



Pima County Attorney's Office

32 North Stone Avenue

Suite 1400

Tucson, Arizona 85701-1412

Phone (520) 740-5600

Fax (520) 740-5585

www.pcao.pima.gov

Barbara LaWall

Pima County Attorney

MEMORANDUM

TO: C. H. Huckelberry
Pima County Administrator

FROM: Barbara LaWall 
Pima County Attorney

DATE: February 8, 2011

RE: **FY 2011/12 Proposed Budget**

I submit herewith the Pima County Attorney's Office proposed budget for FY 2011/12. Once again, I am mindful of the continuing national, state, and local financial crisis that we are confronting together. I continue to hold in abeyance any requests for additional funding for more prosecutors (and associated support staff), despite our very real and immediate need. My proposed budget refrains from requesting the supplemental package requests that I have historically made in order to address this staffing and associated funding shortfall. I have been very successful in obtaining some additional short-term *America Recovery and Reinvestment Act* (ARRA) federal funding for positions that will assist us in continuing to focus on our core prosecutorial mission. This funding is only a temporary fix and a bridge that I hope will last until a more reliable source of general fund revenue becomes available.

However, my Office continues to be directly impacted by actions at the state level that will eliminate funding of at least one historically important and successful prosecution program. Unlike last year, I do not intend to ask for supplemental funding for the loss of the state-funded portion of *Fill the Gap*. The state-funded portion of *Fill the Gap* currently funds three positions that are filled as an Attorney, Legal Secretary and Legal Assistant. However, at this time, the potential exists that additional state budget sweeps could further negatively impact my Office whereby I would be forced to seek additional funding. For example, a legislative bill has already been submitted to sweep the *Arizona Auto Theft Authority* (AATA) funds in addition to the previous sweeps which resulted in the loss of one funded attorney position. The additional fund sweep would eliminate the last remaining AATA position. Fortunately, the Board of Supervisors, with your support, recognized the importance to our community of prosecuting auto theft cases and provided my Office with one-time funding this fiscal year to offset the

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previous loss of AATA funding. If additional legislation is enacted that ultimately negatively impacts my ability to continue providing those core prosecutorial-related services to our community, I will seek supplemental funding from the Board of Supervisors as necessary.

I have worked with you and the Board to absorb previous reductions to my base budget of \$1,984,826 - nearly 10%. These reductions have been carried forward along with an additional 1.5% non-public safety reduction (\$40,258) and 0.5% public safety reduction (\$82,224) in the amount of \$122,482 for the FY 2011/12 base budget for a combined reduction of 11%. These cuts are deep and affect our ability to prosecute cases efficiently and effectively as well as our overall ability to deliver important services to the community and the Pima County government. They represent a reduction in the number of prosecutors and support staff who handle felony cases; a reduction in civil attorneys and support staff affecting legal services and representation of our county government and our ability to sustain and develop crime prevention programs that ease the burden and demands on the criminal justice system.

Nevertheless, I understand that cuts of this magnitude are necessary for the coming year while we weather the current fiscal crisis. It is only fair that my Office partners with you, and meets your request to share in the responsibility to reduce our resources and to operate at a bare-bones level, only addressing critical, core needs. However, this Office has reached a point that with any additional reduction of revenue, either from the general fund, state, or federal funding, the negative impacts associated with the reduced funding will have a detrimental ripple effect throughout the entire criminal justice system.

The reductions I am proposing occur at a time when the workload in the Criminal Division continues to increase, yet we maintain unacceptably low staffing levels. Our felony prosecutors carry an extreme and unduly high caseload, averaging 54 cases per attorney. (This compares with the average public defender caseload of 27 cases per attorney.) The recommended caseload, according to numerous professional studies, is approximately 35 cases per prosecuting attorney. Even during an economy that has been designated the worst since the Great Depression, my Office continues to experience unacceptably high turnover especially in the Attorney classification. Last year, 14 attorneys, with an average of 11.5 years experience, left my Office. Several high-performing felony prosecutors were recruited to join other prosecution offices, which provide higher compensation, student loan repayment, and a less stressful workload. We continue to lose some of our most experienced prosecutors to retirement at a time when their experience is vital to the training of much younger and less experienced prosecution staff. One element of my ability to make my fair share of budget cuts is that this Office must hold prosecutor positions vacant. This means that the caseloads of felony prosecutors will increase. Accordingly, the time it takes to dispose of cases will be significantly extended. This will directly impact the criminal

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justice system especially for those defendants housed at the jail.

Meanwhile, funding for external training for mid-level prosecutors also has been cut; thus, we will have no choice but to assign inexperienced and under-trained prosecutors to handle some of the most serious felonies. In 2005, there were a total of 37 prosecutors or 54.4% of all prosecutors with less than five years experience. Today, there are 53 prosecutors or 64% with five years or less of experience. During the same time period, the number of attorneys with 11-15 years experience was reduced by 50%. This is not good for the criminal justice system, but it appears to be necessary, on a temporary basis, during this fiscal emergency. This too will cause an impact to the rest of the criminal justice system especially at the jail.

The high turnover rate of attorneys is illustrative of an employee issue that you are keenly aware of -- compensation and benefits. Our employees struggle to make ends meet with many employees seeking other employment opportunities and many seeking permission for outside employment. This is not a healthy situation for my employees. I am deeply concerned about the challenges they face. Further budget reductions, whether in the general fund or grants, will have a significantly deleterious effect on my Office; further budget reductions will severely and negatively impact the criminal justice system and the PCAO's ability to pursue its fundamental core mission – to protect the public safety.

Similar to most service-oriented operations, the vast majority of funding the PCAO receives is directly allocated to personnel. The nature of the PCAO's work requires highly trained and experienced personnel. The talented men and women of this Office are crucial to the success of this Office as we endeavor to protect the safety of this community. We cannot continue our work without adequate and appropriately compensated personnel.

My Office continues to experience reductions, primarily in state revenues, that historically have funded some of the Office's critical, core functions. I have been able to offset some of these reductions with short-term ARRA funding and other new federal grants. My ongoing success in securing federal and state funds has, for many years, relieved a large portion of the need for allocations from the general fund. However, although I continue to seek alternative funding and to explore all available alternatives, I sincerely doubt that these alternative sources of revenue will continue, and certainly not at the level they have been in the past. As illustrated in my five-year forecast, many significant federally funded grant programs are scheduled to expire over the next several years.

I am particularly pleased with the *U.S. Department of Health & Human Resources* and the *U.S. Department of Justice* grant awarded to Pima County, which my Office oversees, for the *Drug Treatment Alternative to Prison* (DTAP) program. This grant will

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provide more than \$1 million, over the course of three years, for the first DTAP program in Arizona. Pima County's grant is one of 28 in the nation and the only project of this type to be funded in Arizona. Unfortunately, the state's current correction funding priorities leave prosecutors and judges with no other sentencing option besides prison for repetitive drug possession offenders. There has been little to no funding for residential in-patient treatment in lieu of prison, even for non-violent, non-dangerous drug addicts. To tackle this issue head-on, I convened a DTAP Task Force in October 2009, comprised of representatives from the criminal justice and corrections communities, along with drug treatment providers and social service agencies. The Task Force explored the possibility of adding a DTAP component to the Pima County Drug Court and obtaining the funding for it. The goals of the DTAP are that low level offenders can be treated while out of jail and that recidivism will be reduced.

My previous budgets, including the supplemental budget requests submitted for the current fiscal year, are still necessary for the effective operation of my constitutionally mandated duties, even more so during such a severe economic downturn when we will experience a significant increase in the crime rate. In order to effectively meet these demands, we continue to be mindful of the need to focus and work on our long-term goals and strategic development to better position our Office to protect and serve our community once the current financial crisis ends.

I know that you were shocked, stunned, and deeply saddened as I was by the horrific and senseless violence that occurred on January 8th. Dedicated, committed public servants, honest caring citizens, and a young innocent child were brutally attacked and cold-bloodedly murdered in an unspeakably evil and despicable act that has impacted and reverberated throughout our entire community. I am tremendously proud of, and grateful for, the outstanding work and consummate professionalism of our prosecutors, victim advocates, detectives, and community volunteers who were at the scene and at the various hospitals where victims were treated. The value of their contributions cannot be overstated. They all quietly and effectively did their jobs exceedingly well. Within 45 minutes of receiving the call, Victim Services Director Kent Burbank, along with Advocates Vanessa Helms and James Gierke, organized 30+ staff and volunteers to respond to the crime scene and assist the victims and witnesses. The speed with which the Victim Services Division deployed teams to five separate locations – all the hospitals and the crime scene – was astonishing. They compassionately attended to the witnesses, to victims, and their families. Two command posts were immediately set up: one at the crime scene, the other at UMC. They responded to four different hospitals, conducted critical incident debriefings at the crime scene with witnesses, with Safeway employees, and with victims, and delivered exceedingly difficult death notifications to the families of the murdered victims. They were active participants all day and into the evening, and then met again and worked with the first responders on Sunday, January 9th. Our Victim Services Division operates a group of citizen advocate volunteers who also played an enormously important role during this tragic event. These

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are the men and women of our community who gave generously, without any remuneration or reward, of their time, their energy, and their hearts to be of help to those who most needed it in a time of extreme crisis. We would be unable to provide the kind of assistance to this community that was offered without their dedicated volunteer assistance.

On January 26th, I submitted to the Office for Victims of Crime (OVC), Office of Justice Programs, a proposal for funding under the *Anti-Terrorism and Emergency Assistance Program*. The mass shooting event will have far-reaching consequences, affecting not only those who were directly victimized, but also witnesses and family members who will be actively involved in the legal process as cases progress through the criminal justice system. This type of involvement is not only emotionally demanding, but can take a financial toll on victims and their families. The primary focus of the proposal is to secure federal funding to assist the victims both emotionally and financially, as well as to coordinate the compensation efforts and funding being made available by our community. On February 3rd, the OVC authorized the Pima County Attorney's Office to formally submit a grant application, which is currently being finalized. A portion of the grant application is included within my proposed budget for FY 11/12.

The foundation of the budget reflects the amazing contributions and accomplishments attributable to the dedicated and hardworking employees of this Office. Attached is a brief list of significant accomplishments for the past year that demonstrate the judicious use of limited financial resources while emphasizing the revenues and cost savings generated for Pima County.

With the ongoing commitment and support provided to the PCAO by the Board of Supervisors and County Administration, we continue to be the very best prosecuting office in Arizona and across the country. While we are efficient and provide a variety of quality services, I am concerned about our ability to maintain these services if additional reductions occur to our budget, or if my Office is asked to sustain these current reductions over the long haul.

The gains achieved by the PCAO during my tenure are greatly threatened by factors such as increasing county population and increasing rates of violent crimes and property crimes. (See the attached list of Significant Accomplishments for FY 2010-2011.)

My FY 2011/12 budget request is the bare minimum of what is needed to respond to the work inputs that are key drivers of what this Office is mandated to produce. I reiterate that it is only in recognition of the present fiscal crisis that I submit a budget cut as deep as this one.

I remain committed to fiscal responsibility. I am proud of my record of running an

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efficient office and coming in under-budget every year. I am also proud that more than one-third of my budget is brought in through grants and special revenues, significantly easing the burden on the general fund and the taxpayers. I will do my best to maintain that record. I hope that in the coming years, once our economy is back on track, my Office will not only be restored to its previous funding level, but that the necessary supplements will be provided.

Thank you for your consideration.

Attachment

XC: Honorable Chair and Members, Pima County Board of Supervisors