

Annual Report

Maricopa County Office of the Public Defender

2014-2015

MARICOPA COUNTY OFFICE OF THE PUBLIC DEFENDER

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Mission

The mission of the Office of the Public Defender is to provide quality legal representation to indigent individuals assigned to us by the court, thus safeguarding the fundamental legal rights of each member of the community.

Goals

The Maricopa County Public Defender's Office (MCPD) provides tremendous value to the community. Our goals are:

- To protect the rights of our clients, to guarantee that clients receive equal protection under the law, regardless of race, creed, national origin or socioeconomic status, and to ensure that all ethical and constitutional responsibilities and mandates are fulfilled;
- To obtain and promote dispositions that are effective in reducing recidivism, improving clients' well-being, and enhancing quality of life for all;
- To work in partnership with other agencies to improve access to justice, develop rational justice system policies, and maintain appropriate caseload and performance standards;
- To enhance the professionalism and productivity of all staff; and
- To perform our obligations in a fiscally responsible manner including maintaining cost effectiveness by limiting the percentage of increase in the annual cost per case to no more than the percentage of increase in the overall annual funding of the County's criminal justice group.

defend ~ protect ~ enhance ~ promote ~ improve ~ ensure ~

partner ~ respond ~ produce ~ resolve ~ achieve ~ represent ~ lead

Department Initiatives

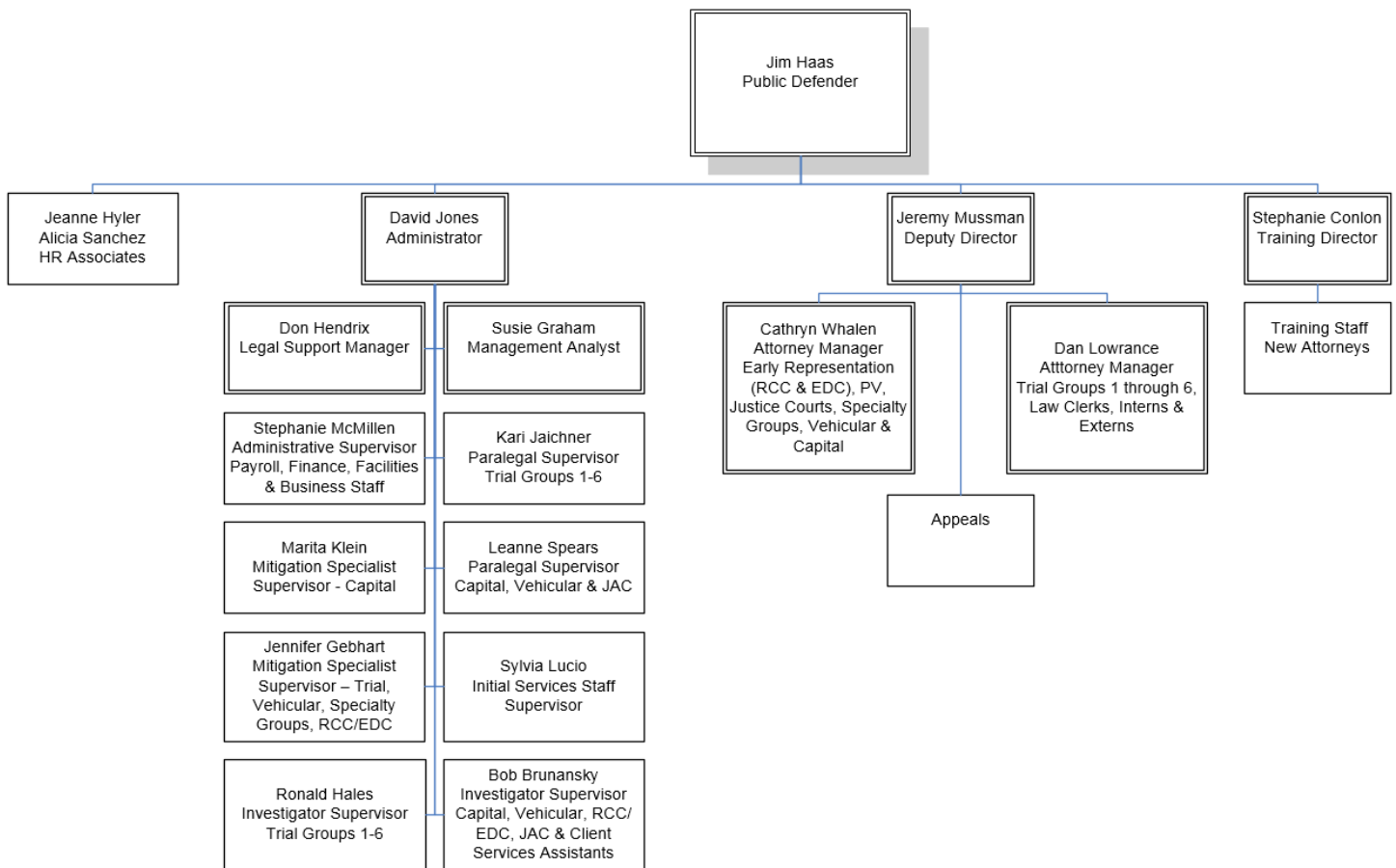
During the past fiscal year, we continued to focus on delivering quality representation productively and efficiently. To this end, we enhanced our case-weighting system to provide our supervisors with additional tools for measuring caseloads and determining proper case assignments. In addition, the expansion of several specialized units within the MCPD has resulted in fewer cases with special needs going to the Office of Public Defense Services (OPDS) and increased quality of representation. First, the office doubled its Major Fraud Unit, allowing us to keep more complex fraud cases in the office. And, as part of our efforts to control expert witness fees, we worked with the InfoSec Institute to bring its “Computer Forensics Boot Camp” to our office to train several attorneys and staff in the investigation of computer crime. This will enable us to improve our representation of clients charged with computer crimes while reducing our dependence on expensive experts in this highly technical area. As a result of this expansion and additional training, these clients now receive specialized representation and the County saves money by keeping these complex cases assigned to a staffed office.

Also, in response to an increase in cases being filed against juveniles in adult court, the MCPD has expanded the Juvenile in Adult Court Unit (JAC) by an additional attorney. These attorneys are specially trained in the laws related to transferred youth, risks to reoffend, successful treatment strategies, and services for their clients. By adding an additional attorney, we have been able to keep all Juvenile in Adult Court cases assigned to the office and take on representation of a number of additional defendants aged 18 to 21 years old who have similar needs to the juvenile offenders.

Finally, we continue to be integrally involved in the efforts discussed in last year’s report as well as a number of new initiatives underway through the Maricopa County Smart Justice Council, including:

- Gender-Based Initiatives (focused on the unique needs of women in the criminal justice system);
- Effective Intervention for Seriously Mentally Ill Defendants (in addition to seeking to modify the Felony Pretrial Intervention Program to better support this vulnerable population, we are working with a number of stakeholders on the complicated interface between criminal matters and civil commitment proceedings);
- Justice Court Video Conferencing (serving on a committee initiated by the Justice Courts to reduce jail days and transport costs by creating a Constitutionally permissible video-conferencing option for specified court proceedings); and
- Inclusion of homeless defendants as part of the Maricopa County Regional Coordinated Access System for the homeless population.

Organizational Chart



Finance and Business Unit

The five members of the Finance and Business Unit are responsible for providing financial, logistical, and administrative support services for the entire Public Defender’s Office. These duties are varied and include management of our employee time and attendance program, processing expenditure requests, facilitating employee and expert/witness business travel, maintaining statistical data, and facilities and technology management. Unit staff work closely with Public Defender employees at all levels as well as other County departments and outside vendors and experts.

During the past fiscal year, the Finance and Business Unit worked with 163 vendors, facilitated employee out-of-state travel on 46 occasions and expert/witness travel 95 times. Additionally, they arranged for 436 video conferences and moved or set up 343 employee offices/work spaces.

Training Activities

The Public Defender Training Fund (PDTF) continues to be vital to the Office’s mission. It enables the Office to serve as a leader and primary sponsor for several statewide indigent defense training programs, while providing high quality training for our employees. In anticipation of

further State and County budget issues, as well as a decrease in PDTF funding, the Office used limited funds for both out-of-state travel and in-state training. Our conservative approach resulted in a training reserve at the end of the fiscal year, which helps us start the new year on a strong footing.

Training new Public Defender attorneys from around the state remains a high priority. First year attorneys attended New Attorney Training and the State Bar Professionalism Course. Attorneys with two to three years of experience attended two courses that develop trial advocacy techniques: Spring and Fall Trial Colleges. These courses focused on cross-examination, witness control, evidence, objections, impeachment, motive and bias, opening statements, jury selection, and closing argument.

Additional training opportunities for attorneys included the second annual Sex Crimes College, a fifteen-hour course for attorneys with at least one year of experience, as well as a week-long class on Computer Forensic Examination. This training will better prepare our office to handle cases that involve downloaded digital images, such as child exploitation, with less reliance on hired experts.

The Office also continued its partnerships with the Arizona Public Defender Association (APDA) and the Federal Defender's Capital Habeas Division to co-sponsor several trainings. (The APDA Annual Conference was attended by over 1200 defense attorneys and staff from across the state and included topics of Leadership, Crimmigration, Investigation, and Capital Voir Dire.) Additionally, a two-day APDA Paralegal Conference offered a two-track conference attended by 80 paralegals and paralegal degree students from all over the state. Co-sponsored with the Federal Defender, the Annual Death Penalty Conference was attended by 280 attorneys and staff.

Training was further supplemented with bi-monthly brown-bag lectures, monthly new employee training, technology training, and publication of our Office newsletter, *for The Defense*.

Client Services

The Public Defender's Office's ninety-two Client Services employees provide a wide range of high quality client-centered support services.

Initial Services Unit staff visit the jails daily to interview newly assigned clients, review discovery with clients, deliver and pick up materials at the jails, and provide unofficial interpretation services for Spanish-speaking clients. During the past fiscal year Initial Services staff interviewed over 4400 clients and also spent almost 400 hours reviewing discovery with clients.

Defender Investigators work at the direction of attorneys and assisted with more than 2000 cases by conducting investigations, reviewing evidence, and assisting with case strategy. Most MCPD investigators have a background in law enforcement, acquiring specialized skills in such areas as homicide and other death investigations, ballistics, vehicular accident reconstruction, medical procedures, sexual assault, computer forensics and other technologies, and child abuse investigations.

Paralegals are certified professionals who provide pre-trial, trial and post-trial case preparation and related assistance to counsel. Fiscal year 2014-2015 was proclaimed “The Year of the Paralegal” by the Maricopa County Public Defender. As a result, the Office reevaluated paralegal duties and expectations, and took concrete steps to enhance paralegal satisfaction and efficacy. Paralegals received additional training, including participation in the attorney training courses. This effort is a work in progress, with the goal of increasing the extent of paralegal involvement in cases.

Mitigation Specialists are degreed professionals responsible for providing expert guidance to counsel in areas of mitigation, treatment, rehabilitation, and sentencing/disposition alternatives including development of individualized plans for clients, to be presented to the Court at sentencing. During fiscal year 2014-2015, the unit was able to handle 560 referrals and had a significant impact in several cases.

Capital Mitigation Specialists are graduate-degreed professionals tasked with investigating and evaluating the life experiences of a capital client. They also provide assistance in locating documentary materials and relevant experts. During the past fiscal year Capital Mitigation Specialists helped seven capital clients avoid death sentences.

Early Representation Unit

The Public Defender’s Early Representation Unit staffs nine high volume courts at the Southeast Facility and Downtown Superior Court daily with primarily full-time attorneys who handle drug possession cases, other low level felonies and probation violation cases. In collaboration with the Courts, Adult Probation, the Sheriff’s Office, and the County Attorney’s Office, these courts offer a cost-effective means of expeditiously resolving cases. Early resolution in these cases is supported by evidence based initiatives to reduce incarceration time and other pretrial court involvements which not only reduces costs, but also reduces recidivism rates.

The Regional Court Center – Downtown (RCC-DT) is staffed with 14 attorneys who worked to resolve 3,004 felony matters last year. It is also the training ground for newly hired attorneys. Last year, two classes with a total of approximately 23 new attorneys came through the RCC training.

The Early Disposition Courts – Downtown (EDC-DT) unit is staffed with 10 lawyers, two of which were funded FY2015 through a DEA grant. This unit primarily handles drug possession cases in Superior Court. Last year, 2,332 EDC-DT cases were diverted for drug treatment and monitoring and may subsequently be dismissed upon successful completion of treatment. This unit also handles misdemeanor cases in 14 Central and West Valley Justice Courts. One full-time and three part-time Justice Court lawyers handled 864 misdemeanor cases over the last year.

The RCC/EDC Southeast unit is staffed with 15 attorneys. This unit resolved 4,458 cases with 2,016 diverted to a drug treatment program. The RCC/EDC SE unit also represents clients assigned to the Public Defender’s Office in the eight East Valley Justice Courts. Three full-time Justice Court lawyers handled 1,005 cases in the East Valley this year. Additionally, this unit spearheaded a project to help clients, upon successful completion of probation, have their offense designated as a misdemeanor, which helps them to be able to obtain work and become contributing members of the community.

The Probation Revocation Center covers two courts, staffed with 10 full-time attorneys who handled 12,480 cases last year. A majority of these cases resulted in clients being placed back into the community in order to successfully complete probation.

Trial Division

The Public Defender's six Trial Divisions consist of over 80 attorneys, working in a team approach with investigators, paralegals, mitigation specialists, and secretaries, to handle 4,673 criminal cases.

Improving technology within the Office became a focus of the year and allowed the Office to enhance customer service for our clients, while reducing delays that tend to raise costs for the County. Trial attorneys were provided with portable workstations equipped with dual monitors, promoting an ability to work virtually anywhere.

The use of digital discovery also increased over the last year, expediting the process of receiving and reviewing discovery while reducing use of paper and resources involved in maintaining paper discovery.

To better serve the Office, a new records database/case management system (JustWare) was implemented as well. This system allows discovery and court documents to be maintained electronically. As the Office shifts closer to a paperless operation, the use of JustWare provides the capability of maintaining electronic data for all cases.

Another valuable tool was the implementation of video-conferencing equipment which allows attorneys the ability to coordinate video-conferences with in-custody clients. This streamlines client visits with the convenience of avoiding jail delays and the ability to continue working from the office.

Specialty Courts

In the fall of 2014, the Office expanded several specialized units from within, growing the Specialty Court Group substantially. First, the Office doubled its Major Fraud Unit from one to two people, which has allowed us to keep more complex fraud cases in the Office. These cases are usually time intensive and require extensive expert fees. Also, the Office added one additional attorney position to the Juvenile in Adult Court unit after noticing an increase in Juvenile in Adult Court case filings, starting in the summer of 2014. These attorneys are specially trained in the laws related to transferred youth, risk for youth to re-offend, successful treatment strategies, and services for their clients. Further, the Office assumed responsibility for all overflow of sexually violent persons (SVP) cases from the Office of Legal Advocate and now has an attorney devoted to those cases within the Specialty Court Group.

In Fall of 2014, the Maricopa County Public Defender's Office Vehicular Unit moved from the Downtown Justice Center to a satellite location at the Security Building. Additionally, Vehicular has increased collaborative efforts with other specialized groups, which has led to better representation of clients who require multiple specializations. All in all, it has been an exciting and productive year for the Vehicular Unit which resolved 979 cases last year.

All of these changes save taxpayer dollars by keeping more complex cases in a staffed office where they can be handled by specialized attorneys and staff in a cost-effective manner.

It also has allowed attorneys within the Office mobility and greater opportunity for specialization, improving morale and reducing turnover.

The Public Defender's Office also continued active participation in Maricopa County post-conviction problem solving courts including Drug Court, DUI Court, Veteran's Court and Mental Health Court. This year the Maricopa County Drug Court Program was awarded the Innovation Award at the 2015 Arizona Problem Solving Court Conference and two Public Defender Attorneys were recognized for their contributions. The Office is very involved in the Arizona Association of Drug Court Professionals, with strong Public Defender Attorney representation in the Association's membership and Executive Board.

Capital

The Public Defender's Capital Unit is dedicated to fulfilling the constitutionally mandated and uniquely demanding responsibilities of defending death penalty cases. The Capital Unit's ten capital defense teams, in accordance with Rule 6.8 of the Rules of Criminal Procedure, exclusively handle potentially capital cases in which the State has or may file a notice of intention to seek the death penalty. Recent changes in the capital review process at the Maricopa County Attorney's Office necessitated an increased number of newly filed first degree murder cases be placed with a capital qualified defense team at the outset of representation. As such, during FY2015, the Capital Unit commenced representation of 17 first-degree murder cases. The Capital Unit resolved 7 cases in FY2015 with no death verdicts. The Capital Unit operates in a resource intensive environment and continues to make improvements in efficiency and efficacy. The Capital Unit acquired new case management software and increased server space to accommodate the voluminous documents attendant to death penalty litigation. The Capital Unit has also renewed focus on training for non-attorney members of capital defense teams including the participation of paralegals and mitigation specialists at the inaugural Capital Voir Dire Training held in conjunction with the annual APDA conference in June 2015.

Appeals Division

The Public Defender's Appeals Unit's 17 attorneys are dedicated to providing indigent defendants with exceptional appellate and post-conviction representation. The Appeals Unit represents all levels of appellate cases – from misdemeanors to death penalty appeals. This unit represents the majority of indigent defendants in Maricopa County who appeal their convictions/sentences arising from trial. In the case of death penalty matters, the unit adheres to Rule 6.8 of the Arizona Rules of Criminal Procedure and to the ABA Standards, and provides a team of two attorneys to handle any death penalty appeal – the lead attorney must be capital qualified. This unit also endeavors to share its 477 years of collective legal knowledge with other indigent defense attorneys. As such, many lawyers in this unit routinely teach classes at New Attorney Training, Trial Skills Colleges, the Arizona Public Defender Association Annual Conference, and at the annual joint defense death penalty conference. Additionally, the unit is currently developing an Appellate Defender Training Program to

allow indigent defense attorneys a forum in which to hone their brief writing skills in a hands-on workshop setting. This unit also aids trial attorneys in the Office with guidance on issues and provides editing or drafting assistance for trial motions and special actions. This fiscal year, the unit started a mentoring program that allows a trial attorney in the Office who wants to become familiar with the appellate process to be assigned to an appeal. The trial attorney is teamed with an experienced appellate attorney and the team works together to determine issues and to write the briefs. This helps to provide concrete training to the trial attorney on the importance of making a record at the trial level.

Interns/Externs/Gideons/Law Clerks

The Office engages law students, with the view that they are the next generation of attorneys to work as public defenders. Last year, the office worked with students from the following universities: Arizona State University – Sandra Day O’Connor College of Law; University of Arizona – James E. Rogers College of Law; Arizona Summit Law School; Willamette University College of Law; University of Iowa College of Law; Texas Tech University School of Law; University of Maryland School of Law; and University of Denver – Sturm College of Law.

The Office has intern, extern, and law clerk positions, in addition to the annual selection of one Gideon Fellow. Interns/Externs spend a semester shadowing an assigned division to learn about the work of a public defender. Selected externs in the PD Clinic, participate in a semester-long program which incorporates Rule 38 certified students, under the supervision of a licensed attorney, to function as co-counsel in representing Public Defender clients. As co-counsel, these students are afforded the opportunity to participate in pre-trial interviews, motion practice, litigation, and trial. Students working as law clerks take on research, writing, and other case-related tasks at the request of an attorney. Lastly, the Gideon Fellow rotates between state and federal indigent representation offices to learn about the various facets of indigent representation.

In total, 18 clerks worked for the office last year, with 10 promoting to attorney positions by the end of 2014. In that timeframe, the clinic’s 18 students worked with the assistance of their supervising attorney to prepare for four jury trials, three bench trials, and seven suppression hearings. They also had a trial on the priors, sentencing hearings, pleas, preliminary hearings, and police and other witness interviews.

Managing for Results, Statistics and Budgeting

Last fiscal year, the Public Defender's Office converted to Journal Technologies (formerly New Dawn) JustWare Defender case management system which replaced the Indigent Representation Information System (IRIS). The new system has enabled the department to generate more detailed statistical reports that undergo continual quality control checks, thus resulting in cleaner and more reliable reporting.

The data from these reports is used to populate the Managing for Results (MFR) system which has been the primary means of reporting Public Defender financial and statistical information to taxpayers and County management since 2000. MFR data reported includes projections and historical actuals for case assignments (demand), case resolutions (output), expenses by case type (efficiency), and measures geared for demonstrating effectiveness and efficiency (results).

Along with MFR, the Public Defender also uses a fifteen level case-weighting system. This additional system has been in use since FY10. In using the related weighted data, we have been able to generate an entirely new set of department-wide and individual attorney reports for office management and supervisors. These figures, used in conjunction with the supervisors' more-detailed understanding of their attorneys' cases, help ensure workloads are not excessive for any particular attorney. They also help inform supervisors which attorneys might have the ability to take additional cases.

MCPD came in under budget in FY15. Several new staff attorneys were added to the non-capital felony unit during FY15 to allow the Office to keep cases that otherwise would have been sent out to other departments. Additionally, a new capital team was created to accommodate the increased capital trial demand. The Office received no additional funding for the staffing increases during FY15. However, the new positions have been included in and approved for the full FY16 budget year.

Budget Abstract

ACCOUNT	EXPENDITURES
SALARIES & BENEFITS	\$36,773,717.23
GENERAL SUPPLIES	\$530,483.60
FUEL	\$8,731.24
NON-CAPITAL EQUIPMENT	\$20,063.57
LEGAL SERVICES	\$1,673,140.69
OTHER SERVICES	\$302,400.61
RENT & OPERATING LEASES	\$102,078.32
REPAIRS AND MAINTENANCE	\$140,569.71
INTERNAL SERVICE CHARGES	\$679,656.58
TRAVEL	\$47,689.11
EDUCATION	\$178,344.77
POSTAGE/FREIGHT/SHIPPING	\$37,609.28
CAPITAL EQUIPMENT	\$30,240.00
VEHICLES	\$0.00
DEBT SERVICES (Technology Financing)	\$0.00
TOTAL EXPENDITURES	\$40,524,724.71

APPROPRIATIONS	AMOUNT
GENERAL FUNDS	\$39,477,568.00
TRAINING SPECIAL REVENUE FUND	\$567,865.00
FILL THE GAP SPECIAL REVENUE FUND	\$1,113,694.00
DEA GRANT	\$237,289.00
TOTAL APPROPRIATIONS	\$41,396,416.00

Statistical Abstracts

Cases Assigned

CASE TYPE	
CAPITAL	17
ALL OTHER HOMICIDE	120
TRIAL DIVISION	
CLASS 2-3 FELONY	2,552
CLASS 4-6 FELONY	3,438
DUI	417
RCC/EDC	
CLASS 2-3 FELONY	1,386
CLASS 4-6 FELONY	10,064
DUI	847
VIOLATION OF PROBATION	14,947
MISDEMEANOR	2,095
APPEALS DIVISION	
APPEALS (INCLUDES CAPITAL)	253
TRIAL PCR	21
PLEA PCR	8
TOTAL OF ABOVE	36,165

Total cases opened minus cases closed during the time period with the following dispositions: no complaint, administrative transfer, and workload withdrawal cases.

Cases Resolved

CASE TYPE		
CAPITAL		7
ALL OTHER HOMICIDE		69
TRIAL DIVISION		
CLASS 2-3 FELONY		1,630
CLASS 4-6 FELONY		3,043
DUI		436
RCC/EDC		
CLASS 2-3 FELONY		797
CLASS 4-6 FELONY		7,923
DUI		543
VIOLATION OF PROBATION		13,478
MISDEMEANOR		1,865
APPEALS DIVISION		
APPEALS (INCLUDES CAPITAL)		236
TRIAL PCR		19
PLEA PCR		58
TOTAL OF ABOVE		30,104

Case resolutions are total cases closed during the fiscal year, minus cases closed during the fiscal year that were not resolved by the Office directly (i.e., reduced by cases in which no complaint is filed, private counsel is retained, conflict withdrawals, workload withdrawals, and transfers to another indigent representation department).