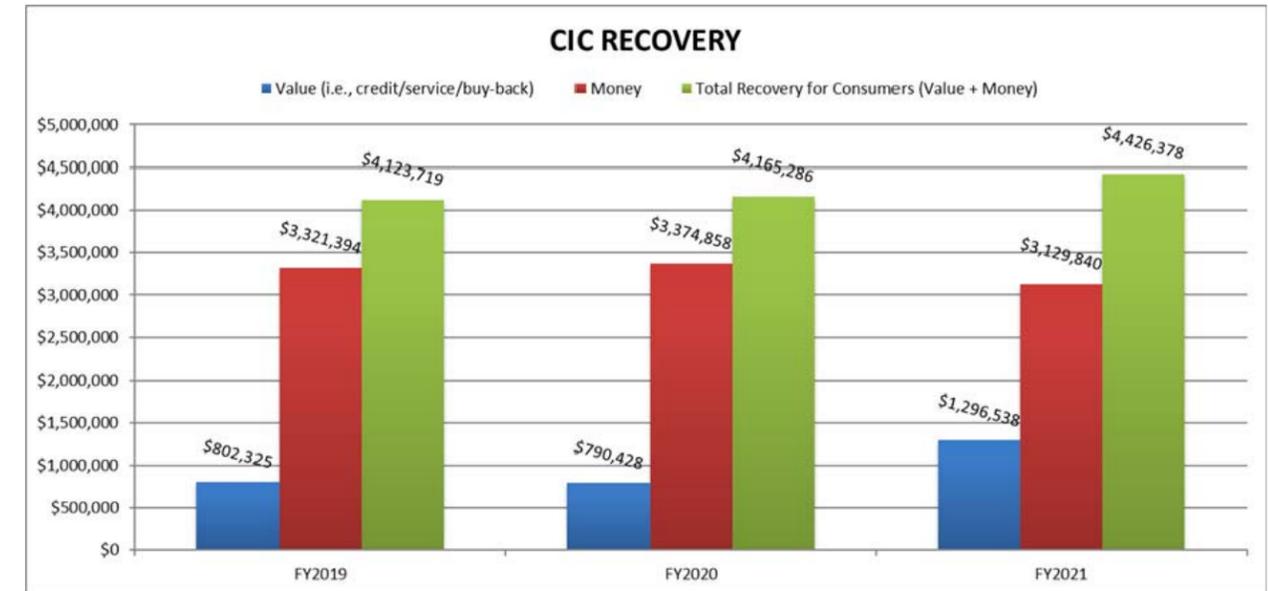
## CONSUMER INFORMATION & COMPLAINTS UNIT

Common FY2021 consumer complaints:



In FY2021, CIC recovered over \$4.42 million for consumers throughout Arizona.

In FY2021, CIC recovered over \$4.42 million for consumers throughout Arizona.



Consumers may file complaints online at [www.azag.gov](http://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

## 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 2021, Arizona received approximately \$106 million in MSA payments. Since 1998, tobacco manufacturers have paid Arizona approximately \$2.2 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. Highlights of TEU’s work in FY2021:

### Case Highlights

*2019 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. As a result of 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 2021.

*State of Arizona vs. Grand River Enterprises* – The Tobacco Enforcement Unit successfully negotiated a settlement of two default judgments with Canadian cigarette manufacturer Grand River Enterprises (GRE). GRE engaged in a scheme to violate the Escrow Statute of 25 states and was banned from sale in each of them after amassing a number of default judgments, including two in Arizona. Arizona’s settlement is the largest of the 25 states. The settlement includes \$1,254,724.32 to be deposited into escrow in accordance with Arizona’s Escrow Statute based on the default judgments, an additional \$34,361.55 into escrow based on sales in Arizona uncovered later that are not included in any judgment, \$40,000 in attorney’s fees, and \$1,254,724.23 in civil penalties. GRE has also agreed to comply with the Escrow Statute based on any sales later identified by AGO.

*Non-Participating Manufacturer Adjustment Settlement* – The MSA entitles Arizona to an annual payment of approximately \$100 million. This payment can be subject to a number of adjustments. To avoid the application of an adjustment, the state must diligently enforce the Escrow Statute. TEU goes to great lengths each year to satisfy this diligent enforcement requirement.

### Enforcing the Escrow and Directory Statutes

TEU 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.

### 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. Once Counter Strike resumed, TEU began an effort to perform as many undercover inspections as possible throughout the state, completing 213 undercover inspections of tobacco retailers and issuing 48 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. The business also may be fined. Over 35,000 retail inspections have been performed since the program’s inception in 2002.

After achieving record low fail rate 9.8% in FY2018, the fail rate for FY2021 increased to 11% in large part because of the sale of e-cigarettes to minors. During routine youth tobacco inspections, TEU has found that retailers are more likely to violate the prohibition on sales of tobacco products to minors when the youth volunteer requests an e-cigarette as opposed to cigarettes or other conventional tobacco products.

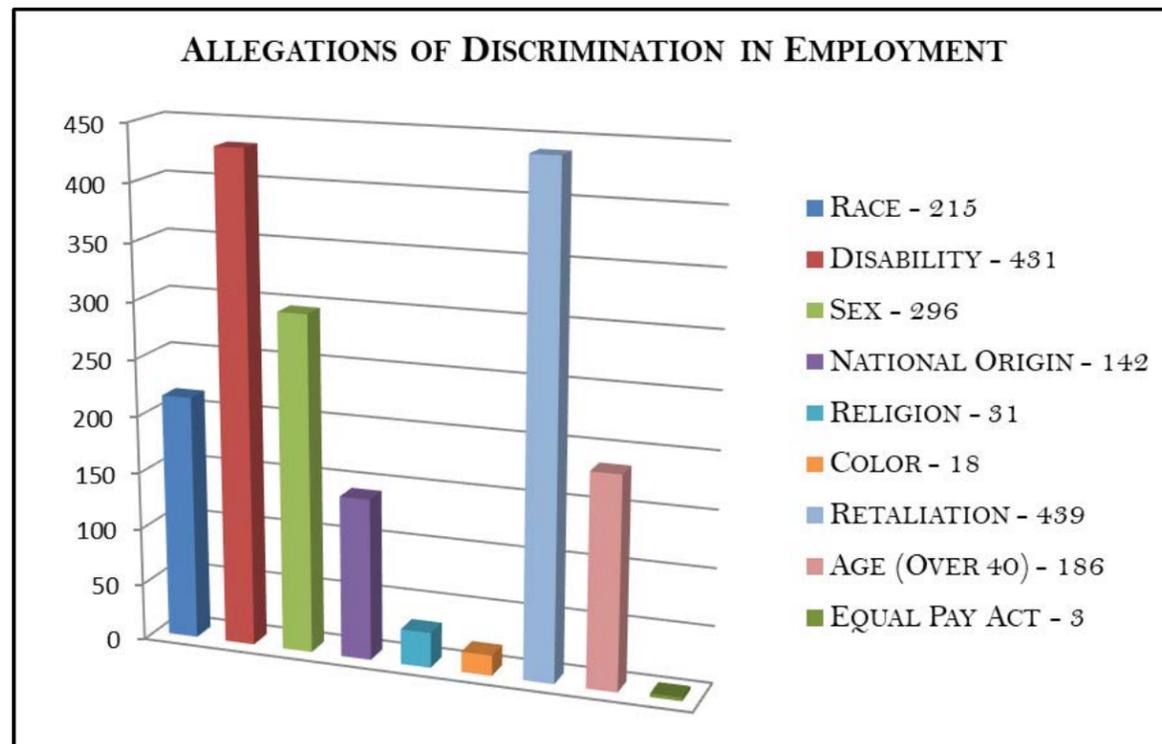
# CIVIL LITIGATION DIVISION

## DIVISION OF CIVIL RIGHTS SECTION

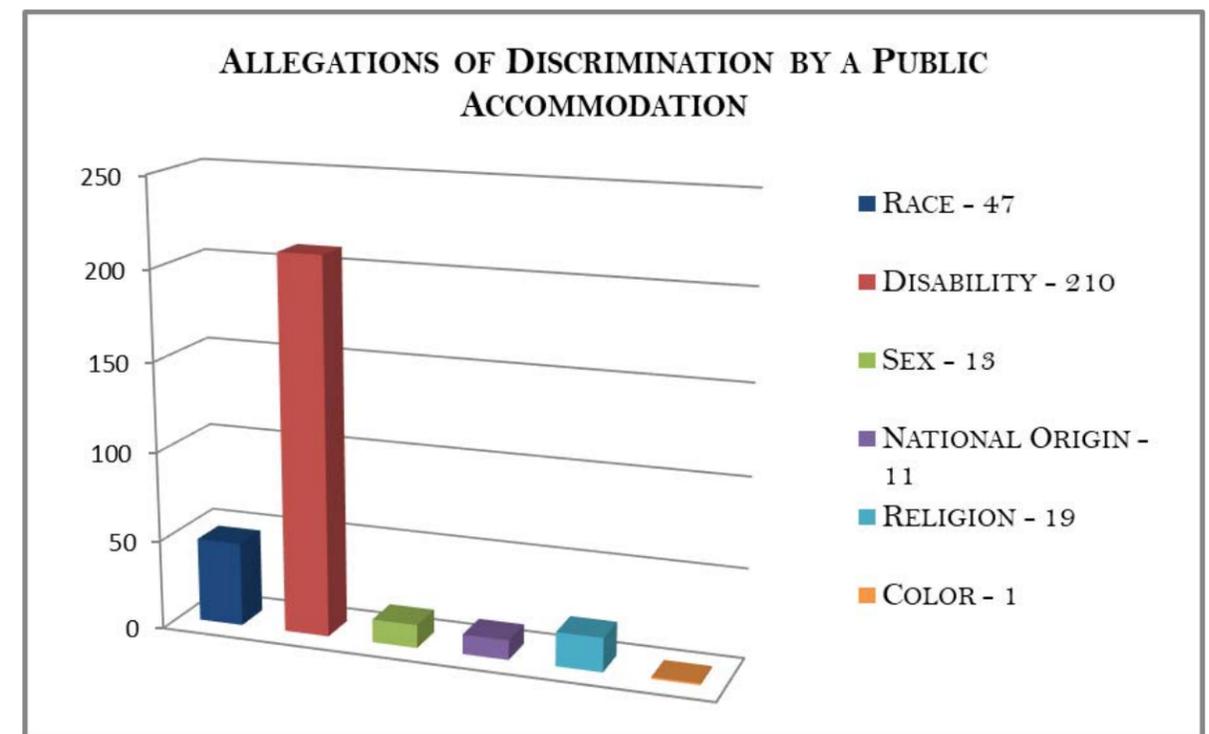
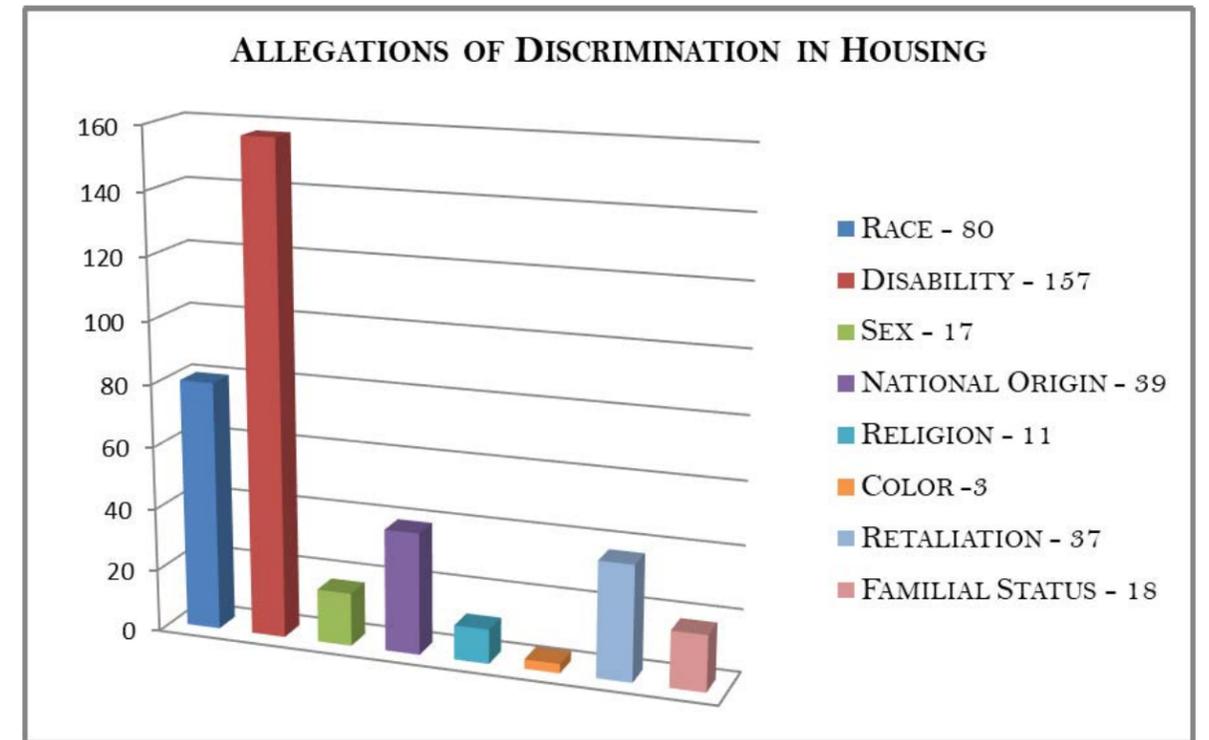
The Division of Civil Rights Section (“DCRS”) enforces the Arizona Civil Rights Act (“ACRA”). ACRA prohibits discrimination in employment, housing, public accommodations, and voting. The DCRS investigates, mediates, and litigates complaints alleging violations of ACRA and seeks to reduce discriminatory 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 FY2021, the DCRS investigated 2,425<sup>1</sup> allegations of the following types of discrimination:



The DCRS investigated a total of 1,593 cases in FY2021. A case can include multiple allegations of discrimination.



ALLEGATIONS OF DISCRIMINATION IN VOTING RIGHTS  
Disability case – 1

# CIVIL LITIGATION DIVISION

## DIVISION OF CIVIL RIGHTS SECTION

### Resolution of Cases Alleging Unlawful Discrimination

Where possible, the DCRS seeks to resolve disputes through various forms of conflict resolution. In FY2021, the DCRS resolved 115 cases of discrimination through mediation, conciliation, or litigation settlements. As a result of these resolution efforts, the DCRS obtained a total of \$1,416,807.72 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. Shree Yogiji d/b/a The Tombstone Grand Hotel et al.* -- In this employment discrimination case involving disability, the DCRS alleged that Defendants discriminated against their employee and violated the ACRA when they failed to prevent severe and pervasive harassment and a hostile work environment based on disability. DCRS's lawsuit further alleged that Defendants failed to take prompt remedial action to eliminate the disability-based harassment in its workplace. The State resolved the lawsuit that included monetary damages to the aggrieved employee and injunctive relief to proactively prevent future civil rights violations.

*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. This case is pending in Maricopa County Superior Court.

*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. This case is pending in Pima County Superior Court.

*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. This case is pending in Pima County Superior Court.

*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. Sunburst Farms Irrigation District* -- The DCRS alleged that the employer violated ACRA when it failed to prevent sexual harassment and a sex-based hostile work environment. In its complaint, filed in Maricopa County Superior Court, the DCRS alleged that the employee's coworker subjected her to unwelcome sexual harassment directed toward her and women customers that was sufficiently severe or pervasive to alter the terms and conditions of her employment. The DCRS further alleged that despite the female employee's complaints of her co-worker's comments and conduct to Sunburst Farms Irrigation District's Board of Directors, insufficient remedial action was taken to prevent the co-worker from continuing to engage in sexual harassment. The State settled the lawsuit with a Consent Decree that included monetary damages of \$50,000 to the aggrieved employee and injunctive relief to proactively prevent future civil rights violations.

*State v. Big Tex Trailer World, Inc. d/b/a Big Tex Trailers* -- In this employment case involving disability discrimination, the DCRS alleged that the employer denied an employee a reasonable accommodation necessary for his disability and discharged him because of his disability. The employee in this case had hip replacement surgery that required medical leave and thereafter required the assistance of a cane for ambulation. After the surgery, the employee was advised not to fly due to risk of deep vein thrombosis and/or a pulmonary embolism. The DCRS alleged that the employer failed to accommodate the employee when it denied his requested reasonable accommodation to attend an in state rather than an out of state training. Further, the DCRS alleged that the employer discriminated against the employee based on his disability when after receiving his request for reasonable accommodation it instructed the employee's manager to get a letter of resignation from the employee or terminate him. The State settled the lawsuit with a Consent Decree that included monetary damages of \$45,000 to the aggrieved employee and injunctive relief to proactively prevent future civil rights violations.

### Outreach and Education

The DCRS also participated in or sponsored fourteen 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

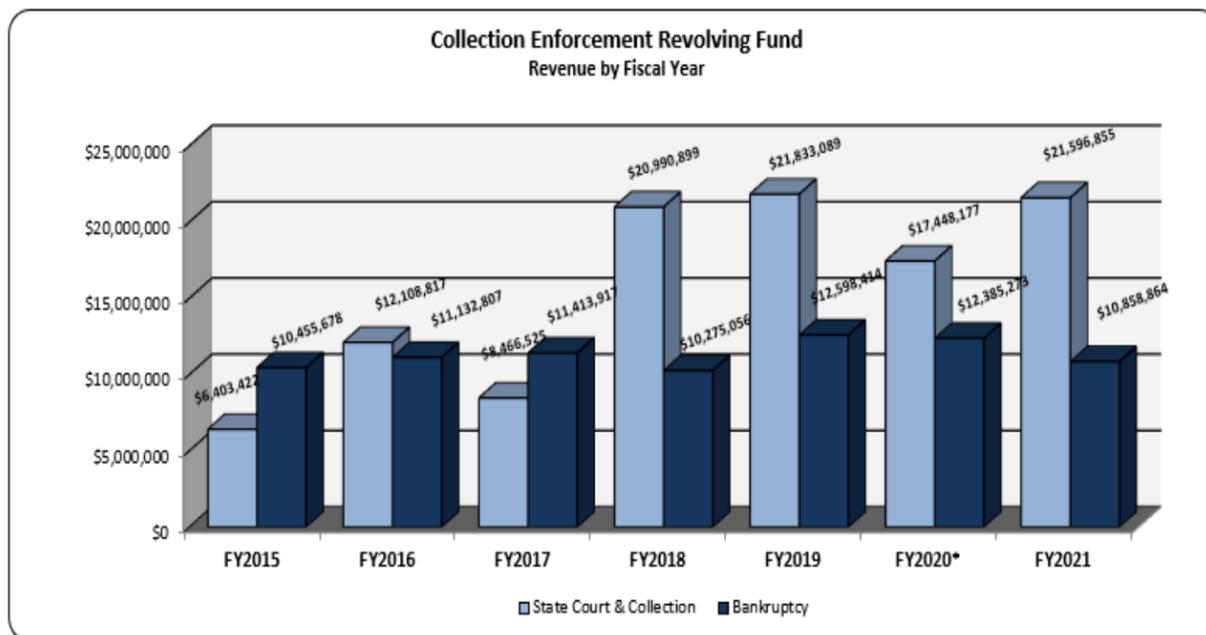
In FY2021, BCE collected approximately \$32.4 million dollars on behalf of the state. BCE’s collections for fiscal year 2021 were significant and BCE almost collected a historic amount. Even though the COVID crisis continued from FY2020 through FY2021, the policies and strategies BCE put into place in 2015 enabled BCE to have collection numbers up 9% over last year and only 5.7% lower than its all-time record of \$34.4 million dollars collected in FY2019.

BCE has continued to produce consistently at the increased levels they established since FY2015 in the amount of Complaints filed, Judgments obtained, Payment Plan Contracts and Garnishments. In FY2015, BCE filed 206 Complaints. In FY2016 that was increased to 346. 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 last year’s amount by filing 390 Complaints.

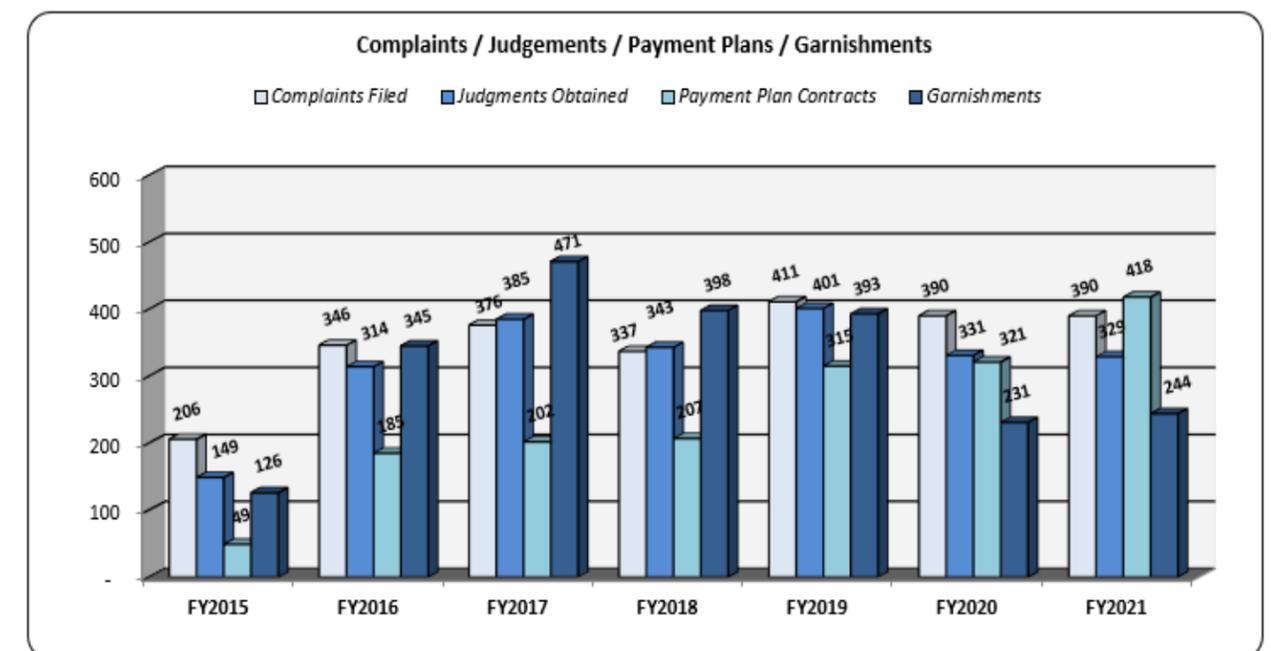
In FY2015, BCE obtained 149 judgments. In FY2016 that was increased to 314. In FY2017, it obtained 385, a 158% increase over FY2015. In FY2018 it obtained 343 judgments and in FY2019, it obtained a record 401 judgments, a 169% increase over its output in FY2015. In FY2020, BCE obtained 331 judgments.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

In 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. The substantial increase in payment agreements since 2015 provides steady and foreseeable collection revenue.

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.



\*FY2020 revised after publication of the FY20 Annual Chart



# 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 timely legal advice that promotes the safety, well-being, and highest degree of self-sufficiency of children, vulnerable adults, and families.

## Division Summary

The Child and Family Protection Division (CFPD) provides comprehensive legal representation to DES and DCS with more than 435 employees in locations statewide. CFPD is divided into three 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.

The Appeals Unit handles appellate litigation on behalf of the Division's two agency clients. 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, as outlined below 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.

## Protective Services Section

The Protective Services Section (PSS) provides comprehensive legal representation to DCS. PSS shares DCS's goals of protecting abused and neglected children, providing services to preserve families, and achieving timely permanency for Arizona's children in foster care. PSS has 276.20 full time equivalent positions, 154.45 attorneys and 121.75 legal staff. PSS attorneys and staff provide legal representation to DCS throughout Arizona's 15 counties. Because threats to child safety are not limited to regular business hours, PSS Unit Chiefs provide twenty-four hour legal advice and support for 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.

## Trial Practice

PSS attorneys statewide engage in a high-volume, fast-paced, litigation-focused practice in the Juvenile Division of the Arizona Superior Courts. PSS trial attorneys manage over 8,000 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 guardianship or severance. For each dependency case, 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, placement or services provided to a family.

Due to the pandemic, PSS adapted to a sudden shift from appearing in-person, including conferences and mediations, to appearing telephonically or virtually for all court appearances. The shift required offices statewide to coordinate court appearances daily with DCS and witnesses because the virtual platform used varied by judicial officer, with some judicial officers holding virtual video hearings and others holding telephonic hearings. In response, PSS developed new processes for: drafting, signing and filing pleadings; using digital forms to generate work requests between staff and attorneys; filing exhibits and documents with the court; and calendaring and attending court hearings and trials. Despite these unexpected challenges, PSS attorneys and staff continued day-to-day operations without interruption and now effectively utilize these new processes and virtual platforms for court appearances, trainings and statewide communication.

## 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. PSS representatives participated in the Arizona Supreme Court's Juvenile Rules Task Force to restyle and revise over 100 juvenile rules, spending hundreds of hours attending meetings, reading current and proposed rules, providing suggested edits and submitting a comment to the proposed rules petition. These rules had not been comprehensively reviewed since the current version of the rules took effect on January 1, 2001. Unit Chiefs also reviewed the rules to provide insight on the impact the revisions would have on PSS practice.

# CHILD & FAMILY PROTECTION DIVISION

## PROTECTIVE SERVICES SECTION

PSS provides intensive training to newly incoming and experienced attorneys including a three to four-week training, a 90-day follow-up training and basic trial college. For all attorneys, PSS provides ongoing training in the form of monthly brown bags. PSS coordinated with CSS and CLA to organize the first Division-wide continuing education conference in December 2020. The entire conference was held virtually and included over 300 attorneys and staff with presentations by DCS, guest speakers and CFPD attorneys. After the success of the first conference, a second CFPD virtual conference was held in June 2021. At both conferences, awards were presented to Outstanding Advocates and Team Players for each unit in recognition of their contributions to the Division.

PSS also utilizes experienced mentors to support PSS attorneys and to assist with chairing trials, training, litigating high-profile cases, and working directly with the Department. In addition, PSS provides substantive and ongoing training to DCS caseworkers, supervisors, and CASA volunteers. Each month, PSS attorneys attend over 25 multidisciplinary team meetings statewide, involving law enforcement, medical teams, prosecutors, community representatives, Tribal representatives and DCS working together to assess and evaluate cases involving child safety. PSS leadership also works closely with community partners, members of the judiciary, Tribal representatives and stakeholders on updating court rules, statutes, procedures and practices in juvenile court.

### PSS Appellate Matters

PSS appeals arise from matters litigated in juvenile court (dependency, guardianship, and termination matters). In FY2021, the Appeals Unit filed 203 briefs on behalf of PSS in such matters, in addition to approximately sixteen nonprocedural motions or responses to motions. The Court of Appeals issued five opinions and at least 174 memorandum decisions in FY2021 in cases that were briefed by the Appeals Unit. One oral argument was held in the Arizona Supreme Court; a decision remains pending. The Appeals Unit filed two special actions on behalf of DCS and defended (or prepared to defend) eleven others. Of those, approximately half required briefing or other substantive pleadings to be filed, and the outcomes were almost uniformly favorable to DCS in all cases, with the court of appeals either declining jurisdiction or accepting jurisdiction but granting or denying relief in a manner consistent with DCS's position. The Appeals Unit also assists the PSS trial teams with research, consultation, or writing motions and responses. In FY2021, it provided substantial assistance on approximately forty-five to sixty-five cases.

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

- Holding "office hours" approximately quarterly or bi-monthly (PSS trial attorneys statewide may attend via Zoom to discuss complex issues and consult with appeals attorneys);
- Providing in-house CLE (examples this year included topics such as the American with Disabilities Act, the UCCJEA, Appellate Updates, and how to evaluate whether an order is "appealable");
- Providing input and drafting public comments submitted to the Arizona Supreme Court on behalf of DCS in response to proposed changes to the Arizona Rules of Procedure for the Juvenile Court.

### PSS FY2021 Accomplishments

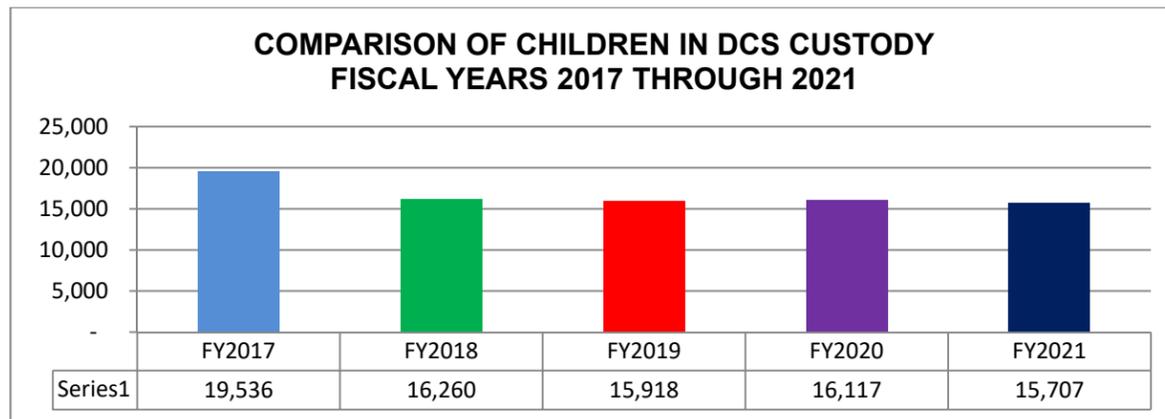
- PSS attorneys prepared for and/or attended 73,087 court hearings on behalf of DCS.
- PSS attorneys prepared for and represented DCS in trials a total of 7,809 days in FY2021.
- PSS trained 14 new attorneys during FY2021.
- PSS trained 525 new case managers statewide and 56 new DCS supervisors during the fiscal year. PSS also provided training in conjunction with DCS's Advanced Academy. All DCS training was conducted virtually during this fiscal year.
- PSS represented and assisted DCS in protecting the 15,707 children in care from abuse and neglect during FY2021.
- PSS filed 4,687 new dependency petitions.
- PSS filed 1,489 severance motions and petitions.<sup>1</sup>
- PSS filed 439 guardianship motions on behalf of DCS.
- PSS assisted DCS in reuniting 3,084 children with their parents.
- PSS assisted DCS in placing 652 children with permanent guardians.
- PSS assisted DCS in the adoption of 2,305 children by relatives or foster parents.
- PSS attorneys appear in 83 cases assigned to a specialized juvenile court (STRENGTH Court) that addresses the specific needs of youth who are victims of sex trafficking. PSS attorneys assigned to the specialized court participate with DCS in additional collaborative meetings to ensure the mental, psychological, physical and behavioral needs of the youth are addressed while being sensitive to the challenges they face.

---

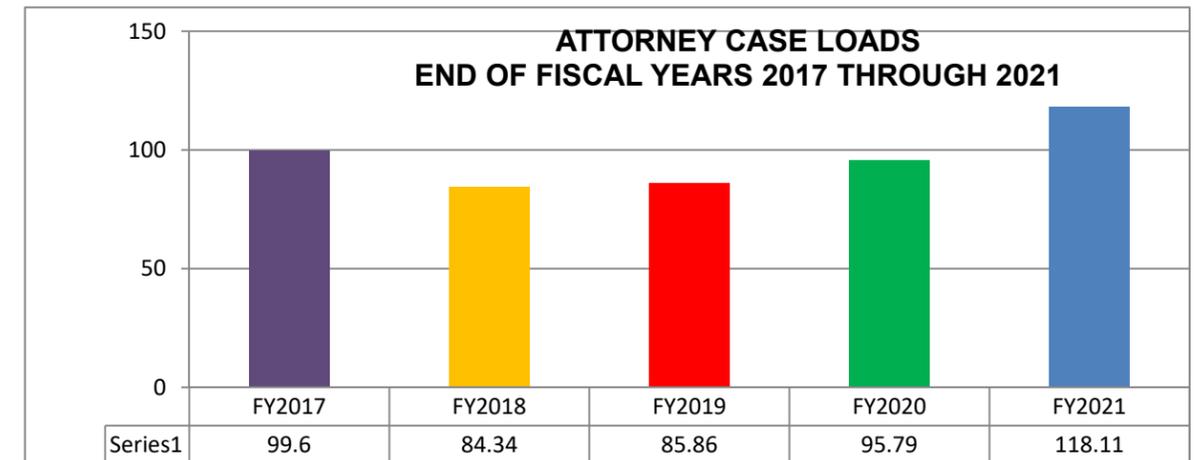
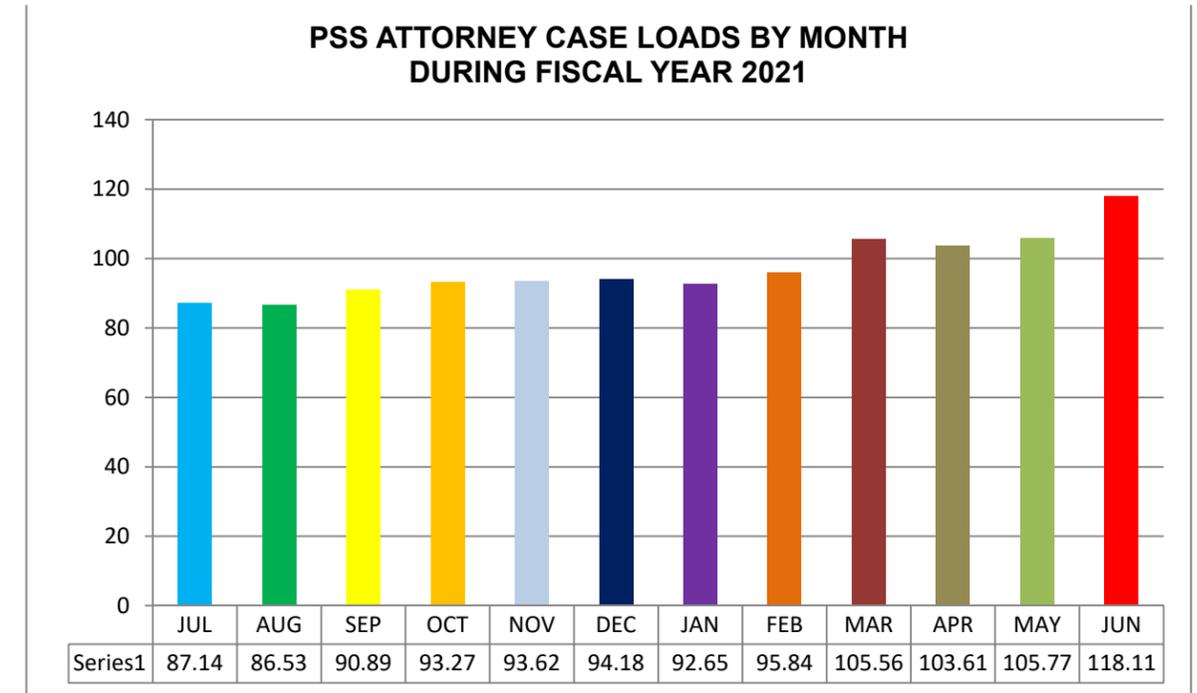
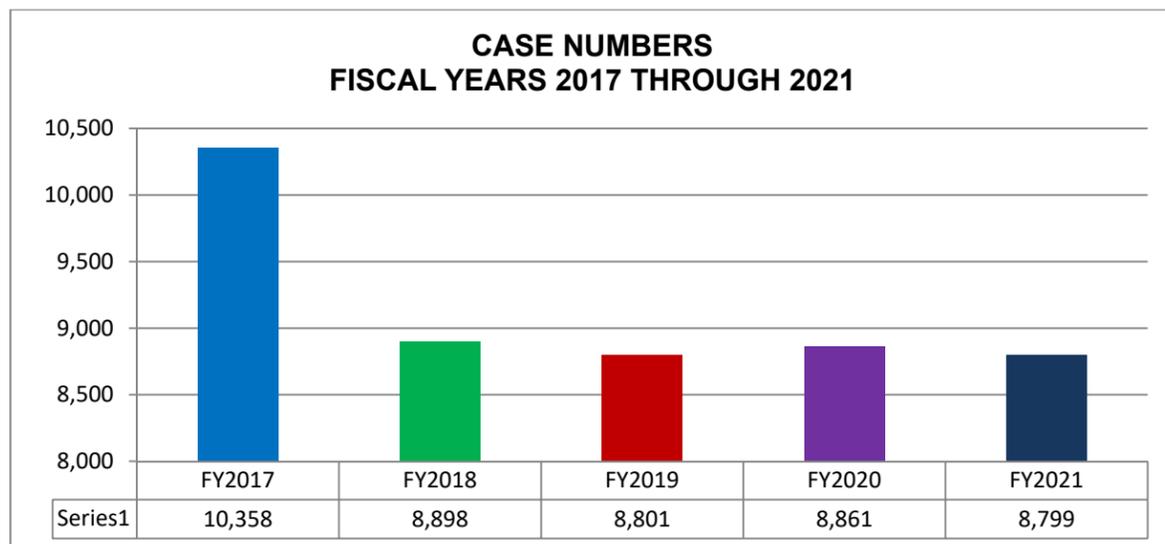
<sup>1</sup> Establishing permanency is the goal for all children in DCS's custody. If reunification with a parent cannot be achieved, DCS proceeds with termination of parental rights to free the child for adoption or permanent guardianship. PSS continues its efforts with the Case Permanency Staffings 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



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



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

# CHILD & FAMILY PROTECTION DIVISION

## 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: 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.<sup>2</sup> For that reason, establishing paternity is often the first step in child support litigation. The majority of paternity orders are entered by the Voluntary Acknowledgment process through DCSS's Hospital Paternity Program and do not require litigation. In this Voluntary Acknowledgment process, parents are able to establish legal paternity by signing a form called an "Acknowledgment of Paternity."<sup>3</sup> 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.<sup>4</sup>

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

<sup>2</sup> Centers for Disease Control and Prevention, <https://www.cdc.gov/nchs/pressroom/sosmap/unmarried/unmarried.htm>, last accessed August 3, 2021.

<sup>3</sup> Ariz. Rev. Stat. § 25-812.

<sup>4</sup> Ariz. Rev. Stat. § 25-812.

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 FY2021, modifications constituted 21% of CSS's caseload, which is about 1% lower than last year. The number of modifications slightly decreased this year, based on the requests for modification review that DCSS received and referred to CSS.

In all, CSS attorneys evaluated 12,207 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 13,611 contested evidentiary hearings. CSS hearings were all virtual or telephonic this year until the beginning of June 2021. With the exception of two commissioners, judicial officers conducted their calendars telephonically.

CSS provided legal advice on at least 6,673 occasions, an increase of nearly 300 from last year. At the close of FY2021, the CSS litigation caseload consisted of 4,573 cases, a slight decrease this year in light of the fact that during the pandemic, DCSS's personnel were called upon to serve the public and assist with pandemic-related assistance programs.

### 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, and effective communication with clients, colleagues and the public.

Due to the pandemic, CSS has utilized virtual tools available, including web-based communication platforms to continue its work, trainings and effective communication throughout the state.

### CSS Appellate Matters:

The Appeals Unit also handle CSS appeals, with additional support provided by CSS attorneys. Appellate attorneys handling CSS appeals work with a reviewer in the Solicitor General's Office, which results in resolving some matters through substantive motions rather than appellate briefing. The Appeals Unit assisted CSS litigation attorneys in matters involving one substantive motion response; one answering brief in the court of appeals; and one answering brief in a judicial review of administrative decision matter in the superior court, in which a paying parent argued that his years-old child support order should be set aside.<sup>5</sup>

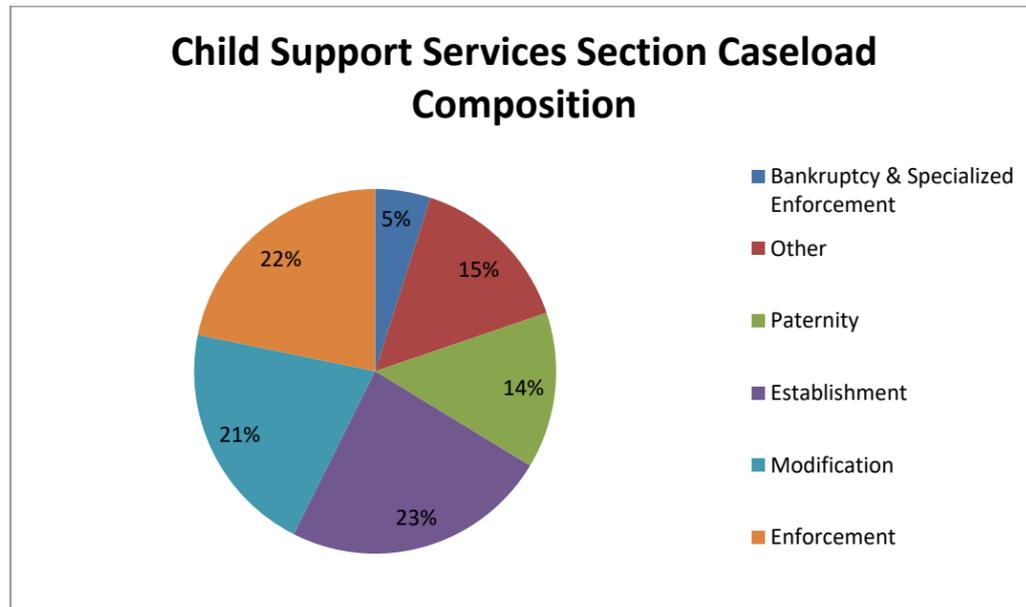
### CSS FY2021 Accomplishments

<sup>5</sup> The superior court ruled in the State's favor on all three issues the paying parent asked the court to review. Minute Entry, LC2020-000241-001 DT, March 29, 2021.

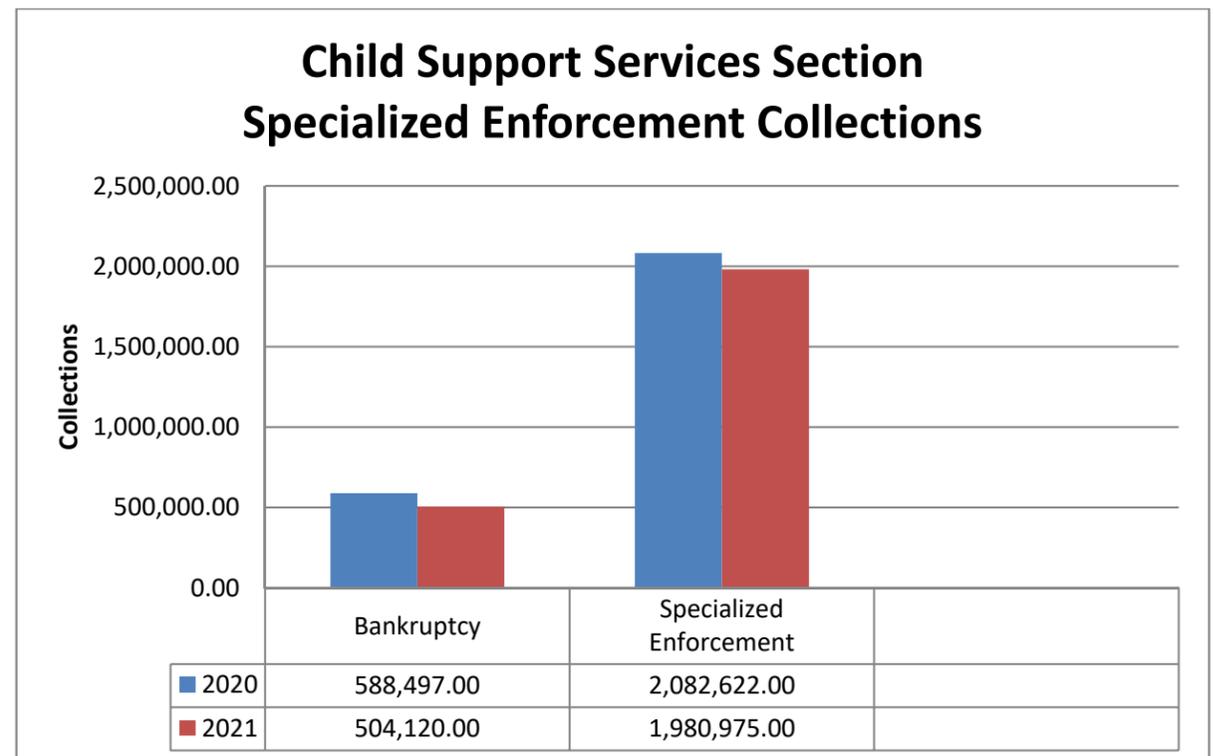
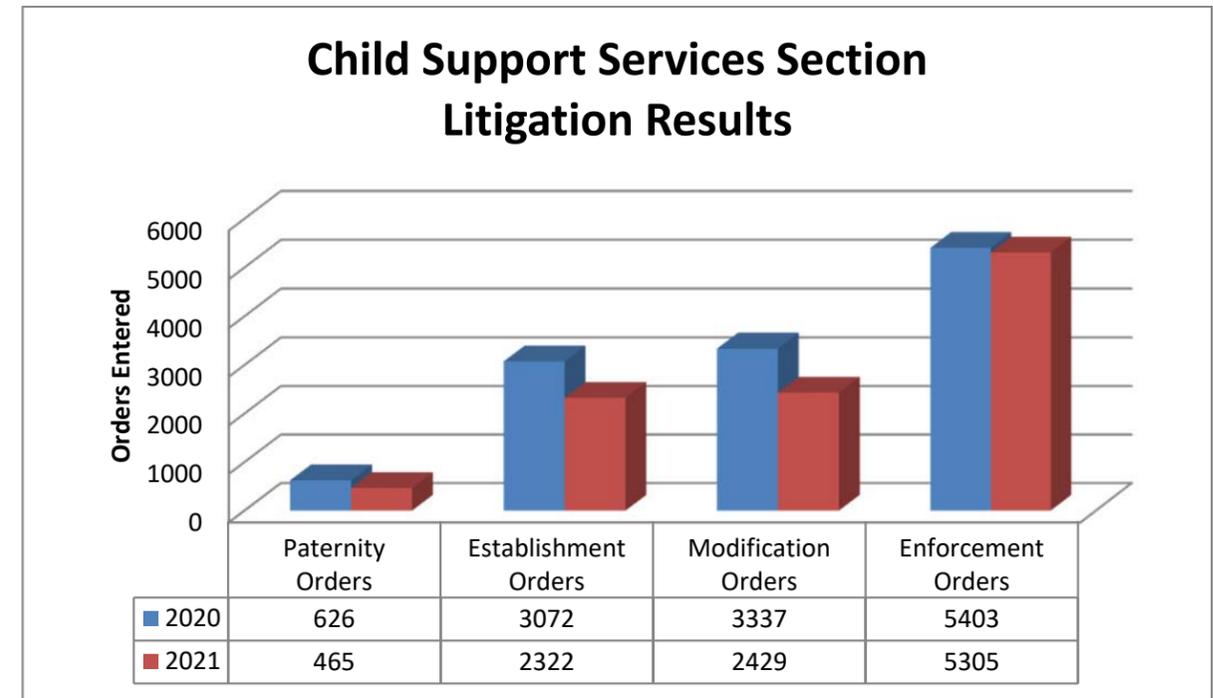
# CHILD & FAMILY PROTECTION DIVISION

## CHILD SUPPORT SERVICES SECTION

- Judicially established paternity for 536 children.
- Established new child support orders for 2,322 families.
- Obtained child support judgments of over \$21 million.
- Resolved 2,429 actions for modification of support.
- Assisted DCSS to collect over \$379,708,102 in support.
- Contributed to increased current support collections from 59.5% to 62.3% for every child support dollar owed.
- In bankruptcy cases, collected \$504,120 in support.
- In non-family court litigation and administrative enforcement mechanisms, collected \$1,980,975.42 in support.<sup>6</sup>



<sup>6</sup> 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. The 4.8% decrease this year reflects a difference proceeds available to levy and settlement payments made, including the amount of payments made by bankruptcy trustees, a difference in the number of bankruptcies filed, and the foreclosure moratorium during COVID-19. That moratorium decreased the number of cases in which excess sale proceeds might usually have been available to levy for unpaid child support.



# CHILD & FAMILY PROTECTION DIVISION

## CIVIL & CRIMINAL LITIGATION & ADVICE

Civil and Criminal Litigation and Advice (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 support 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 956 new cases in FY 2021, on top of its existing caseload, and closed 1018 administrative, civil, and appellate cases.

The CLA Criminal Team prosecutes individuals and contractors who defraud the State through DES programs.

### CLA Appellate Matters

The Appeals Unit's work for CLA largely consists of appeals from final agency decisions in unemployment insurance tax and benefits cases, and a variety but smaller number of other matters arising from the work of agencies within the Arizona Department of Economic Security. In FY2021, the Appeals Unit filed approximately eleven appellate briefs, including two in the Arizona Supreme Court, and at least five substantive motions and responses in the Arizona appellate courts. An appellate attorney also presented oral argument before the Arizona Supreme Court (decision remains pending). This fiscal year, the Court of Appeals issued one opinion in a CLA appellate matter.

### CLA Civil Practice Team FY 2021 Accomplishments

- Opened, litigated and/or reviewed 956 administrative and civil litigation cases.
- Opened and reviewed 141 contracts, leases, intergovernmental agreements and/or amendments.
- Obtained 157 civil judgments in civil collections cases totaling \$547,966.11, and collected \$427,864.67 through wage and bank garnishments. In light of the pandemic, collections and garnishments were lower in FY2021 due to a decrease in case referrals and requests for default judgments filed in the second half of FY21 that are still pending.
- Secured an additional \$141,068.62 in civil judgment collections without the need for reducing multiple matters to a judgment.
- Filed 269 civil collections cases.
- Opened 99 "matter" files for tracking significant legal advice provided to DES.
- Responded to 928 subpoena and requests for public records.

### FY 2021 - CLA Civil Collections Unit

Civil Collections by Program			
Program	Filed	Judgments Entered	Total Judgments
Child Care	1	2	4,736.93
Child Care Administration	0	1	1,905.94
Combination Cases	2	1	3,304.19
Food Stamp	2	1	6,141.08
Fraud	1	0	0
Unemployment Insurance Benefits	263	152	531,877.97
<b>Grand Total</b>	<b>269</b>	<b>157</b>	<b>\$ 547,966.11</b>

Civil Collections by Program		
Program	Collections Rec'd Judgment not Filed	Collections without Reducing Matter to Judgment
Combination Case	1	1,927.00
Fraud	1	1,836.00
Unemployment Insurance Benefits	138	137,305.62
<b>Grand Total</b>	<b>140</b>	<b>\$ 141,068.62</b>

# CHILD & FAMILY PROTECTION DIVISION

## CIVIL & CRIMINAL LITIGATION & ADVICE

### Garnishment Collection Summary

1 <sup>st</sup> Quarter 2021	134,725.69
2 <sup>nd</sup> Quarter 2021	100,658.04
3 <sup>rd</sup> Quarter 2021	95,329.74
4 <sup>th</sup> Quarter 2021	97,151.20
<b>Grand Total</b>	<b>\$ 427,864.67</b>

### CLA Criminal Practice Team FY 2021 Accomplishments

- Filed 106 criminal cases
- Obtained 177 criminal sentences
- Obtained restitution orders totaling \$318,507.47
- Collected \$532,801.61 in restitution prior to sentencing
- Obtained orders in fines totaling \$20,400.00
- Obtained orders for 1,855 hours of community service

### Criminal Cases

Program	Cases Filed	Cases Sentenced	Restitution Ordered	Restitution Paid prior to Sentencing	Fines Collected	Community Service Hours
Combination Case	0	0	0	0	0	0
Food Stamp	26	14	\$39,345.00	\$51,427.00	\$800.00	250
Unemployment Insurance Benefits	80	163	\$279,162.47	\$481,374.61	\$19,600.00	1,605
<b>Grand Total</b>	<b>106</b>	<b>177</b>	<b>\$318,507.47</b>	<b>\$532,801.61</b>	<b>\$20,400.00</b>	<b>1,855</b>

### Administrative, Civil and Appellate Litigation Resolved (Cases Closed) FY 2021

Program	Cases Closed
Adult Protective Services	1
Adult Protective Services Review Team	304
Bankruptcy P04	7
Childcare Administration	1
Civil and Criminal Litigation and Advice	1
Comprehensive Medical and Dental Program	2
Department of Child Safety (DCS)	2
Department of Economic Security (DES)	1
Division of Employee Rehab Services (DERS)	1
Division of Developmental Disability: Grievances	30
Division of Developmental Disability: Long Term Care	42
Division of Developmental Disabilities	54
Equal Employment Opportunity Commission (Matters)	47
Food Stamp Administration	16
Foster Care Licensing	3
Licensing/Agency	11
Medical Assistance Under DBME	4
Mental Health (DCS Cases)	1
Personnel Department of Child Safety	4
Personnel Division Of Benefits & Medical Eligibility	2
Personnel Division Of Developmental Disabilities	6
Personnel Div. Of Employment Of Rehabilitation Services	2
Personnel Division of Child Support	2
Probate	1
Protective Services Review Team	213
Rehabilitation Services Administration (RSA)	11
SNAP	3
Unemployment Insurance Benefits	233
Unemployment Insurance Contributions	5
Vocational Rehabilitation and Blind Services	8
<b>Grand Total</b>	<b>1018</b>

# 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

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

Drug & Racketeering Enforcement Section (DRG) Assistant Attorney General Rebecca Kennelly was awarded the High Intensity Drug Trafficking Area (HIDTA) Prosecutor of the Year Award. This award recognized Rebecca's support of the task force's initiatives aimed at curbing methamphetamine and heroin distribution in Mohave County, Arizona, by indicting 22 drug traffickers in two cases following the task force's use of wire interceptions against a drug trafficking organization (DTO). Rebecca developed unique strategies and innovative approaches to engage with the physically distant case agent along with 15 separate law enforcement agencies across three states resulting in the seizure of methamphetamine, heroin, illegal firearms, and drug proceeds. Despite the global pandemic slowing the

crossing of drugs from Mexico into the United States, this case resulted in the seizure of about 120 lbs. of methamphetamine, 2.0 lbs. of heroin, and 38 firearms including five stolen firearms. Law enforcement also seized about \$60,000 of drug proceeds in Las Vegas, Nevada. These seizures represent only a snapshot of the drugs trafficked by the DTO.



## Two Long Time Criminal Staff Members Receive APAAC's Lifetime Achievement Award

*Legal Assistant Lifetime Achievement* -- Fraud & Special Prosecution's Section (FSP) Legal Assistant Project Specialist Christina Moan has been working in the area of criminal law since 1998. Prior to working for the AGO in 2004, she previously worked at the Maricopa County Attorney's Office. Christina has been tasked to work on various types of fraud schemes cases throughout her tenure with the AGO, including complex white collar fraud, mortgage fraud, and insurance fraud. Her specialized legal assistance skills along with her institutional knowledge are invaluable to the prosecutors with whom she works, including the FSP Section Chief Counsel. Christina has served under three Arizona Attorneys General. Her commitment to public service has been an invaluable asset to the AGO and to the citizens of Arizona. Her career exemplifies the highest standards of dedication to the Legal Assistant profession.



*Administrative Professional Lifetime Achievement* -- Administrative Assistant Maria Magana joined the AGO in 1997. During her 24-year distinguished career, Maria has worked in the Office of Victim Services (OVS). She has extensive knowledge and experience in crisis intervention and advocacy which make her invaluable to OVS and the Criminal Division. She is instrumental in keeping OVS' grant data, assisting Spanish-speaking victims, training and mentoring intern advocates, and providing day-to-day victim services. She has had a significant influence on many of the programs and projects developed by OVS' leadership. Maria's long tenure with the AGO gives her the ability to see how problems and issues overlap other Sections within the Criminal Division and the AGO as a whole. Maria has served under five Arizona Attorneys General. Maria works tirelessly for the AGO. Her commitment to public service and victims of crime has been an invaluable asset to the AGO.

# CRIMINAL DIVISION

## **Criminal Division Prosecutor Wins APAAC Honors**

*Felony Prosecutor of the Year Award* – Drug and Racketeering Enforcement Section’s (DRG) Assistant Attorney General Rebecca Jones was honored as the 2021 Arizona Prosecuting Attorney’s Association Counsel (APAAC) Felony Prosecutor of the Year, Large Jurisdiction, for her outstanding work in the DRG. In 2020, one of Rebecca’s cases resulted in the indictment of 21 individuals, the prevention of multiple planned robberies and the seizure of 49.43 lbs. of heroin, 180.9 lbs. of methamphetamine, 3.05 lbs. of cocaine, 228,596 fentanyl pills, 1.9 lbs. of fentanyl power, and \$255,671 bulk cash.

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 Shannon Campodonico was the AGO nominee for APAAC’s 2021 Advocate of the Year. Shannon exemplifies the vital role of victim advocates in the prosecution of complex criminal cases in a trauma-informed manner. Over the past year, her dedication to two cases in particular at the AGO stands out: State v. Melissa Pavey and State v. Paul Peterson. Shannon balanced the needs of dozens of victims, many of whom were elderly and who were duped and assaulted by Pavey, a dentist imposter. She ensured that they were informed, their concerns validated, and their voices heard throughout the trial proceedings. Shannon also provided excellent advocacy in Petersen, a high-profile matter that involved the sensitive issue of adoption fraud. Shannon worked with prosecutors, investigators, and most importantly with two victims after their dream of adopting a child was taken away. Shannon is an empathetic advocate who works to advocate for her victims and make sure that they know their rights, while balancing the needs of the AGO to effectively prosecute offenders.

*Legal Assistant of the Year* – Fraud & Special Prosecution’s (FSP) Senior Legal Assistant Dana Barney was the AGO nominee for APAAC’s 2021 Legal Assistant of the Year. Dana is a diligent legal assistant who is always willing to help her coworkers, and last year, she exceptionally demonstrated those qualities. Dana is described by her co-workers as a leader and a mentor. Her work has always consisted of heavy caseloads for three prosecutors, involving mostly insurance fraud, general fraud, sexual exploitation, and sex-trafficking. Dana worked tirelessly on State v. Skyler Wright, which was a sex sting operation investigated by the Mesa Police Department. The assigned prosecutor and Dana completed a trial during the COVID-19 pandemic, which came with many challenges. On top of her already busy workload, Dana assumed the responsibilities of managing the AGO’s Brady Committee, including scheduling meetings and maintaining the database. Dana has provided her extraordinary support and unwavering dedication to the AGO. She supports her assigned attorneys and other members of the section with the utmost professionalism in high-profile and complex felony prosecutions.

*Rising Star Award: Healthcare Fraud & Abuse’s (HCFA) Assistant Attorney General Courtney Kramer* was the AGO nominee for APAAC’s 2021 Rising Star Award. Courtney was metaphorically thrown into the deep end of the pool when she was hired as the sole Criminal Division prosecutor for the AGO’s Northern Arizona office in April 2020. With only minimal in-person assistance due to the COVID-19 restrictions, Courtney began to exhibit a veteran prosecutor’s poise and skills as she effectively dealt with a massive health insurance fraud scheme case that she had inherited, along with 47 defendants. Courtney familiarized herself with the case and made significant contributions to several litigated motions. Courtney has already shown she is a valuable asset to the public, the court, and to the prosecution bar in Arizona. She is motivated, forthright, fair, and steadfast in her commitment to justice.

*Administrator of the Year: Drug and Racketeering Enforcement Section’s (DRG) Section OA Maride Juarez* was the AGO nominee for APAAC’s 2021 Administrator of the Year Award. Maride is relied upon for her in-depth knowledge of filing in-custody cases in small and large counties across the State as well as her knowledge of grand jury procedures and paperwork. She assists her attorneys with their day-to-day responsibilities of handling heavy caseloads, which often include complex wiretap cases with many defendants to track. In 2020, she tracked cases submitted to the Section totaling 216 defendants from 60 out-of-custody cases and 33 in-custody cases. She is also responsible for assisting all prosecutors with wiretaps by obtaining the original documents, delivering them to the Attorney General or his delegate and returning original documents for the signings with the court, both for numerous spins and new wiretaps. She schedules wiretap committee meetings for new wiretaps and disseminates the proposed affidavits as well. During 2020, Maride tracked eight wiretaps which involved a total of 70 amendments and/or extensions. Especially noteworthy is Maride’s ability to effectively and courteously communicate with court staff and case agents. Maride always has a positive and enthusiastic attitude and she shares that in her communications with others. She is an organized, responsible, dependable, and extremely efficient employee.

# CRIMINAL DIVISION

## DRUG & RACKETEERING ENFORCEMENT SECTION

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

### Overview of Accomplishments

In FY21, DRG had 686 open cases and resolved 265 of them. DRG cumulatively charged 220 defendants with felony offenses. Total drug seizures in cases for FY21 are as follows: 2,046.68 lbs. of methamphetamine with an approximate wholesale value of \$5,116,700; 321.13 lbs. of heroin with an approximate wholesale value of \$2,335,490; 145.135 lbs. of cocaine with an approximate wholesale value of \$2,638,818; and 2,258,694 pills and 87.24 lbs. of fentanyl with an approximate wholesale value of \$9,491,589 in addition to cash seizures totaling \$2,998,929. Courts ordered defendants to pay \$614,946 in drug fines as a result of DRG prosecutions.

DRG seizures removed 19,785,674 potentially fatal doses of fentanyl powder from circulation in FY21. According to the United States Drug Enforcement Administration (DEA), fentanyl is a synthetic opioid that is 80-100 times stronger than morphine and approximately 2 mgs. of fentanyl is a lethal dose for most people. The picture illustrates a dose of 2.0 mgs. of fentanyl in relation to the size of a penny.

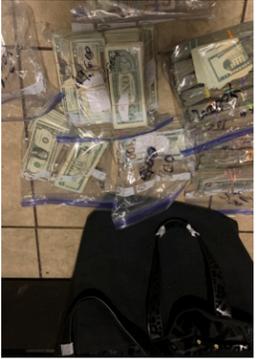


### Major Cases

*Investigation CWT-530* -- Beginning in June 2019, case agents with the Drug Enforcement Agency (DEA) and Tempe Police Department conducted an investigation targeting a group of individuals responsible for distributing illegal drugs in the Phoenix metropolitan area. Agents sought and obtained court authorization to intercept the telephonic communications of numerous individuals also involved in distributing illegal drugs and/or laundering illegal drug proceeds. Over the course of CWT-530, agents arrested numerous suspects, obtained multiple indictments, seized approximately 1951 lbs. of methamphetamine, 63 lbs. of heroin, 154 lbs. of cocaine, 13.2 lbs. of fentanyl powder, 1,103,000 fentanyl pills, multiple weapons, and \$1,031,000 in cash.

*State v. Trisha Weaver* -- Agents with the CWT-530 wiretap investigation learned Trisha Weaver was going to receive a quantity of methamphetamine and heroin in October 2019 and a quantity of

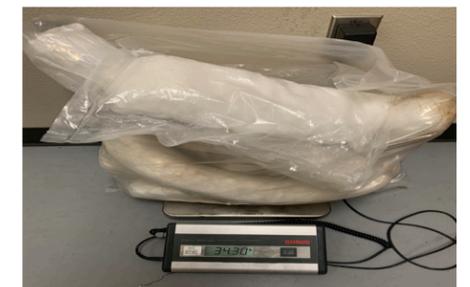
methamphetamine in December 2019. Investigators recovered approximately 12.957 lbs. of methamphetamine, 28 grams of heroin, 100 fentanyl pills, and approximately 15 grams of black tar heroin in the defendant's possession. In December 2019, Weaver was charged with Possession of a Dangerous Drug (methamphetamine) for Sale. While on release for that matter, agents learned that Weaver was going to receive another quantity of methamphetamine. In June 2020, investigators recovered 3.028 lbs. of methamphetamine and approximately 75 fentanyl pills. In January 2021, Weaver pled guilty to Possession of Dangerous Drug for Sale in both cases and was sentenced to five years in prison.



*State v. Valeriano Landeros-Noriega* -- From March 2019 through October 2019, investigators involved with CWT-503 wiretap, and subsequently CWT-530 wiretap, identified Valeriano Landeros-Noriega as a Phoenix-based drug trafficker. During this time, Landeros-Noriega was responsible for the trafficking of approximately 56 lbs. of methamphetamine, 1.25 lbs. of heroin, and 2.0 kilos of fentanyl powder. Agents also recovered approximately \$72,000 in illegal drug proceeds. Landeros-Noriega pled guilty to Sale or Transportation for Sale of Dangerous Drugs (methamphetamine). In April 2021, he was sentenced to the stipulated term of five years in prison. Landeros-Noriega also pled guilty to Conspiracy to Commit Sale or Transportation for Sale of a Dangerous Drug (methamphetamine). In April 2021, he was sentenced to five years supervised probation upon his release from prison.

*State v. John Wesley Holcomb* -- John Wesley Holcomb was recorded on a wiretap ordering 2.5 lbs. of methamphetamine between April 2020 and May 2020. When Holcomb was arrested, he was in possession of 10.8 grams of methamphetamine and \$1,000 in cash. He admitted to selling methamphetamine. Holcomb had six prior felony convictions and was on felony probation for two cases at the time he was arrested. In May 2020, he was charged with Possession of a Dangerous Drug (methamphetamine) for Sale. Holcomb pled guilty to Conspiracy to Commit Possession of Dangerous Drug (methamphetamine) for Sale. In December 2020, Holcomb was sentenced to 15 years in prison.

*Investigation CWT-525* -- Beginning in March 2019, case agents with the DEA and Salt River Police Department conducted an investigation targeting a group of individuals responsible for distributing illegal drugs in the Phoenix metropolitan area. Agents sought and obtained court authorization to intercept the telephonic communications of numerous individuals also involved in distributing illegal drugs and/or laundering illegal drug proceeds. This investigation led to indictments against 64 suspects and the seizure of approximately 412 lbs. of methamphetamine, approximately 190 lbs. of heroin, approximately 53 lbs. of cocaine, approximately 353,005 M-30 fentanyl pills, approximately 3.38 lbs. of fentanyl powder, and approximately \$571,211 of cash.



# 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 engaged in and property involved 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, remove the proceeds and property gained and used in the illegal activity, and to re-purpose those assets to law enforcement for additional training, investigations, prosecutions, operations, and programs that protect the public. FRS cases apply to a wide range of crimes, including drug trafficking, money laundering, theft, fraud schemes, counterfeit merchandise, securities fraud, illegal gambling, prescription drug “pill-mill” enterprises and Supplemental Nutrition Assistance Program (SNAP), Arizona Health Care Cost Containment System (AHCCCS) and other public benefits fraud. FRS works with many federal, state and local law enforcement partners, seizes bulk cash and financial accounts, and a wide range of real and personal property, manages all the seized property and distributes the proceeds of forfeited property to victims, state agencies and investigating law enforcement agencies. FRS also works with other sections of CRM to help secure and recover restitution for citizens, businesses and state agencies that have been victimized by racketeering crimes.

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

During FY21, FRS assisted its law enforcement agency partners with 12 seizure warrants. From those and other investigations, the agency partners submitted cases to FRS involving 830 combined targeted offenders and assets. The value of all seized assets was \$9.0 million. From these submittals, FRS filed 162 new actions. In FY21, FRS obtained judgments concluding 186 actions against 816 combined assets and named defendants. From these cases concluded in FY21 and from prior-year forfeited assets liquidated in FY21, FRS distributed a total of \$9.4 million in funds to crime victims, state agency victims, and law enforcement partners. Through these efforts FRS disrupted the racketeering activity of 125 targeted offenders and criminal enterprises.

Financial Remedies Section Metrics	
Metric	FY 2021
Seizure Warrants (Actual)	12
Combined Assets and Named Defendant in Cases Submitted	830
Estimated Gross Value of Seized Property (\$ Million)	\$9.0
New Cases Filed (Actual)	162
Judgments Entered (Actual)	186
Combined Assets and Named Defendant in Judgments entered	816
Net Distributions from Forfeited Property (\$ Million)	\$9.4
Targeted Offenders and Criminal Enterprises Disrupted	125
Training (Actual)	10
Law Enforcement Agents and Attorneys Trained (Actual)	271

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 attorneys also conducted ten forfeiture trainings attended by 271 law enforcement agents and attorneys from across the state.

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.

### Major Cases

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

*In the Matter of \$642,603 U.S. Currency, Vehicles and Firearms; State v. Jorge Roque-Perez DTO* -- In October 2018, a money courier was stopped outside Holbrook on his way to Phoenix, Arizona. Inside a

# CRIMINAL DIVISION

## FINANCIAL REMEDIES SECTION

hidden compartment in the car, law enforcement agents located \$330,000 in bulk cash. Investigation over the next two years by multiple agencies revealed the courier was working for Jorge Roque-Perez, a drug trafficking organization (DTO) employee who was a drug and money coordinator working in Arizona, Minnesota, and Colorado. Agents obtained a court ordered wiretap targeting members of the Roque-Perez DTO. Through the wiretap interceptions, agents learned that the Roque-Perez DTO was distributing drugs (primarily cocaine) and laundering its proceeds. The DTO imported cocaine to Phoenix, concealed kilos of cocaine in load vehicles equipped with hidden compartments, distributed drugs to cities throughout the United States and directed money couriers to pick up the proceeds and transport them from Minnesota to Denver and eventually to Phoenix, for final delivery into Mexico. Roque-Perez used bank accounts, including his own and family members' accounts, to launder the proceeds. The investigation concluded in July 2020 with arrest and search warrants that yielded \$312,000 in additional bulk cash, six vehicles, and four firearms used by the DTO. FRS filed a racketeering forfeiture case against the total amount of \$642,603 in bulk cash, six vehicles, and four firearms. FRS obtained a forfeiture judgment against all of the property in October 2020.

*State v. Jose Juan Padilla Barraza* – In June 2020, Scottsdale Police Department Task Force detectives conducted surveillance at a residence in Tolleson, Arizona, where they believed an unidentified occupant of the residence was involved in drug trafficking and money laundering. A male subject, later identified as Jose Padilla Barraza, exited the garage and began manipulating the door panels and undercarriage of a Mercedes sedan. Padilla closed the garage door and left through the front door of the residence carrying a black bag and a white box. He departed in the Mercedes. Detectives followed and watched Padilla conduct a transaction with a person in a Nissan car and initiated a traffic stop of Padilla. Upon searching the vehicle, detectives located \$597 in cash and a small Ziploc baggie with white residue. Detectives served a search warrant at Padilla's residence, where they found 143.5 lbs. of methamphetamine, \$89,368 in cash, and a digital scale. During a post-Miranda interview, Padilla took responsibility for the drugs and cash found in the house. He took possession of the drugs two days prior to his arrest from an unknown male and was awaiting further instructions on what to do with the drugs. Padilla picked up the bulk cash the week prior from different locations. FRS received a submittal for forfeiture of the cash and Padilla's vehicle. In June 2021, FRS obtained a forfeiture judgment.

### Wiretap Investigations

*State v. Luis Antonio Haro-Araujo, Carlos Eduardo Serrato-Quinonez, et al.* – In May 2019, Washington Drug Enforcement Administration (DEA) agents received information that Luis Antonio Haro-Araujo was an Arizona-based M-30 fentanyl pill dealer working on behalf of a drug and money laundering DTO. In January 2020, agents received information that Haro-Araujo was the target of a wiretap investigation during which Haro-Araujo was observed engaging in a 4.0 lbs. methamphetamine transaction. In February 2020, a Casa Grande Police Department (CGPD) detective assigned to a DEA Task Force Group learned

that a CGPD officer had conducted a traffic stop on a 2011 Chevrolet Camaro bearing a Mexico plate. The occupants, Carlos Serrato-Quinonez and Daniel Leonardo Serrato-Quinonez, gave consent to search the vehicle, where officers discovered a Taurus .38 revolver in a duffel bag in the trunk. In March 2020, DEA agents and Maricopa County Sheriff Office Drug Suppression Task Force (MCSODSTF) detectives executed a search warrant at a residence in Phoenix where they discovered 20,000 counterfeit M-30 oxycodone/fentanyl pills, 1.0 kg. of cocaine, two handguns, and an assault rifle. In March 2020, DEA agents and MCSODSTF detectives intercepted a call from Alexis Alejandro Quinonez to Haro-Araujo during which Alexis discussed that she needed at least 1,000 M-30 pills. Haro-Araujo responded that he had 1,000 pills and could get another 500 pills. Shortly thereafter, Haro-Araujo called Carlos Serrato-Quinonez. Carlos confirmed the transaction and Haro was seen delivering a package. From March 2020 to July 2020, investigators arrested Haro-Araujo, Carlos Serrato-Quinonez, Daniel Serrato-Quinonez and numerous other DTO members. They recovered heroin, cocaine, methamphetamine, and fentanyl with an estimated street value of \$644,000. They executed search warrants at multiple locations resulting in the seizure of 30 items of United States currency totaling \$135,246, nine vehicles, and 27 weapons from approximately 41 suspects. FRS initiated a forfeiture action against all the currency, nine vehicles, and 27 weapons. In May 2021, FRS obtained a forfeiture judgment.

### Black Market Marijuana and Narcotic Cannabis Sales Using Social Media

*State v. Jesus Solano Rodriguez* -- In 2020, the MCSODSTF detectives and High Intensity Drug Trafficking Agency (HIDTA) agents investigated a DTO that used Instagram and Snapchat to sell large quantities of high-grade marijuana, THC vape cartridges, THC oil and wax, edibles, and other narcotic cannabis products. Agents identified Jesus Solano Rodriguez as the DTO leader through photos, videos and messages he posted of himself with high-end cars, stacks of cash, large amounts of drugs, and firearms. Agents discovered he had been arrested in Quartzite, Arizona, in a car stop with 25 lbs. of marijuana, cannabis products and \$15,000 cash. Monitoring of Rodriguez and his social media accounts revealed numerous transactions and multiple residences he used to store, package, and distribute drugs. Warrants served in April 2020 revealed 90 lbs. of marijuana, numerous THC vape cartridges, cannabis products, \$250,000 in cash, money counters, two Rolex watches, 12 high-end vehicles, and 14 firearms with magazines and a box of ammunition. The total value of the seized assets was \$500,000. FRS filed a forfeiture case against these properties. Rodriguez's mother filed a claim for five vehicles titled in her name by Rodriguez as a straw owner, but withdrew her claim after receiving the FRS complaint detailing its case. In February 2021, FRS obtained a forfeiture judgment against all of the property except two vehicles that were returned to lienholders.



# CRIMINAL DIVISION

## FINANCIAL REMEDIES SECTION

*State v. Anthony Robledo Maldonado* – Maricopa County Sheriff’s Office (MCSO) detectives monitored a Snapchat account which posted numerous photos of illicit narcotics. Detectives identified Anthony Maldonado as the account holder. Detectives executed a search warrant at the residence and found 331 cannabis vape cartridges, 1.0 lb. of high grade marijuana, 660 cannabis pre-rolls, 115 grams of cocaine, 398 grams of psilocybin mushrooms, 587 grams of cannabis products, 372 cannabis edibles, one 16oz bottle of promethazine with codeine, \$143,699 in cash, jewelry, four handguns, and shipping labels. MCSO submitted the cash, two vehicles, four firearms with accessories and ammunition, and jewelry to FRS for forfeiture proceedings. FRS filed its action and in April 2021 obtained a judgment forfeiting all of the assets.



*State v. Darryl Anthony Knox* – MCSO detectives monitored a Snapchat account that posted numerous photos and videos of illicit narcotics. Detectives identified the account holder as Darryl Knox and executed a search warrant at his residence. The search uncovered 3.2 lbs. of powder cocaine, 1.25 lbs. of flower marijuana, 109 cannabis vape cartridges, 1,149 Xanax pills, 205 M-30 pills, 150 ecstasy pills, 25 grams of psilocybin mushrooms, \$14,929 in bulk cash, two vehicles used by Knox in his enterprise, an AR15 rifle, an AK47 rifle, and a handgun. MCSO submitted the bulk cash, two vehicles, and three firearms to FRS for forfeiture action. FRS filed its case and obtained a forfeiture judgment in April 2021.

### Bulk Cash Money Laundering

*In re \$947,425; Michael Flores* – In December 2020, a Department of Public Safety (DPS) Trooper made a traffic stop of a rented vehicle bearing North Carolina plates on westbound I-40. The driver, Michael Flores, displayed very nervous behavior. Though a resident of Texas, he rented the car in Charlotte, North Carolina, several days earlier, to be returned in Los Angeles, California. He denied having drugs, weapons or large amounts of currency. The trooper arrested him on a Maricopa County warrant. A search of the car revealed dozens of taped-shut manila envelopes that, when opened, revealed cash totaling \$947,425. Subsequently, a drug detecting dog alerted on the money. Flores admitted he was to receive 3% of the money he was transporting to Los Angeles. He picked up some of the money in Washington, D.C., and some in Charlotte and that he had made previous transports and received similar payments. He was to drop off the money in California and fly back to Texas. He admitted the money was most likely from drug trafficking. A search warrant executed on cell phones found on Flores and

in the car revealed text messages discussing pickups, trips and images of ledgers, bulk marijuana, and marijuana edibles. FRS filed a forfeiture case and obtained a forfeiture judgment against the \$947,425 in June 2021.

*State v. Randolph Ezrre* – Randolph Ezrre was arrested following a DPS traffic stop of a rented Ford Expedition he was driving on Interstate 10. A probable cause search revealed a small amount of marijuana in a vacuum sealed bag, a glass smoking device, marijuana wax in three containers, a handgun, \$45,000 in Ezree’s coat pockets, \$93,730 hidden in a red bag found in the spare tire compartment in the rear luggage area, and another \$689 in Ezrre’s wallet, for a total of \$140,073. Three large hard-case suitcases with vacuum sealed bags containing marijuana residue and bedsheets were found in the vehicle. The vacuum sealed bags and bedsheets contained an overwhelming odor of fresh marijuana and dryer sheets in an attempt to mask the marijuana smell. FRS forfeited the currency and handgun.

### Opioid Investigations

*State v. Lionel Ochoa-Cruz* – In November 2020, DEA agents and Casa Grande Police Department (CGPD) detectives assigned to Task Force Group 3 purchased 1,011 counterfeit narcotic oxycodone pills containing fentanyl from a dealer named Lionel Ochoa-Cruz. In December 2020, a task force officer purchased additional counterfeit oxycodone pills containing fentanyl from Ochoa-Cruz. Investigators observed Ochoa-Cruz depart his residence in Phoenix, Arizona. A few moments later, investigators conducted a traffic stop on Ochoa-Cruz and in the car discovered a Berretta 98A1 .40 caliber handgun and approximately 190 fentanyl pills. Investigators obtained and executed a search warrant at Ochoa-Cruz’s residence where they located 3.0 kilos of cocaine, 50,000 fentanyl pills, a bag of bulk cash totaling \$50,000, a Berretta 98A1 .40 caliber handgun, an Anderson Manufacturing AR15 rifle, and a Smith and Wesson M&P rifle. Ochoa-Cruz admitted to holding the cocaine, fentanyl pills, and bulk cash for a person known as “Gordo,” but did not provide any other information about “Gordo.” Ochoa-Cruz admitted the firearms belonged to him. The street value of the seized drugs was \$720,000. CGPD asked FRS to initiate a forfeiture action against the bulk cash, and four firearms. In June 2021, FRS obtained a forfeiture judgment against those items.

### Airport and Other Public Transportation Used By Drug Proceeds Couriers

*In re \$45,500; Stanley Fredericq and Samuel Jean-Baptiste* – At the Tucson, Arizona airport in May 2020, the Pima County Counter Narcotics Alliance (CNA) investigated airline passenger Stanley Fredericq, who was traveling from Boston, Massachusetts to Tucson. Fredericq had multiple prior arrests, including for trafficking cocaine and fentanyl in the Boston area. A drug detecting dog alerted on Fredericq’s suitcase in the luggage carousel loading area. After Fredericq retrieved the suitcase, agents spoke to him. He gave conflicting stories about his travel plans, job, and income. He said he was transporting \$20,000 to \$25,000 in his suitcase. He mentioned no other owner of the money. Agents obtained a search warrant and found \$30,000 in bulk cash in the suitcase, \$15,500 on his person, and several cell phones. The drug detecting dog alerted on the money as well. Agents searched the cell phones and retrieved photographs and videos about trafficking kilos of cocaine, bulk marijuana, M-30 pills, and conversations about street drugs. CNA originally submitted a forfeiture case to another prosecutor’s office that dismissed the case after receiving a claim by Fredericq and another person, Samuel Jean-Baptiste, which asserted that \$500 belonged to Fredericq and \$45,000 belonged to Baptiste. Baptiste claimed to be Fredericq’s employer and claimed the money came from a cash-only concert promotion

# CRIMINAL DIVISION

## FINANCIAL REMEDIES SECTION

company he operated in Boston. Boston was under COVID-19 orders prohibiting concerts and large gatherings. Agents dispelled the legitimacy of the company, found that Baptiste had a criminal history that included drug trafficking and membership in a Boston street gang known for selling drugs and learned he was on probation. Travel records show Baptiste recently traveled to Mexico, Peru, and the Dominican Republic, all known cocaine source countries. He also had a Mexico crossing record just eight days before Fredericq was stopped in Tucson. Another money courier tied to Baptiste was interdicted at the Phoenix, Arizona airport in July 2020. CNA asked FRS to re-file the case, which it did after assisting CNA in obtaining a seizure warrant. Fredericq and Baptiste again filed a claim, but after FRS filed its complaint detailing the evidence neither Fredericq nor Baptiste filed an answer. FRS obtained a forfeiture judgment against the funds in early 2021.



*In re \$202,210; Howard Wray* -- This case involved \$202,210 interdicted by the Phoenix Police Department at the Phoenix Sky Harbor Airport from two passengers traveling together from Florida to California through Phoenix, Arizona. Their travel itinerary, ticket purchases, and other indicators led agents to interview them at the airport. Additional information obtained from the two men, their inconsistent travel stories, criminal history checks, a drug detection dog alert on the bulk cash, and other evidence learned by agents, including cell phone evidence showing text messages about marijuana trafficking, resulted in the seizure of the cash they were transporting. Both passengers signed a disclaimer of ownership to the money.

These are just two examples of how law enforcement efforts are interdicting drug proceeds being transported through public transportation. In FY21, FRS forfeited \$1.2 million from Phoenix Police Department airport investigations, bringing the total forfeited from this partnership to \$2.9 million since 2018. Due to these efforts, at Arizona's major airports, money launderers have increased their movement of proceeds through public trains, where security is less strict. To address this, in FY21 CNA conducted 13 interdiction investigations at the Tucson, Arizona train depot, recovering \$737,000.

### Illegal Massage Businesses

*State v. AIFAI Massage* -- The Arizona Financial Crimes Task Force (AFCTF) special agents conducted a long-term investigation into AIFAI Massage in Scottsdale, Arizona. Surveillance established that the business attracted male customers almost exclusively, and it tracked the number of customers and the amount of time they spent inside the business. Agents analyzed postings on social media sites, identifying prostitution activity occurring at the business, prices, and recommendations for the business. Through a financial records investigation, agents calculated that the business was generating substantial proceeds from prostitution activity. Task force agents obtained a search warrant for the business, which yielded additional evidence of prostitution activity, the proceeds of that activity, and assets obtained by those involved. FRS assisted the AFCTF agents in obtaining a warrant authorizing the seizure of over \$2.8 million in property based on the estimated illicit prostitution revenues. Ultimately, from the property identified and located, FRS forfeited over \$300,000 and a residential rental property owned by the main target defendant which was purchased with racketeering proceeds.

### Fraud Protection and Victim Compensation

*Hacienda Healthcare, Inc.* -- The State contracts with Hacienda Healthcare, Inc., and its subsidiary companies to provide medical and behavioral health services to members of Arizona Health Care Cost Containment System (AHCCCS). An investigation by AHCCCS, the AHCCCS Office of the Inspector General (OIG), and AGO special agents revealed that certain former board members, officers, and employees of Hacienda engaged in a pattern of improper billing from 2014 through 2018 that resulted in fraudulent overbilling of \$10.9 million. Hacienda, through new board members and officers, cooperated with the investigation and agreed to enter a settlement with the AGO to remediate the financial loss to the State. After an extensive investigation and prosecution, FRS assisted in negotiating and drafting the terms of the settlement agreement. In August 2020, the settlement agreement was entered with Hacienda agreeing to repay \$10.9 million to AHCCCS and pay a fine of \$1.0 million. Hacienda paid half in January 2021 and will pay the balance over a three-year period. These recovered funds will once again be available to AHCCCS to provide much-needed public benefits and services to Arizona's most economically and physically challenged citizens.

### Forfeiture of Low Value Assets Contributes To Deterrence of Significant Crimes

Low-value assets are often deliberately chosen to serve significant purposes for organizations that traffic large amounts of dangerous drugs for profit. The true "value" of a FRS case is measured not by the amount recovered from assets that offenders dedicate to their for-profit crimes, but by the case's contribution to public safety through rededicating recovered funds to future investigations serving the public good. While some would label the following as an example of a "small" case, it contributed to stopping and preventing a significant harm to Arizona's citizens.

*State v. Francisco Xavier Tzin Tzun* -- In September 2019, DPS detectives investigated an older model Chevrolet Silverado truck bearing Mexico plates in a parking lot near Interstate 10 east of Benson, Arizona. A man later identified as Francisco Tzin Tzun, was getting in and out of the truck and finally sat in the truck and hung a towel blocking the front windshield. DPS troopers contacted Tzin Tzun and saw foil with residue and a straw on the passenger seat, which Tzin Tzun tried to conceal. Troopers

# CRIMINAL DIVISION

## FINANCIAL REMEDIES SECTION

ran a drug detecting dog around the truck, resulting in a positive alert for drugs. During a search of the truck, troopers saw fresh tooling marks underneath the bed of the truck. Upon inspecting the gas tank, troopers determined through a field test that methamphetamine was integrated in the gasoline and found a homemade anti-syphon device in the tank. Troopers towed the truck to their Benson station for further inspection. Troopers drained the gas tank and through a process that removed the gas, discovered that the remaining liquid was 125 lbs. of liquid methamphetamine worth over \$250,000. Tzin Tzun admitted that he had recently been released from prison on a drug conviction. He advised the troopers that he was being paid \$5,000 to drive the truck from Tucson, Arizona to El Paso, Texas, and he was assured that drugs concealed in the truck were undetectable. Tzin Tzun was charged, convicted and received a seven year prison term. FRS forfeited the truck, which was worth only \$2,500, but the case took 125 lbs. of liquid methamphetamine worth \$250,000 off the streets.

### Other FY21 “small” case examples include the forfeiture of assets in truly significant cases:

- \$827 paid to the driver of a car transporting 34 lbs. of methamphetamine worth \$85,000.
- \$5,800 in cash found in a neighborhood residence storing \$340,000 worth of narcotic cannabis products, including 11,000 vape cartridges.
- A \$2,775 truck being used to transport 10 lbs. of methamphetamine and 1,000 fentanyl pills worth \$31,000.
- A 2001 Buick sedan valued at \$4,000 used to transport 10 kilos of cocaine worth \$262,000 in a fabricated hidden compartment.
- A 1999 Toyota truck valued at \$1,500 hiding 13 lbs. of fentanyl worth \$175,000 in a spare tire.
- \$7,500 cash and a Sprinter van hauling 1,100 lbs. of marijuana worth \$390,000.
- Three vehicles worth \$7,500 and \$5,500 cash in concealed compartments delivering 30 lbs. of methamphetamine worth \$75,000 to an apartment.
- \$8,601 taken from the drivers of two semi-trucks as payment for hauling 9.0 lbs. of heroin and 105,500 M-30 fentanyl pills worth \$1.0 million.

# CRIMINAL DIVISION

## FRAUD & SPECIAL PROSECUTION

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, welfare, and other areas of financial activity. FSP also focuses on gang related crimes, human and sex trafficking, and handles conflict matters from other counties.

### Overview of Accomplishments

In FY21, FSP had 1,651 open cases and resolved 393 of them. FSP cumulatively charged 602 defendants with felony offenses, including Fraudulent Schemes and Artifices, Illegal Enterprise, Participating in Criminal Syndicates, Money Laundering, and numerous violent crimes. The cases of fraudulent schemes involved losses to victims in the millions of dollars. FSP assisted approximately 3,047 victims and obtained restitution in excess of \$22 million, and \$163,686 in fines. In addition, 108 defendants were prosecuted for violation of their terms of probation.

### Major Cases

*State v. Thomas Daniel* -- In 2012, Thomas Daniel murdered 65 year old Linda Garrett by stabbing her multiple times. In order to cover up the crime and crime scene, Daniel then committed arson and burned Garrett’s trailer down. This was a cold case that took several years to piece together since there was no known suspect and the evidence was destroyed. Using phone records and DNA, Daniel was eventually linked to the crime with Y-STR DNA. In June 2016, Daniel was charged with First Degree Murder and Arson of an Occupied Structure. In May 2021, after a three week-long trial in Parker, Arizona, Daniel was convicted of Second Degree Murder and Arson. In June 2021, Daniel was sentenced to 16 years in prison for Second Degree Murder concurrent to 10.5 years for Arson.

*State v. Louis Broadway-Phillips* -- In April 2019, Louis Broadway-Phillips was charged with Illegally Conducting an Enterprise, Money Laundering, Child Sex Trafficking, Sex Trafficking, Pandering, and Receiving the Earnings of a Prostitute. Broadway-Phillips advertised on Backpage, transported the women to hotel rooms and forced them to perform prostitution acts in exchange for money. He also physically and sexually abused the women. While in custody pending the charges, he contacted the victims and attempted to coerce them not to testify. Therefore, in October 2019, he was charged with Influencing a Witness and Tampering with a Witness. In January 2021, Broadway-Phillips was convicted of Sexual Conduct with a Minor and sentenced to an aggravated term of ten years in prison, followed by lifetime probation with sex offender terms.

# CRIMINAL DIVISION

## FRAUD & SPECIAL PROSECUTION

*State v. Victor Varela* – In July 2020, former Flagstaff Mayoral candidate was charged with Fraudulent Schemes and Practices, Presentment of False Instrument for Filing, and Signing of Petitions violation. In April 2020, the Flagstaff Police Department and victims reported to the AGO that signatures had been forged on a Nonpartisan Nomination Petition for Victor Varela who was running for Flagstaff mayor. In April 2021, Varela was convicted of Presentment of False Instrument for Filing and was sentenced to two years supervised probation and ordered to pay a \$5,000 fine.



*State v. Jesse Anthony Garcia* – A forensic investigator with the Queensland (Australia) State Police located and identified approximately 18 images and two videos featuring the same minor child victim that had been uploaded to a file sharing site Rindexx between 2018 and 2020. Rindexx is known within the child porn file trading community as a place where individuals can share images. The investigator determined that the two videos had embedded GPS coordinates, indicating that they were likely taken with a mobile phone. Those GPS coordinates were to a home in Goodyear, Arizona. With the assistance of Homeland Security Investigations (HSI) agents and AGO special agents, Maricopa County property records were located which indicated that Jesse Garcia and his wife owned the home. Agents located Facebook profiles for the Garcia's, and tentatively identified the victim in a picture that had been posted by his wife. The interior photographs on Rindexx showed that the house had bedrooms with paint appearing to match the uploaded images and/or videos. Garcia had previously admitted that in 2016 he recorded a video in which a minor victim was engaged in exploitive exhibition or other sexual conduct. He also admitted that he attempted to record a video in which a minor victim was engaged in exploitive exhibition or other sexual conduct. Agents identified the victim as the half-sister of Garcia's wife. Garcia provided care for the victim in his home while he was unemployed in 2016. The minor victim is developmentally disabled. She has the equivalent development to a 4th grader (approximately age nine) despite currently being 13 years old (making her eight to nine years of age when the images were taken). Agents interviewed the victim, who was able to identify herself in the images. The victim was unable to respond to questions regarding her abuser in the images and did not remember the contact. Garcia pled guilty to Sexual Exploitation of a Minor and Attempted Sexual Exploitation of a Minor. In February 2021, he was sentenced to 20 years in prison, followed by lifetime probation and computer use restrictions. Garcia will also be required to register as a sex offender.

*State v. Sharon Ashcroft* – Sharon Ashcroft was hired in 2010 as a part time medical biller for optometrists Gerald P. Ford and Frank Caserta. Ashcroft represented that she had extensive experience with medical billing that included running her own business, MedExcel. She told the doctors that she could only work part-time because she had her own business. Sharon was hired to post payments received by the doctors and to work their accounts receivables which included receiving payments from

insurance companies. She fraudulently deposited insurance checks issued to the doctors for patient care into bank accounts she controlled. She then concealed her fraudulent deposits by writing off the balances associated with those patients in the billing software systems as “uncollectable bad debt from insurance companies,” “uncollectable bad debt from patients,” or “insurance payment reductions/adjustments due to contracted rate of reimbursement being lower than what the doctors’ charge.” In February 2017, a new office manager discovered the fraud and contacted insurance companies and learned that the payments were made. For approximately five years, Ashcroft took the insurance payments and deposited those proceeds into her medical billing company’s account. The detective subpoenaed bank records and identified checks that were made payable to Ford and Caserta; however, they were not signed by the doctors. Instead, the checks had the account number for MedExcel handwritten onto the back of the check. In total, 1,141 checks were identified as being stolen totaling \$329,778 for Dr. Caserta and \$245,532 for Dr. Ford. Neither doctor gave Ashcroft permission to deposit these checks. The money deposited into the account was either spent directly from the MedExcel account or was transferred to a personal account owned by Ashcroft. The money was then spent for Ashcroft’s personal use. In August 2020, Ashcroft was convicted of Fraudulent Schemes and Artifices and Theft. She was sentenced to six years in prison, followed by four years of supervised probation and ordered to pay restitution to the victims in the amount of \$575,310.



*State v. Daniel Hughes, et al* – In January 2018, the Bradley Academy, also known as the Discovery Creemos Academy, a charter school in Goodyear, Arizona closed abruptly. It was discovered that the school had falsified its attendance records and Daniel Hughes, the former CEO, was the architect of a scheme reporting fake students, called “caspers,” to the Arizona Department of Education (ADE) to increase funding. Hughes and accomplices, Principal Harold Cadiz and Vice Principal Joanna Vega, reported 191 “caspers” during the 2016/2017 academic year and 453 “caspers” during the 2017/2018 academic year. This resulted in overpayments of \$1,035,231 for 2016/2017 and \$1,199,456 for 2017/2018. Hughes



was originally providing facilities management services to the school through his company Bennsen. In October 2015, despite having no background in education, Hughes became the CEO of the Bradley Academy and took control of the struggling school. In addition to Bennsen, Hughes created multiple companies to provide services to the school. Between April 2015 and January 2018, Hughes and his companies received over \$2.0 million in payments from the Bradley Academy for services. During the final months of the fraud scheme, Hughes diverted \$120,378 to his benefit. In March 2021, Hughes pled guilty to Conspiracy and Theft and was sentenced to four years in prison, five years of supervised probation upon release from prison and ordered to pay restitution in the amount of \$2,610,427. In March 2021, Cadiz pled guilty to Conspiracy and Theft and was sentenced to four years in prison followed by five years of supervised probation. In September 2020, Vega pled guilty to two counts of Theft and was sentenced to four months of jail and five years of supervised probation. Cadiz and Vega were both ordered to pay restitution in the amount of \$2,538,722. Restitution is to be paid to the ADE, the U.S. Department of Education, the U.S. Department of Agriculture, and the Federal Communications Commission.

# CRIMINAL DIVISION

## FRAUD & SPECIAL PROSECUTION

*State v. William Kemp* -- In March 2018, William Kemp was in possession of three plastic baggies of methamphetamine and one plastic baggie of heroin. The methamphetamine weighed approximately 27.4 grams, making it over the statutory threshold. Kemp admitted to giving some of the methamphetamine to the Aryan Brotherhood as payment towards a debt he owed. Kemp claimed that he was authorized to sell drugs because he was acting as a pseudo-confidential informant for the Department of Public Safety (DPS). In October 2018, Kemp was charged with Money Laundering in the Second Degree, Assisting a Criminal Street Gang, Possession of Dangerous Drugs (methamphetamine) for Sale in an Amount over the Statutory Threshold, Possession or Use of Narcotic Drugs, and Possession of Drug Paraphernalia. The State had to call the detective who originally interviewed Kemp to rebut Kemp's claims of being a pseudo-confidential informant. Kemp was found guilty of all counts after a five day jury trial. The State also proved five aggregators, including that Kemp was on felony probation and the offenses were committed to benefit a criminal street gang. In May 2021, Kemp was sentenced to 22.75 years in prison.

*State v. Donald Parra, Jr.* -- In November 2017, a 67 year-old victim, was involved in a car accident that caused damage to her 2006 Jaguar. Her insurance company, USAA, wanted to total the car. The car was a gift from her recently deceased husband. She did not want the car to be totaled, so she went to DC Glass for a repair estimate. Donald Parra, Jr. agreed to repair the Jaguar for \$5,000. From December 2017 to May 2018, Parra frequently contacted the victim to request more money. He would tell numerous lies to induce her to pay more money to get her car repaired, including telling her the "inspector" found more work that needed to be redone. He also convinced her to buy a "bumper-to-bumper warranty." In five months, she paid Parra \$161,953 to "repair" and "warranty" her car. She believed USAA would reimburse her for all of the repair costs. After defrauding her out of \$161,953 for the "repairs" to her car, he perpetrated a second fraud scheme on the victim. After a few months, Parra manipulated her into believing he was looking out for her best interest and even started calling her "mom." By May 2018, her car still was not repaired. He blamed USAA for the delay. Parra started talking her into initiating a lawsuit against USAA. He told her that he initiated a "multi-state lawsuit" in Arizona and California on her behalf. She believed he was a proxy between her and her attorneys representing her in a civil lawsuit against USAA. Over the next nine months, Parra met with the victim numerous times to collect money for the non-existent lawsuit. Between May 2018 and February 2019, she paid approximately \$1.7 million toward what she believed to be fees for a lawsuit against USAA. Parra tried to conceal his scheme by making her believe she was under a gag order and couldn't discuss the case with anyone. Parra's two fraud schemes were discovered when a Chase Bank teller alerted the Mesa Police Department that the victim was in the process of withdrawing \$40,000 cash from her account. The bank teller observed her acting scared and confused. In May, 2021, Parra pled guilty to two counts of Fraudulent Schemes and Artifices and Money Laundering and was sentenced to 11 years in prison. He was also ordered to pay restitution in the amount of \$2,055,118 to the victim.



# CRIMINAL DIVISION

## HEALTHCARE FRAUD & ABUSE SECTION

The Healthcare Fraud & Abuse Section (HCFA), also known as the Arizona Medicaid Fraud Control Unit (MFCU), investigates and prosecutes health care fraud crimes that impact the State's \$14.5 billion Medicaid program administered by the Arizona Health Care Cost Containment System (AHCCCS). HCFA is also responsible for investigating allegations of patient abuse and neglect that take place within health care facilities that receive AHCCCS funding. The type of criminal activity that HCFA typically investigates and prosecutes are cases that involve the falsification of medical records; the filing of false or inflated Medicaid billing claims; thefts and embezzlements from AHCCCS clients and health care institutions; the illegal diversion of prescription drugs by health care providers; and the physical, sexual, and emotional abuse of residents being cared for in AHCCCS-funded facilities.

### Overview of Accomplishments:

In August 2020, the AGO received notification from the United States Department of Health and Human Services (US-HHS) that the AGO continued to meet the federal requirements for operating a federally funded Medicaid Fraud Control Unit (MFCU). The AGO was approved to receive \$3.8 million in federal funding, which was used to cover 75% of its operating budget for the fiscal year. In October 2020, US-HHS held their long awaited virtual annual awards meeting. It was at this meeting that HCFA, of all 50 state MFCU units, was chosen by US-HHS to receive the Award for Excellence in Fighting Fraud, Waste, and Abuse.



Further, in early 2021, the US-HHS released their annual MFCU statistical summary for FFY20, which lists data submitted by all 50 of the nation's MFCUs. HCFA, which for the last six years had been recognized as one of the nation's top performing MFCUs, reached the number one position in the crucial metric of number of criminal indictments obtained for the year. Adjusting for differences in staff size, Arizona's MFCU was by far the most productive of the 50 MFCUs in obtaining criminal indictments. Thus, for the first time in HCFA's 36-year history, HCFA had reached the number one position on this metric.

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 Investigations (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.

Notably, HCFA has deployed two experienced special agents to work under the direction of the DEA Drug Diversion Task Force supervisors in Phoenix and Tucson. Further, as noted earlier, HHS-OIG not only

# CRIMINAL DIVISION

## HEALTHCARE FRAUD & ABUSE SECTION



Special agents leading a class on the investigation of prescription drug crimes.

funds 75% of HCFA's operating budget, but they have continued 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 FY21, the Arizona MFCU and HHS-OIG opened ten 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 FY21, HCFA received 102 criminal allegations/complaints regarding fraud, patient abuse, and the financial exploitation of vulnerable adults. Of the 102 formal criminal case referrals, 73 new cases were opened for full investigation, including 54 fraud cases and 19 patient abuse/financial exploitation cases. This year, HCFA had 383 active defendants and closed 181 matters. HCFA charged a total of 73 defendants and sentenced 46 defendants. For FFY21, HCFA had obtained orders for \$12,556,512 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 U.S. Department of Justice in 47 civil cases that targeted national health care and pharmaceutical companies that were alleged to have engaged in improper trade practices. In FFY21, six cases reached settlements and as a result of HCFA's participation, \$1,239,282 was recovered from these companies and returned to the government, with \$386,864 provided directly to AHCCCS program and \$852,418 submitted to the federal government.

### Major Cases

*State v. William Timmons & Joseph O'Malley; Hacienda Healthcare* – A Medicaid fraud investigation initiated by special agents assigned to HCFA and supported by AHCCCS OIG and the Department of Economic Security (DES), alleged that William Timmons and Joseph O'Malley, former officers with Hacienda



Healthcare, improperly allocated direct and indirect costs, inflated reported expenses, and engaged in improper billing during 2013 through 2018, resulting in an overpayment of at least \$10,895,648 from AHCCCS to Hacienda. In June 2021, William Timmons pled guilty to two counts of Fraudulent Schemes and Artifices. A civil case was reached in August 2020 included the following stipulations:

- Hacienda agreed to repay AHCCCS an overpayment in the amount of \$10,895,648.
- Hacienda was ordered to pay a \$1.0 million fine to be allocated to the AGO and AHCCCS OIG.

*State v. Rajeev Billing, MD* – In January 2020, HCFA learned that the Arizona Medical Board had come into possession of a video that showed Scottsdale Psychiatrist Rajeev Billing, MD using cocaine in the presence of one of his patients. A search warrant of Dr. Billing's residence was executed and relevant evidence was obtained. Dr. Billing was interviewed and he admitted to obtaining cocaine for his patient and personally ingesting cocaine, marijuana and alcohol with his patient. Less than a month later, Dr. Billing was indicted on five felony offenses, Fraudulent Schemes and Artifices, Possession of Narcotic Drug, two counts of Possession of Dangerous Drugs, and Possession of Marijuana. In June 2020, Dr. Billing pled to Possession of Narcotic Drugs. In August 2020, he was sentenced to 18 months of supervised probation. HCFA also submitted the case results to HHS-OIG to review this matter for excluding him from being allowed to bill for any Medicaid or Medicare services for five or more years. In October 2020, Dr. Billing surrendered his medical license to the Arizona Medical Board.

*State v. Emma-Kaye Parrish* – Special agents in the AGO's Prescott office received a report from officers with the Prescott Valley Police Department (PVPD). Officers reported that Emma-Kaye Parrish, who had been employed as a finance manager by a behavioral health facility in Yavapai County, was potentially committing fraud. One of her duties at the facility was paying vendors for goods and services rendered to this AHCCCS funded facility. Although Parrish would input the information correctly into the facility's financial program, thus indicating that the vendor had been paid, she would manually change the payee on the check to herself or to other entities for her personal expenses. Parrish was charged with Fraud Schemes and Artifices, two counts of Theft, Computer Tampering and 47 counts of Theft of a Credit Card or Obtaining a Credit Card by Fraudulent Means. In July 2020, Parrish pled guilty to two counts of Theft and Forgery. She was later sentenced to three years in prison, followed by five years' supervised probation. She was also ordered to pay restitution to the victim in the amount of \$65,436.

# CRIMINAL DIVISION

## HEALTHCARE FRAUD & ABUSE SECTION

*State v. Heather Buhr & Isaac Butts* – The AGO’s Task Force Against Senior Abuse (TASA) received an Adult Protective Service (APS) report alleging that an 84-year old Sierra Vista woman had been the subject of financial exploitation. Special agents discovered that the victim was being cared for by a Medicaid funded home health care assistance employee. The main suspect in the financial exploitation was caregiver Heather Buhr, who along with her father, Isaac Butts, received more than \$30,000 in checks from the victim. In August 2020, Buhr and Butts were charged with Theft/ Financial Exploitation of a Vulnerable Adult. In January 2021, Buhr and Butts pled guilty to Amended Theft/Financial Exploitation of a Vulnerable Adult. They were sentenced to three years supervised probation and ordered to pay restitution of \$33,520 to the victim.



*State v. Michael Thomas DeArmond* – In July 2016, Michael DeArmond had been convicted of Theft and was placed on supervised probation for a period of four years. In the 2016 case, DeArmond had submitted false time sheets for rehabilitation services he claimed to have provided to patients in the Kingman, Arizona area which resulted in him being overpaid \$22,000 in AHCCCS funds. In 2018, DeArmond was arrested for violating the terms of his probation stemming from his 2016 case. In May 2018, DeArmond was released from custody, over the State’s objection, with an order to return to the Mohave County jail by a specific date. When DeArmond failed to return, the charge of Escape in the Second Degree was filed in August 2018. In July 2020, DeArmond was sentenced to an additional 1.5 years in the Arizona Department of Corrections’ - Rehabilitation and Reentry in connection with his charge of Escape in the Second Degree. The Escape sentence will be served consecutive to the three years DeArmond is serving for the theft charge.

*State v. Terri Lynn Rolston* – Special agents in Prescott, Arizona learned that Terri Lynn Rolston had embezzled \$300,000 from the orthopedic office where she worked as an office manager for more than 11 years. In September 2018, Rolston was charged with Fraud Schemes and Artifices and Forgery. In January 2021, Rolston was found guilty at trial of Fraudulent Schemes and Artifices and Forgery. She was later sentenced to one year in jail, followed by seven years of probation, and ordered to pay \$304,602.36 in restitution to the victim.

*State v. Melissa Pavey, et al* – In April 2018, special agents arrested two Valley women who were alleged to have been performing unlicensed dental work on unsuspecting patients at their dental office in Glendale, Arizona. The investigation revealed that neither of the women had ever been licensed as a dentist while they were alleged to have performed dental procedures, including tooth extractions utilizing drills, lasers, and surgical tools. In April 2018, they were charged with Fraudulent Schemes and Artifices, Aggravated Assault, Theft, and Taking Identity of Another. In May 2021, Melissa Pavey was convicted at trial. The jury returned a verdict for guilty of Fraud Schemes and Artifices, Aggravated Assault, Theft, Taking the Identity of Another, and three simple Assaults. She was sentenced to five years in prison followed by five years of supervised probation. Pavey’s co-defendant was previously sentenced. Restitution is pending in November 2021.



# 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, Arizona Health Care Cost Containment System (AHCCCS) and Department of Economic Security (DES) public benefits fraud, identity theft, money laundering, and other economic-based crimes. SAWCCE also concentrates on anti-cartel prosecutions and 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 United States currency across Arizona's southern border, and targeted street gang related prosecutions. Additionally, SAWCCE investigates and prosecutes public corruption cases involving misuse of public funds, conflict of interest, obstruction of justice, and bribery. SAWCCE also prosecutes crimes involving Internet-related sexual exploitation of children and associated abuse charges, and dedicates an attorney to specialized elder and vulnerable adult financial exploitation and abuse cases. SAWCCE further assists local county attorney offices by prosecuting conflict cases pursuant to Arizona law.

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

Additionally, in partnership with the University of Arizona, James E. Rogers College of Law, SAWCCE manages a six credit, year-long 39(c) clinical extern program for select second and third year law students who want to pursue prosecution careers after graduation. Students in the intensive program complete 300 hours in the office and in court under close supervision of SAWCCE's experienced criminal prosecutors.

### Overview of Accomplishments

SAWCCE filed new cases on 234 defendants in FY21, while managing 357 total defendants in active litigation. For criminal enterprise drug interdiction, total seizures with approximate wholesale values included: methamphetamine – 348.34 lbs. valued at \$731,514; heroin – 45.23 lbs. valued at \$512,899; cocaine – 82.25 lbs. valued at \$1,057,681; marijuana – 307.99 lbs. valued at \$276,113.04; fentanyl – 44,490 pills valued at \$161,276 and 81.87 lbs. valued at \$1,058,364. SAWCCE also assisted 918 economic crime victims with court-ordered restitution of approximately \$964,365 and obtained approximately \$133,412 in court-ordered fines to be paid by defendants.

### Major Cases

*State v. Guadalupe Luna* – For 20 years, Guadalupe Luna was the manager at Miller's Surplus, a locally owned and operated military surplus store. Between January 2010 and December 2013, Luna was writing unauthorized checks from the business account for both himself and other employees. When the elderly victim business owner discovered the payments, he fired Luna, reported the theft to the Tucson Police Department. Detectives discovered over \$300,000 in checks that the victim indicated he had not approved. In June 2016, Luna was charged with seven counts of Theft and Fraudulent Schemes and Artifices, Illegally Conducting an Enterprise and Conspiracy. He pled guilty to three counts of Theft. In December 2020, Luna was sentenced to eight years of probation and ordered to pay \$300,641 in restitution to the victim. Although COVID-19 prevented Luna from being able to serve two years of his sentence on jail work release, at the victim's request, Luna was allowed to remain out-of-custody to continue working in order to pay restitution.



*State v. Deborah Cohn* -- In April 2016, Deborah Cohn fraudulently opened multiple bank accounts with Navy Federal Credit Union using the names and social security numbers of her nine year old daughter and seven year old son. Cohn falsified her children's dates of birth, employment and salaries. She maxed out the credit cards with personal purchases, stopped using the accounts and made no payments. When the children's father, who lived out-of-state, learned about the credit cards from another family member, he called the

Arizona Department of Public Safety (DPS). A DPS investigator located records for 16 accounts opened by Cohn. AGO special agents assisted in the investigation and Cohn was charged with the fraud and thefts. Cohn pled guilty to Fraudulent Schemes and Artifices and Forgery for opening the accounts using falsified information. Navy Federal Credit Union marked the accounts as fraudulent to protect the children's credit and assumed the debt. In August 2020, Cohn was placed on probation for seven years and was ordered to pay \$25,043 in restitution.

# CRIMINAL DIVISION

## SOUTHERN ARIZONA WHITE COLLAR & CRIMINAL ENTERPRISE SECTION

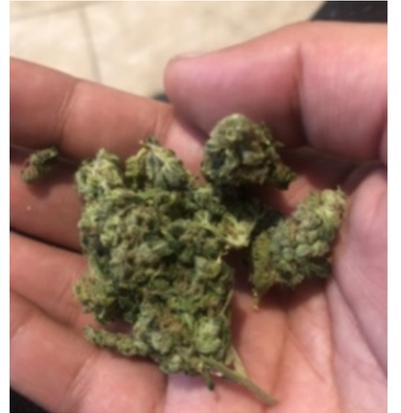
*State v. Jamey Estep* -- A former Major League Baseball manager reported that six championship and all-star rings, including two World Series championship rings, were stolen from his home sometime between November 2018 and December 2018. In late 2019, Pima County Sheriff's Office detectives discovered that two of the rings had been pawned at a sports memorabilia shop in Phoenix, Arizona. The owner identified the rings and reported that Jamey Estep was the individual who pawned them. Estep later admitted pawning the rings claiming that he got them from a friend. He also helped detectives find an additional ring. In May 2021, Estep pled guilty to First Degree Trafficking in Stolen Property. He was sentenced to five years in prison.



*State v. Timitope and Abosede Akinola* -- Homeland Security Investigations (HSI) agents were notified that individuals using "Nigerian Prince" scams were transferring money with accounts belonging to Timitope and Abosede Akinola, a married couple who immigrated to the United States from Nigeria. Agents determined the Akinolas' were advertising that they could transfer money on various money transfer and bitcoin websites, but neither had registered as a money transfer business as required by Arizona law. In January 2021, Timitope pled guilty to Facilitation to Commit Money Laundering and Abosede pled guilty to Securing the Proceeds of an Offense. Both were sentenced to two years of probation.

*State v. Esperanza Ocano* -- Between May 2016 and January 2019, Esperanza Ocano, the manager for a Tucson apartment community, defrauded her employer, Mission Hill Management, out of almost \$25,000. As an apartment manager, Ocano collected rent payments from the tenants, many of whom did not speak English and did not have checking accounts. Ocano took advantage of those circumstances, directing her tenants to give her money orders with the payee line blank. Ocano then put her name on the payee line, deposited the checks into her account and issued concessions in the tenant's ledgers for fabricated items, such as maintenance or air conditioning issues. To further cover her embezzlements, Ocano purchased money orders for the difference between rent and the concessions, pocketing anywhere from \$100-\$250 per transaction. She perpetrated this scheme for over two years. In February 2020, Ocano was charged with Theft and five counts of Fraudulent Schemes and Artifices. In February 2021, she was sentenced to five years of probation, 500 hours of community service, and ordered to pay \$20,325 in restitution.

*State v. Charles Smith & Brandon Lopez* -- A DPS trooper stopped Charles Smith and Brandon Lopez for speeding on Interstate 10. As he approached the car, the trooper could smell marijuana. He arrested both Smith and Lopez, and a subsequent search turned up small amounts of xanax and marijuana, a handgun, and \$11,883 in cash. Detectives then obtained search warrants for their phones. They discovered that the \$11,883 was drug proceeds and that both Smith and Lopez were actively engaged in selling narcotics. In February 2020, they were charged with Money Laundering, Conspiracy, and Illegally Conducting an Enterprise. Both defendants pled guilty to Second Degree Money Laundering. In April 2021, Smith was sentenced to three years' probation. In March 2021, Lopez who had prior drug-related convictions was sentenced to 2.5 years in prison.



*State v. Randi Marie Hartjen* -- In November 2018, members of the DPS Vehicle Theft Task Force initiated an investigation into Randi Hartjen, a resident of Tucson, Arizona, who had been identified as a suspect in several fraudulent vehicle purchases and vehicle thefts. The investigation uncovered that Hartjen was using the Motor Vehicle Division's "Service Arizona" website to request duplicate driver's licenses for various female residents of Queen Creek, Arizona, and elsewhere. Hartjen then used the duplicate driver's licenses to either purchase a vehicle in a victim's name or rent a vehicle in a victim's name, which she would not return. In May 2019, Tucson Police Department officers stopped Hartjen while driving a vehicle she had fraudulently purchased in a victim's name. A subsequent search warrant led to evidence that Hartjen had used victims' personal identifying information to obtain credit reports, open credit accounts, and rent a storage unit, in addition to renting or purchasing vehicles. The investigation uncovered six vehicles that were purchased or rented fraudulently by Hartjen. Hartjen ultimately pled guilty to two counts of Fraudulent Schemes and Artifices. In February 2021, Hartjen was sentenced to seven years in prison, followed by seven years of probation. Hartjen was also ordered to pay \$18,545 in restitution.

*State v. Richard Rivera, Miguel Angel Carrizosa, Ambar Esthela Morales, and Richard Ruiz-Rabago* -- In May 2019, the DPS Vehicle Theft Task Force began investigating a group of individuals who were coordinating the theft and trafficking of vehicles from dealerships located in Phoenix and Tucson to Mexico. This investigation identified six vehicles, totaling a value of \$132,650, stolen from dealerships by Richard Rivera, Miguel Angel Carrizosa, and Ambar Esthela Morales. In June 2019, Rivera, Carrizosa and Morales were charged with six counts of Theft of Means of Transportation, four counts of Trafficking in Stolen Property, and Illegally Conducting an Enterprise. In October 2020, Carrizosa pled guilty to Theft of Means of Transportation and was sentenced to 3.5 years in prison. In May 2020, Morales pled guilty to Theft of Means of Transportation and was sentenced to 3.5 years in prison. In May 2020, while on release from Maricopa County, Rivera and Jesus Ruiz-Rabago were arrested in Tucson, Arizona for stealing a truck that was awaiting service at a Tucson dealership. Rivera and Ruiz-Rabago were charged in Pima County with Burglary in the Third Degree, Theft of Means of Transportation, Illegally Conducting an Enterprise, and Conspiracy. In August 2020, Ruiz-Rabago pled guilty to Attempted Burglary in the Third Degree and was sentenced to three years of probation. In April 2021, Rivera entered into a global

# CRIMINAL DIVISION

## SOUTHERN ARIZONA WHITE COLLAR & CRIMINAL ENTERPRISE SECTION

plea agreement covering both the cases. For the June 2019 charges, Rivera pled guilty to Theft of Means of Transportation and Illegally Conducting an Enterprise. For the May 2020 charges, Rivera pled guilty to Theft of Means of Transportation. Between the two cases, Rivera was sentenced to two concurrent eight year prison sentences, followed five years of probation.

*State v. Joshua Holmes* – Joshua Holmes had been previously convicted for contracting without a license several times. During 2018 and 2019, he victimized three homeowners by presenting himself as a registered contractor, abandoning projects and keeping the victims’ money. At one project, Holmes told the victims they needed new plumbing, collected money and never replaced the plumbing. A licensed contractor told the victims the pipes did not need to be replaced. At a different victim’s home, Holmes collected money to install an evaporative cooler and paint the house. He incorrectly installed the cooler and partially painted the house before abandoning the project. Lastly, Holmes contracted with a third victim to paint the exterior of her house. Like the other projects, he eventually stopped showing up and never returned her money. The victim had to pay another company \$9,000 to fix Holmes’ work. In June 2020, Holmes pled guilty to Theft and was sentenced to four years of probation and 600 hours of community service. He was also ordered to pay \$36,100 in restitution.

*State v. Cynthia Ortiz* – Cynthia Ortiz was previously convicted by the AGO after a jury trial for victimizing two vulnerable adults and was sentenced to 9.25 years in prison for those offenses. The trial court, however, had severed the cases against two additional elderly victims. Ortiz was the caregiver for one victim and stole nearly \$7,600 while employed. The second victim was a relative by marriage. Ortiz was supposed to be helping track the victim’s finances; however, it was discovered that Ortiz had stolen nearly \$9,000. In February 2021, Ortiz pled guilty to two counts of Theft. She was sentenced to one year in prison and ordered to pay \$15,600 in restitution.

*State v. James Maggard & Kristian Dickie* – In June 2020, James Maggard lost a dice game, got in a fight and left vowing to come back with his crew. Eventually he came back and started throwing rocks at the victim’s apartment. Two men from inside the apartment then chased him around a corner. Separately charged accomplice, Kristian Dickie, was waiting with a pole and struck the victim. Maggard then shot the victim in the leg and both attackers ran off. As a result, the victim sustained serious injuries including the amputation of his leg. Maggard and Dickie both claimed self-defense against the men

chasing them, but both pled guilty to Aggravated Assault causing Serious Physical Injury. In January 2021, Dickie was sentenced to 4.5 years in prison and Maggard was sentenced to 7.5 years in prison.

*State v. Aaron Parra* – After a traffic stop, police officers found duct taped packages of cash hidden in the door panels inside Aaron Parra’s car. In total, officers recovered \$146,000 that was the proceeds of racketeering offenses. Although Parra denied knowledge of the cash, a search of Parra’s cellphone uncovered pictures of removed car door panels as well as packages of wrapped cash. In December 2020, Parra pled guilty to Facilitation to Commit Money Laundering and was sentenced to three years of supervised probation and 60 days in jail.



*State v. Patricia Lopez* – In January 2021, Patricia Lopez attempted to drive across Mariposa Port of Entry from Mexico into the United States in a Dodge Durango. She was sent to secondary inspection where Border Patrol agents found 40,090 fentanyl pills that resembled blue OxyContin pills hidden in the engine manifold. In May 2021, Lopez pled to Illegally Conducting an Enterprise. She was sentenced to 3.5 years in prison.



# CRIMINAL DIVISION

## SOUTHERN ARIZONA WHITE COLLAR & CRIMINAL ENTERPRISE SECTION

*State v. Dinora Aguilazoch-Roman*: In July 2020, Dinora Aguilazoch-Roman attempted to board a Tufesa bus traveling from Tucson, Arizona to Las Vegas, Nevada. After noting suspicious behavior in the bus station, detectives approached Aguilazoch-Roman and asked about her travel plans. Based on her statements, detectives asked to search her suitcase and she agreed. Inside, detectives found 49.5 lbs. of cocaine. In December 2020, she pled guilty to Solicitation to Transportation for Sale of a Narcotic Drug and was sentenced to one year in prison.



*State v. Enrique Monarque Orozco et al* -- HSI agents, conducting a long term comprehensive money laundering investigation along the southern Arizona border, uncovered that Enrique Orozco led a money laundering syndicate that laundered approximately \$11 million between January 2017 and August 2019. Orozco and his recruiter, Maria Concepcion Gonzalez-Garcia, approached prospective bank account owners in Mexico and offered them money to deposit and withdraw, transfer or wire money in Wells Fargo Bank branches in Nogales and Rio Rico, Arizona. This process aided drug trafficking organizations (DTO) by concealing the proceeds of drugs sales and other racketeering activity. In August, 2019, Orozco and Gonzalez-Garcia were arrested, along with four bank account owners, who conspired to launder \$247,900 since April 2019, as they attempted to deposit and transfer more bulk cash at the Wells Fargo Bank branch in Rio Rico. In August 2020, Orozco pled guilty to Illegally Conducting an Enterprise and was sentenced to 2.5 years in prison. In June 2021, Gonzalez-Garcia pled guilty to Solicitation to Commit Money Laundering in the Second Degree and was sentenced to two years in prison. The other four money launderers were sentenced to terms ranging from probation with 90 days in jail to six months in prison.

*State v. Luis Montano-Hernandez et al* -- Luis Montano-Hernandez and his brother, Orlando Montano-Hernandez, also known as "Rooster" and "Chicken" led a heroin and methamphetamine drug trafficking ring based in Tucson, Arizona. The investigation that uncovered their organization, led by Drug Enforcement Administration (DEA) agents and DPS detectives, revealed that the two brothers would import bulk amounts of heroin into the United States from Mexico and sell the heroin, averaging over 2.0 to 4.0 lbs. per week, to street-based drug dealers in Tucson. Overall, 19 individuals were indicted for the Sale and Transportation of Narcotic Drugs related to the organization. In February 2021, Luis and Orlando pled guilty to Conspiracy, Transportation of a Narcotic Drug for Sale and Misconduct Involving Weapons and were both sentenced to four years in prison.



*State v. Judith Loreto* -- In January 2012, federal law enforcement officers received a tip that a drug trafficker was employing high-school-age females from a Mexico-based school to transport illegal drugs across the Mexican-United States border through the Nogales Port of Entry and into Tucson, Arizona. Based on this information, officers saw Loreto coordinate purchasing of shuttle tickets for four girls in Nogales, meeting them at the shuttle stop in Tucson and taking them to a Tucson-area home. Agents stopped Loreto at the house, found methamphetamine duct taped to two girls, additional packages of methamphetamine in the car, and tape marks on residue on the remaining two girls. In August 2012, Loreto was convicted following a trial and absconded from justice for almost eight years, until she was arrested on a warrant in October 2020. In December 2020, she was sentenced to five years in prison.

# 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, 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 FY21, SIS opened 529 cases. SIS' Major Fraud Units devoted resources to advance public corruption cases this year with Criminal Division prosecutors. This year, 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 (DTO) and have resulted in record-setting increases in asset forfeitures. Statistics also indicate calls for assistance from the public and other law enforcement agencies were at high levels in FY21.

Law Enforcement Assists 75  
TRAC – Financial Inquires 526  
Duty Agent Contacts 7783

### Major Cases

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



### Arizona Financial Crimes Task Force (AFCTF)

Special agents assigned to the Arizona Financial Crimes Task Force (AFCTF) have investigated numerous complex drug investigations, including wiretap interceptions, fraud schemes, and sex trafficking organizations. The information below is a highlight of some of the matters they worked on this fiscal year.

- Conducted two court ordered wiretap investigations. One involved a DTO that resulted in the arrest and indictment of 26 individuals, 120 lbs. of methamphetamine, 2.0 lbs. of heroin, 37 firearms, and real property of over \$500,000.
- Assisted in six additional DTO investigations which resulted in 15 lbs. of methamphetamine and a half a pound of cocaine that resulted in the arrest and indictment of 12 individuals.
- Provided assistance in three human sex trafficking investigations while providing training in a variety of illicit massage business investigation techniques to agencies.
- Provided assistance with nine fraud scheme investigations by conducting analysis on banking records. One of the cases involved 128 bank accounts over a three year period.
- The AFCTF continues to develop and provide money service business investigative support to agencies across the country.

### Major Fraud Units (MFU1 & MFU2)

*State v. Robert Aranda* – The National Center for Missing and Exploited Children reported that a Google email account was using a Google account to store, transfer, download or otherwise transmit files depicting the sexual exploitation of minor children. In total, the cyber tip reported 300 files, each believed to be files depicting the sexual exploitation of minor children. Upon reviewing the cyber tip, a search warrant was obtained for the phone provider of the telephone number. Sprint responded to the search warrant, which showed the subscriber of the account was Robert Aranda who lived in La Paz County, Arizona. A residential search warrant was authored, obtained and executed at Aranda's residence, which resulted in the seizure of his personal cell phone. A forensic analysis of his phone showed that Aranda used his phone to download, upload, trade or otherwise transmit images and videos depicting the sexual exploitation of minors. During an interview with Aranda, he confessed and admitted to seeking out child sexual abuse material. In November 2020, Aranda pled guilty to several counts of Child Exploitation of a Minor and was sentenced ten years in prison, followed by lifetime probation with sex-offender terms. He must also register as a sex offender.



# CRIMINAL DIVISION

## SPECIAL INVESTIGATIONS SECTION



*State v. Mario Hernandez aka Graham Consulting* – Special agents received numerous complaints involving Graham Consulting Service, owned by Mario Hernandez. On four different occasions, Graham Consulting Service engaged in telephone solicitation when it was not registered and/or licensed with the Arizona Secretary of State. Typically, Graham Consulting would contact the victims and induce them to purchase various services for several thousand dollars, ranging from \$9,375 to \$49,300. None of the victims

received the paid-for benefit that was sold to them. Hernandez pled guilty to two counts of Attempt to Commit Unregistered Telephone Solicitation. In May 2021, he was sentenced to 2.5 years of supervised probation and ordered to pay \$49,300 in restitution.

*State v. Alfredo Martinez* – Between July 2017 and June 2018, Alfredo Martinez embezzled \$107,390 from his employer while employed as their accounts manager. Martinez opened business credit cards in his name under the existing business account and made purchases solely to enrich his personal lifestyle. Martinez also forged 20 business checks to pay for the credit card bills and personal bills, all unbeknownst to the business owners who entrusted him. In January 2021, Martinez pled guilty to Theft and was sentenced to 180 days in jail, five years' probation and ordered to pay restitution.

*State v. Larry Herrera* – Thomas Collins, the Executive Director of the State of Arizona Clean Elections, contacted the AGO and reported that Larry Herrera, who recently sought a seat in the Arizona State Senate, had allegedly submitted over 100 invalid qualifying contribution forms. Most of the forms were alleged to be from contributors who were either deceased or did not match the voter registration records. Special agents conducted an investigation that confirmed that Herrera was attempting to obtain funds from the Arizona Citizen Clean Election Commission by obtaining \$5.00 donations from people in the district he planned on representing. The contribution requires the people donating the money to sign a \$5 Qualifying Contribution form. Herrera fraudulently produced these forms to include people's names, addresses, and signatures. The investigation revealed that at least 15 victims indicated they did not complete the forms nor did they sign them, and at least one person was deceased. In September 2020, Herrera was charged with Forgery, Obtaining a Signature by Deception, Aggravated Taking the Identity of Another Person or Entity, and Taking the Identity of Another Person or Entity. In July 2021, Herrera pled guilty and was sentenced to concurrent three years of supervised probation, 300 hours of community service, and ordered to pay a \$1,000 fine. In addition, Herrera is prohibited from seeking or holding public office while on probation. He was ordered to resign his seat on the Washington Elementary School District Governing Board.

### Consumer Fraud Unit

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 they worked on this fiscal year.

*Eonsmoke, LLC* – The AGO obtained a \$22.5 million judgment and permanent injunction against vaping peddler Eonsmoke, LLC., for manufacturing and selling 96 illegal products. Eonsmoke was informed by the Federal Drug Administration (FDA) that they had not received proper FDA approval. Eonsmoke also engaged in marketing tactics targeting underage consumers in Arizona. Illegal Eonsmoke products had continued to be available for sale at retail locations and online to Arizona consumers. Eonsmoke is permanently enjoined from: advertising, marketing or selling any illegal products in Arizona; and marketing, appealing to, or targeting underage consumers in Arizona.



*Santiago Ramirez Montelon, d/b/a Pacific Auto Sales* – The AGO obtained an \$110,000 judgment against Santiago Ramirez Montelon, owner of Pacific Auto Sales in Mesa, Arizona for violations of the Arizona Consumer Fraud Act. The judgment bars Montelon from engaging in the business of selling or financing used motor vehicles or owning a used car dealership. The State's lawsuit against this used car dealer included allegations of altering odometers on several vehicles which were advertised on Craigslist using the false mileage figures and then sold to unsuspecting Arizona buyers; failing to honor the statutorily mandated implied warranty of merchantability for used motor

vehicles; and failing to disclose the finance terms for vehicles financed by the dealership, including the interest rate and the number of required payments.

*Electronic Shopping Network, Inc.*: The AGO obtained a \$1.475 million judgment against Electronic Shopping Network, Inc. and its manager, Scott Singer. Electronic Shopping Network advertised and sold numismatic, gold and silver bullion coins through its late-night home shopping program named ESN Direct, and an affiliated website. In its lawsuit, the State alleged the defendants falsely advertised that advertised coins were in-stock and ready-to-ship when in fact they were not. Consumers suffered long delays, received incorrect or defective products or received no product and no refund.



*Arizona Public Service*: The AGO obtained a consent agreement with Arizona Public Service Company (APS) providing \$24 million for approximately 225,000 APS consumers. The investigation involved an online rate plan comparison tool that was intended to help customers evaluate and compare the various plan options. An error that affected the comparison tool misled many customers into choosing rate plans that were not the most economical plan for them.

# CRIMINAL DIVISION

## SPECIAL INVESTIGATIONS SECTION

### Youth Tobacco Compliance Program

In FY21, the Youth Tobacco Compliance Program conducted 201 undercover inspections of tobacco retailers overall, resulting in 44 citations issued to clerks and businesses that sold tobacco products to underage youth volunteers. Additionally, investigators conducted approximately 1560 website inspections of online tobacco vendors. Due to COVID-19, special agents were limited in the number of inspections they were able to conduct. It is anticipated that special agents will begin conducting more inspections in the future when the limitations imposed by the pandemic subsides.



### Financial Remedies Unit

Special agents in 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 637 follow-up assignments to support civil forfeiture case litigation along with opening nine criminal investigations to include fraud schemes, vulnerable adult abuse, 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 FY21, the DEA TF investigated and arrested 60 drug traffickers and seized 32 lbs. of heroin, 847 lbs. of methamphetamine, 12 lbs. of cocaine, 780,000 fentanyl pills, 2.0 lbs. of fentanyl powder and \$768,000 in cash.

The AGO also continued to partner with the Federal Bureau of Investigations (FBI) Joint Terrorism Task Force (JTTF). During FY21, the special agent assigned to the JTTF assisted with two criminal investigations, prosecuting four suspects whom have participated in or supporting terrorism against the United States.



During FY21, special agents assigned to the Social Security Taskforce (SSA TF) were assigned 121 new disability investigations of which 93 investigations were administratively closed. Special agents were able to save the SSA and State of Arizona approximately \$1,532,205 in tax payer funds.

SSA Special Agent Robert Goldsby was nationally recognized by the SSA for a disability fraud investigation that ultimately awarded over \$100,000 in restitution to state and federal disability systems. Acting on a referral from the SSA office in Needles, California, special agents with the Phoenix Cooperative Disability Investigative Unit investigated a disability insurance beneficiary who was allegedly receiving disability benefits while working under another name and social security number. The investigation revealed that from January 2007 through September 2017, Barbara Wey concealed her employment as a retail clerk from SSA in order to receive disability benefits. The investigation also found that Wey's husband, a Social Security Disability recipient, failed to report his wife's disability benefits, which made him ineligible for disability benefits. Barbara pled guilty to Theft and Attempted Fraudulent Schemes and Practices. In October 2020, Barbara was sentenced to 90 days in jail, followed by three years of supervised probation. In addition, she was ordered to pay restitution of \$70,802 to SSA, \$30,569 to Arizona Health Care Cost Containment System (AHCCCS), and \$2,863 to the Arizona Department of Economic Security (DES). Brian pled guilty to Theft and Attempted Fraudulent Schemes and Artifices. In August 2020, he was sentenced to 90 days in jail, followed by three years of probation. He was also ordered to pay restitution with his wife.

Two special agents assigned to the High Intensity Drug Trafficking Area (HIDTA) DISRUPT Unit are assigned to disrupt, dismantle and combat drug trafficking and money laundering. The following table illustrates the arrests made along with drugs, weapons, and cash seized during 2020:

TYPE	LBS	UNITS
Methamphetamines	69	
Marijuana	538	
THC Resin	5,343	
Heroin	7	
Cocaine	17	
Fentanyl (powder)	4	
Seized Weapons		103
Seized Currency		\$2,290,000
Arrests		87

### Background & Training Compliance

A special agent is assigned to conduct background investigations for all new SIS employees. During the past year, at least 13 background investigations were completed in addition to maintaining training compliance for SIS which includes over 62 sworn special agents.



# CRIMINAL DIVISION

## SPECIAL INVESTIGATIONS SECTION

### Healthcare Fraud & Abuse Unit (HCFA)

*State v. Michelle Wilkins* – Special agents learned that Michelle Wilkins had purchased a fake license for a Licensed Practical Nurse. She presented it to a home health agency employer in Casa Grande, Arizona. After hiring her, the employer immediately became suspicious that the license documentation was not authentic. Wilkins was interviewed by a special agent and she admitted that she had purchased the fake license. Wilkins was charged with Fraud Schemes & Artifices and Forgery. In July 2020, Wilkins pled guilty to Forgery and was later sentenced to 18 months supervised probation and 41 days in jail.

A special agent is assigned to the Drug Enforcement Administration Task Force (DEA TF) through HCFA. The information below is a highlight of some of the matters they worked on this fiscal year.

- Assisted with 11 DEA cases outside of assigned cases.
- Assisted with a wiretap interception which resulted in 80,000 fentanyl pills, 8.0 kgs. of heroin, and \$200,000 in cash seized.
- Assisted in an illegal distribution of testosterone case in which the suspect was a DES employee.
- Assisted DEA with two cases involving doctors who were prescribing opioids with no medical necessity.

### Tucson Major Fraud Unit (TUC)

*State v. Lynette Rincon* – Special agents worked jointly with US Immigration and Customs Enforcement (ICE), AHCCCS, and DES in a money laundering investigation. A financial investigation was opened where bank statements showed that Lynette Rincon had laundered approximately \$652,000 in racketeering proceeds between January 2012 and July 2016. Agents identified and determined that Rincon also provided false information to the State of Arizona to establish eligibility for both medical and nutritional assistance that she was not entitled to receive. AHCCCS expended \$11,990 on her household's health care and DES provided \$2,331 to her household in Food Stamps. In December 2020, Rincon pled guilty to Fraudulent Schemes and Artifices and Facilitation to Commit Money Laundering in the Second Degree. She was sentenced to six years in prison and ordered to repay AHCCCS and DES.

*State v. Evangelina Estrada* – Evangelina Estrada was providing caregiving services for an elderly female adult in Sierra Vista, Arizona. The victim was partially paralyzed from a stroke and bedridden. From January 2017 to March 2017, Estrada wrote several checks to herself from the victim's bank account. Estrada forged the victim's signature, stealing \$4,500 from the victim. In September 2020, Estrada was indicted on charges of Forgery and Theft from a Vulnerable Adult. In February 2021, Estrada pled guilty to Attempted Theft from a Vulnerable Adult. She was later sentenced to four years probation and ordered to pay restitution to the victim.

# CRIMINAL DIVISION

## OFFICE OF VICTIM SERVICES

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

### Overview of Accomplishments:

#### Advocate Program

OVS provides services to victims of numerous crimes in cases investigated and prosecuted by the AGO as well as to victims in cases on direct review or under capital appeal. In FY21, the investigation-based advocates provided over 8,600 services to more than 1,300 victims. The prosecution/appellate advocates provided over 34,000 notifications and almost 82,000 advocacy services to more than 8,500 victims. OVS continues to surpass expectations in terms of victims served and services provided by the Advocate Program staff. During FY21, the Advocate Program consisted of one Advocate Program Manager, six prosecution-based advocates (including an Advocate Supervisor), three investigations-based advocates and two advocate assistants located in Phoenix and Tucson.

Due to COVID-19 causing delays in new cases being investigated or charged, OVS saw a 6.7% decrease in the number of victims served. Nonetheless, the Advocate Program staff persisted in providing a high number of services to victims. Mandated services to victims are required by Arizona's Victims' Bill of Rights and statutes. On average a prosecution-based advocate carries a caseload of 1,459 victims, up 2% from the prior year, while the program maintained an average victim satisfaction rate of 4.5/5.0. These numbers demonstrate the high level of dedication and professionalism of AGO advocates. COVID-19 required significant changes for the advocate program staff. While being in the office less, having limited access to case files, technological issues and other factors, advocates continued to focus on the needs of their victims and to ensure compliance with victims' rights. Between both programs, over 124,509 services were provided to victims during the year, during which the advocates' in office presence was limited. OVS sent more than 12,000 notices of continued hearings alone in FY21. In the month of October 2020, advocates provided more than 10,000 advocacy services which accounted for 12.5% of all advocacy services for the entire year. Advocates assisted victims with impact statements, property returns, and restitution and attended virtual hearings, providing discussions before and after the virtual hearings and provided updates and empathetic listening and crisis services by phone and email.

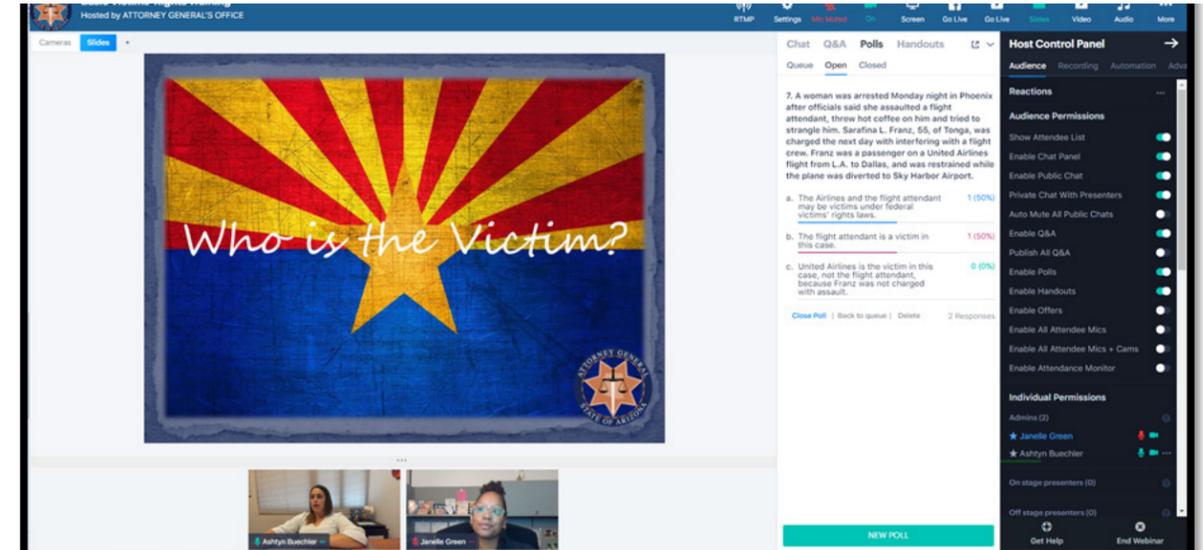
# CRIMINAL DIVISION

## OFFICE OF VICTIM SERVICES

Based on office experiences and expertise, the Advocate Program Manager was selected to share OVS practices and knowledge statewide to the Governor's Office's Summit on Volunteerism and Civic Engagement on OVS' longstanding volunteer internship program, about Restitution and Challenges in Victims' Rights at the Arizona Victim Assistance Academy, how to best empower elder victims of crime to the Arizona Prosecuting Attorney Advisory Council (APAAC), and as a panel moderator for the APAAC Legal Assistance Conference.

### Agency Support Team

The Agency Support Team (AST), nationally recognized for its innovative and effective work, continues to lead statewide efforts to promote uniformity and efficiency with victims' rights compliance through its various support and leadership programs to criminal justice agencies. During FY21, the AST lead and participated in 129 task forces, committees and commissions, provided over 2,500 technical assistance services and conducted 47 victims' rights presentations to 2,840 participants. The AST also reviewed 35 allegations of victims' rights violations, distributed over 300,400 victims' rights forms to 127 law enforcement agencies and, through its Victims' Rights Program (VRP) dispersed over \$2.2 million to 56 criminal justice agencies to support their mandated victims' rights services. As a direct result of the coordinated efforts of the entire AST, OVS has been able to identify and address systemic victims' rights issues throughout Arizona. OVS has observed positive changes and heightened awareness of victims' rights that have permeated throughout the Arizona criminal justice system. Those changes include: increased awareness of procedural issues in limited jurisdiction courts related to misdemeanor cases; victims' rights training for personnel; review and revision of agency policy and procedures; review and revision of training documents; changes in daily practices related to the provision of victims' rights; and increased awareness of the challenges faced by victims and agencies during the post-conviction process. During these unprecedented times we have seen many examples of resiliency and uninterrupted service to victims of crime throughout our state. As part of OVS' commitment to outreach and education of victims' rights, the AST stepped up to the obstacles imposed by the COVID-19 restrictions. OVS swiftly redesigned its education from in-person presentations to a full webinar platform. OVS is now successfully conducting 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 most national conference training opportunities were on hold, OVS continued to provide regular statewide trainings and increased training participants by 108% from the previous fiscal year.



### Outreach Coordinators Training in BigMarker

#### Major Cases

*State v. Kenneth Wayne Thompson II* -- Kenneth Thompson was convicted and sentenced to death for the brutal 2012 slayings of his sister-in-law and her fiancé. He has filed an automatic appeal to the Arizona Supreme Court. The OVS advocate, in reviewing the case briefs realized the facts included were exceptionally graphic. She took steps to reach out to the victims who requested copies of the briefs to forewarn them of their descriptive nature. The victims were all extremely appreciative. About that same time, the advocate received a call from the representative of the Department of Child Safety (DCS) for the murdered woman's son. The boy had been ten years old when his mother and her fiancé were murdered and is now a young adult expressing interest in opting-in for notice in the case. He had not been present at any point of the trial and only heard minimal information. The young victim did not know the graphic details of what exactly happened to his mother, other than the fact that she was murdered. The victim's son wanted to learn more about his mother's case. The DCS representative contacted the advocate in order to make contact with the victim. The advocate and victim set up a phone call to discuss the most recent developments in the case. The advocate brainstormed with colleagues on the best way to talk with the victim and share information given all he has been through early in his life. The advocate explained the appeals process, updated him on the current status of the case, and described the next steps. He indicated he wanted to be opted-in to receive notification along with all briefs. The advocate addressed the topic of the graphic nature of the Opening Brief and provided him with options on how to receive it and who could receive it on his behalf. He requested to receive it himself by mail. The advocate processed the brief with him and provided suggestions on what to do once he received it. He was very appreciative and thanked the advocate for all of the options and information. The advocate reached out to the victim a week after sending the brief. The advocate and victim remain in contact. He feels as though he has taken steps to be a voice in this phase of the process for his mother.

# CRIMINAL DIVISION

## OFFICE OF VICTIM SERVICES

*State v. Humberto Benitez* -- This case originated in Santa Cruz County case and investigated by the Department of Public Safety (DPS). The defendant was charged with child molestation, attempted child molestation, and sexual abuse, which is alleged to have occurred while the parents of the eight year-old victim transported the defendant, a family friend, from Tucson to Nogales, Arizona. On the day Benitez was arraigned, the prosecutors and advocate met with the mother and stepfather of the victim to discuss and set expectations of the criminal justice system. The minor victim was incredibly composed and vocal despite of her young age. She did not want him to "get out and hurt other people." The advocate and attorneys discussed a potential plea with the family. The family was at first reluctant about the lessened incarceration and were proponents of taking the matter to trial. The group discussed the benefits and drawbacks of resolution by plea and trial. The victim and her family were accepting of either resolution; however, Benitez seemed adamant in rejecting a plea agreement. The prosecutors and advocate conducted in-person meetings to build rapport and help the victim feel comfortable with testifying should a trial occur. Her parents empowered her to make choices for herself and participate at her comfort level; however, there was visibly something holding the victim back from speaking with the prosecutors and advocate. She would answer general questions, but was reserved and avoided eye contact. The advocate offered her coloring pages, Play-Doh and initiated conversation. The advocate advised that she could assist with locating resources including utilizing services offered by the Children's Advocacy Center, as it was becoming apparent that the trauma was manifesting itself in other behaviors. As the case progressed, the minor victim wanted to be present at hearings with her parents, but due to COVID-19 restrictions the courthouse was not allowing children to enter. The advocate worked with the court and security to ensure that the minor victim, although represented by her parents, was allowed to be present for the hearings. Her stepfather addressed the court at the plea hearing. He then read a powerful victim impact statement at sentencing. The defendant was sentenced to two years in prison, 20 years of probation, and lifetime sex offender registration. When the advocate spoke to the victim, she was more open as she felt like a weight had been lifted off her.

### Agency Support Team (AST)/Victims' Rights Program (VRP) FY21 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:

*"The funding and technical assistance we receive has a positive impact on our ability to afford victims' their rights and to ensure compliance with the victims' rights mandates. The legislative updates in the newsletter are helpful in ensuring that we are sending the most updated information to victims, which in turn helps them to better understand these new changes so that they are able to exercise their rights in a meaningful way." (Anonymous)*

*"Overall the program, staff and database are all easy to contact and access. Our agency is grateful the Victims' Rights Program provides funding to our agency and assists us with compliance." (Anonymous)*

*"All of the VRP staff has been responsive to my questions, concerns and suggestions for programmatic improvement." (Anonymous)*

*"I think this training should absolutely be mandatory for anyone who works with victims in this capacity." (Anonymous)*

*"This is the first time since I started as a prosecutor about a year ago that all of the Rights and procedures for Victims Rights have been laid out for me in a clear presentation. It was very helpful." (Anonymous)*

*"Both the [trainers] are engaging and very knowledgeable. They are passionate about the content. The content was equally engaging and informative. Thank you." (Anonymous)*

*"The thought provoking discussion was a vast improvement over the previous classroom style classes. The use of technology allows for interesting media to engage participants as well as ability to share one another's knowledge and experiences for the better of the attendees. Well done" (Anonymous)*

*"We appreciate your insights and [we] will use this as an opportunity to reflect and make any necessary improvements to our [victims' rights] processes." (City Prosecutor/re: victims' rights complaint.)*

*"The funding and support from the Arizona Attorney General's Office VRP is imperative to ensure that victims in our City continue to receive the help, notification and support that they need to be resilient and prevail in seeking justice. Thank you!" (Anonymous)*

# CRIMINAL DIVISION

## OFFICE OF VICTIM SERVICES

### National Crime Victims' Rights Week

In FY21, our highly anticipated NCVRW events, such as the annual awards luncheon and in-person donation drives, were drastically altered due to the pandemic. In response, OVS worked with statewide partners to create a virtual recognition event to honor victims of crime and service providers from throughout the state. Along with AZPOST, OVS created a video montage honoring all of the Distinguished Service Award winners to be shown during this virtual event. Additionally, the OVS Victims' Rights Week Committee put together a video with participation from service providers throughout the state to commemorate the 2021 Victims' Rights Week theme: Support Victims. Build Trust. Engage Communities. We encourage you to view this video, please go to the Criminal Tab – Victim Services – OVS Brochures and Publications.

The recording of the statewide event as well as the provider video can be viewed by visiting the links below:

<https://www.youtube.com/watch?v=lvGDGrd84Jk>

<https://www.azag.gov/criminal/victim-services/ovs-brochures-and-publications>

### Arizona Attorney General Mark Brnovich Office of the Attorney General

**Phoenix Office**  
2005 N Central Ave  
Phoenix, AZ 85004-2926  
(602) 542-5025  
Fax (602) 542-4085  
Hours: 8AM-5PM

**Tucson Office**  
400 West Congress  
South Building, Suite 315  
Tucson, AZ 85701-1367  
(520) 628-6504  
Fax (520) 628-6530  
Hours: 8AM-5PM

**Prescott Office**  
1000 Ainsworth Dr.  
Suite A-210  
Prescott, AZ 86305-1610  
(928) 778-1265  
Fax: (928) 778-1298  
Hours: 8AM-5PM

### Phone:

#### Consumer Information and Complaints

consumerinfo@azag.gov  
Phoenix: (602) 542-5763  
Fax: (602) 542-4579  
Tucson: (520) 628-6504

#### Community Outreach / Satellite Offices

Phoenix: (602) 542-2123  
Fax: (602) 364-1970  
Tucson: (520) 628-6504

#### Office of Civil Rights Phoenix:

(602) 542-5263  
TDD (602) 542-5002  
(877) 491-5742  
TDD (877) 624-8090  
Fax: (602) 542-8885

#### Office of Civil Rights Tucson:

(520) 628-6500  
TDD (520) 628-6872  
(877) 491-5740  
TDD (877) 881-7552  
Fax: (520) 628-6765

#### Office of Victim Services

Phoenix: (602) 542-4911  
Fax: (602) 542-8453  
Tucson: (520) 628-6456  
Fax: (520) 628-6566  
Toll-free: (866) 742-4911

#### Attorney General Information

AGInfo@azag.gov  
(602) 542-5025

#### Taskforce Against Senior Abuse

(602) 542-2124

#### Military and Veterans Alert Hotline

(866) 879-5219



