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MEMORANDUM

TO: C.H. Huckelberry
Pima County Administrator

CC: Honorable Chair and Members
Pima County Board of Supervisors

FROM: Barbara LaWall *BL*
Pima County Attorney

DATE: January 13, 2020

RE: FY 2020/21 Proposed Budget

I hereby submit the Fiscal Year 2020/21 proposed budget which is my final budget submission for the Pima County Attorney's Office. After more than four decades as a prosecutor, and nearly twenty-four years as the elected County Attorney, I will retire at the end of my 6th term on December 31, 2020.

First, I want to acknowledge all the dedicated women and men in my Office with whom I have worked over the years. Working for more than four decades alongside an incredibly talented group of professionals, including all of law enforcement, to deliver justice to the people of Pima County has been a richly rewarding experience. I feel very privileged to have been a part of such an incredibly committed and dedicated team.

I am extremely proud of the many innovative crime prevention, diversion, and public outreach programs we have created and implemented. Fighting for justice for victims of crime, being the voice for the vulnerable and voiceless, pursuing an unwavering commitment to public safety by holding accountable those who commit crimes and harm, threaten, and endanger others, while simultaneously being fiscally responsible and saving the County significant dollars are the hallmarks of my time in this Office. I am profoundly proud of my legacy.

I have had the privilege of working with many diverse members of the Board of Supervisors over the years and our combined actions working together and the support they have shown has benefited those we strive to serve each and every day. We have pursued and funded those initiatives that improve the health and safety of this community. Knowing our County Administrator's willingness to listen, explore, and fund resources necessary to implement change also provides for open discussion necessary to effectuate such change.

Our combined creativity and willingness to work through funding and operational issues demonstrates our collective commitment to the people of Pima County.

In developing my proposed FY 2020/21 budget, I have identified the resources necessary to continue to achieve the mission of my Office, which is to pursue justice, prosecute criminals, and protect this community. To achieve this mission, we provide services to victims of crime, protect the safety of those victims and the community at large by prosecuting those who have committed crimes that harm and endanger them – targeting for prison sentences those who are violent and dangerous, as well as repetitive, chronic, and habitual offenders.

We have successfully sought and funded new and innovative alternatives to incarceration for others with significant non-general fund grant monies, including treatment for those who are mentally ill and drug addicted. We also provide outstanding highly cost-effective civil legal services to enhance ethical, effective, and efficient county government.

Collaborative efforts with local, state and federal law enforcement, courts, and county administration over the past several years have reinforced the culture of ongoing and continuous improvement and the importance of embracing and implementing innovations in our criminal justice system.

Criminal Justice Reform Measures

Criminal Justice Reform measures are at the forefront both nationally and locally. I take great pride in the fact that my Office has been a leader locally, statewide and nationally in criminal justice reform for decades. I have been sought out as a leader and trainer to present on our leading edge criminal justice programs both statewide and nationally.

Under my leadership, this Office has originated, created and implemented numerous innovative and creative criminal justice improvements, including the first Pima County Drug Court, the Bad Check Program, the Drug Treatment Alternative to Prison Program (DTAP), the Community Justice Board Program, the SMART Program, the CARGO and Lock-Up-Your-Gun Program, the Arizona Amber Alert, the Safe Baby Haven, the Courthouse Dog program, as well as numerous Adult and Misdemeanor Diversion Programs. We continue to regularly suggest, promote, and implement significant innovative criminal justice improvements.

My budget transmittal last January detailed six separate Alternatives to Incarceration Programs including: Drug Treatment Alternative to Prison

(DTAP), Misdemeanor Adult Diversion, Bad Check Program, Felony Drug Diversion, Community Justice Boards, and Juvenile Diversion. Each year these programs grow both in terms of the number of program participants as well as increasing the rates of successful diversion from prosecution. For example, the latest Community Justice Board was started just a few months ago, in October 2019 to serve the Vail community. It will provide numerous first-time juvenile offenders living in the Vail and surrounding area with the opportunity to utilize our restorative justice program and be diverted from prosecution.

Many of my Office's innovations and reforms in the criminal justice system stem from our vision of continuously seeking improvement. We always take the initiative whenever we create programs to seek additional funding through grant applications. I have highlighted several of our ongoing programs that divert hundreds of offenders from prosecution.

From July 2014 through December 2019, our numerous adult diversion programs processed a total of 5,809 new cases involving 5,584 new referrals, with 4,758 successful completions having a success rate of 88%, thus significantly reducing prosecution, defense and court costs throughout the criminal justice system.

Felony Diversion and Drug Diversion Program

This program is designed to handle first-time, diversion-eligible defendants charged with a non-drug felony or felony drug (non-trafficking) offense.

Domestic Violence Diversion Program

This program is diverts first-time, diversion-eligible defendants cited for a domestic violence misdemeanor offense.

Re-Offender Diversion Program

This program is designed to handle diversion-eligible defendants cited for a second misdemeanor offense.

Alcohol Diversion Program

This program diverts first-time, diversion-eligible defendants cited for misdemeanor alcohol offenses.

Marijuana and Paraphernalia Diversion Program

This program diverts first-time, diversion-eligible defendants cited for misdemeanor charges involving possession of marijuana or possession of drug paraphernalia for personal use. Defendants are referred to Community Bridges, Inc., a community service provider specializing in behavioral health and substance use treatment. CBI screens the defendants for a substance use disorder, determines an appropriate drug intervention plan, and monitors their progress and report back to the diversion office.

University of Arizona Student Diversion Program

This program works closely with The University of Arizona Dean of Students Office. It handles those University of Arizona students who are cited by the University Police Department for certain misdemeanor offenses. The UA Dean of Students Office determines the appropriate intervention plan, monitors the student's progress, and reports back to the PCAO diversion office.

Tobacco Retailer Diversion Program

This program works in conjunction with the Pima County Health Department's Tobacco and Chronic Disease Prevention program. It handles first-time offenders cited for selling tobacco to minors.

Law Enforcement Deflection Programs

The Pima County Attorney's Office supports both the Tucson Police and the Pima County Sheriff's Department's mental health and substance abuse deflection programs. Law enforcement deflection programs direct arrested individuals to appropriate care and intervention while being processed through the criminal justice system. Supporting these innovative criminal justice reform programs helps maintain public safety, while also providing treatment to those affected by mental illness or addiction and helps them get their lives back on track.

Individuals charged with drug possession can avoid prosecution all together. As the county's prosecutor, I have the discretion to divert those defendants suffering from substance abuse disorder who do not pose any public safety threat to treatment through Drug Court, DTAP, and Drug Diversion. We exercise our legal discretion to the maximum extent possible to refrain from incarcerating those who are substance-addicted who would benefit from treatment and rehabilitation. These are highly unique prosecution efforts, not replicated in most other Arizona prosecutors' offices.

The Pima County Attorney's Office has transcended the walls of the courtroom by collaborating with numerous social service agencies, acting as a problem-solver, exploring innovative strategies in addition to protecting public safety and serving victims. I recognize my dual role as one that responds to crime effectively, both inside and outside the courtroom.

My office has always been an agent of change in the criminal justice system. Not only are we efficient and effective in case processing and disposition, but also in crime prevention and in addressing gaps in services assisting those eligible defendants to succeed in diversion from prosecution. We are a highly unique Arizona prosecution office, consistently, collaboratively and

continuously working with all parties in the criminal justice to improve processes, procedures and to implement innovative and creative programs.

Budget Challenges This Year

As we enter 2020, funding of two important grant programs will end. The outstanding results they produce warrant continuation and funding from the general fund. While more budget reductions may be on the horizon, it is critically important to discuss the benefits and negative impacts should these programs not be funded. As such, I am submitting a supplemental package for the two grant-funded programs which I will present in the Supplemental Budget Request section.

I continue to monitor our ongoing special revenue programs which experience fluctuating revenues. These include: Anti-Racketeering Fund (ARF), Criminal Justice Enhancement Fund (CJEF), and Fill the Gap (FTG). ARF revenue has been steadily declining, somewhat, in response to the reduced number of forfeiture-related cases presented by law enforcement. CJEF revenue, distributed by statutory formula, is revenue based on statewide fines, fees, and court collections which also is declining. Similarly, FTG appropriations are tied to the steadily decreasing fines, fees, and surcharge revenues deposited statewide in the Criminal Justice Enhancement Fund (CJEF).

More than 92% of my Office's General Fund Budget is allocated to personnel, with the remaining 8% allocated to supplies and services. While that ratio may be appropriate, the overall amount of staffing in my Office's budget remains sorely inadequate. Historically, over the past two and half decades, I have been very successful in obtaining federal and state grants to supplement the Pima County General Fund appropriation for my budget, thus enabling my Office to provide critical resources to the community at little or no cost to the County.

These grants have provided additional personnel, not only in support of criminal prosecution, but also providing crime victim services and community collaboration programs which support various diversion programs. The loss and reduction of these grants, the significant reduction in special revenues, increased operational expenses, and the proliferation of extraordinarily overwhelming evidence contained in a variety of digital formats produced by law enforcement pose significant challenges and imminent threats to my ability to maintain the necessary level of victim services for our community and to achieve systemic efficiency in the prosecution function.

Last fiscal year, in response to concerns regarding Attorney starting salaries, the County Administrator and Human Resources Department increased the starting pay of attorneys from approximately \$58,000 to \$63,000 annually. I continue to support ongoing salary surveys of the various legal classifications utilized throughout Pima County, ensuring that we are competitive in

retaining and attracting employees.

Our offices in the Legal Services Building, constructed more than fifty years ago in 1967, requires some important long-term capital improvement projects (CIP). We understand future CIP projects include window resealing to address heating/cooling issues, along with leakage/water damage that often occurs during rain storms. Proceeding with modifications to the 14th and 15th floors will address overcrowding on some floors as well as provide an opportunity to later resume the abatement program on remaining floors in the building.

Over the last decade, I have reduced my Office's General Fund supplies and services budget *and completely eliminated the capital budget* to accommodate the dramatic budget cuts that had to be implemented during the Great Recession. The elimination of then-vacant positions that was necessary to absorb various cost increases has severely strained my staff, and there is no ability to further reduce my Office's General Fund budget to absorb any additional cost increases.

Nevertheless, operational expenses continue to increase. With the loss of grants, declining special revenues, and increased demands for services, my Office is not in a position to absorb any additional expenses, and it is necessary that I submit three supplemental budget requests. The office functions and services that we provide to the community are varied and complex requiring a highly skilled, knowledgeable, and large labor force. While technology is generally viewed as a means to achieve efficiency, it comes with a cost: more human capital as the demands and expectations for more data must be processed at increasing speed.

Supplemental Budget Requests

The Need for Legal Process Support Body Worn Camera/Media Redactors

The Pima County Attorney's Office has experienced improvements in the review, redaction, and disclosure of body worn cameras (BWC) footage along with other various types of felony media disclosure since the previous year. The improvements are due to our internal operational changes and our efforts to implement the Administrative Order with the Courts and Defense Attorneys regarding BWC footage disclosure.

Looking at our internal operations, changes were implemented resulting in an increase in the amount of BWC footage disclosed every month by the Legal Process Support (LPS) positions assigned to redactions via an overnight batch production of all the BWC footage that was reviewed and rendered during the workday. The four additional LPS positions approved by the Board of Supervisors were also hired to assist in the redaction and disclosure of BWC footage, as well as all the other various types of media, including photo, audio,

video, and cell phone UFED. Additionally, Paralegals were also assigned to upload the media on CDs to the respective cases in order to aid in the redacting process.

My staff, working with the Courts and Defense Services, obtained Administrative Order No. 2018-29 whereby on certain felony cases, defense attorneys would receive un-redacted BWC footage to review. The Administrative Order recognizes the increasing use of BWC technology, and sensitive to the impact of disclosure of BWC evidence impacting criminal case management, saved the county hundreds of hours of reviewing/redacting time every month and shortened the process of disclosure for a limited set of criminal cases.

The overall productivity of BWC related media disclosure has increased by 63.3% between November 2018 and 2019 accounting for all the operational improvements. In numerical terms, *roughly 400 additional hours of BWC footage is being disclosed each month* when compared to last year's operations. The increase of four redacting LPS positions in addition to the existing redacting LPS positions made a significant impact not only in performance but in office morale as well.

Redactors Media Times Breakdown

Redacting Legal Process Support positions are the primary staff utilized for reviewing, redacting, and disclosing BWC footage, along with other types of media, for felony cases. These positions are provided specific software, training, and taught the skills necessary to perform redactions on BWC footage for criminal case processing. As such, most of their workday, if not all, is devoted entirely to redacting BWC footage for the thousands of criminal cases presented by law enforcement. Approximately 640 hours (~80%) of their time and work effort is devoted to reviewing and redacting body worn camera footage, far exceeding the level of effort required for the other types of media evidence.

JAG BWC Grant Overview

The Body Worn Camera Policy and Implementation program (BWC-PIP) from the U.S. Department of Justice – Office of Justice Programs provides funding to limited public agencies (*i.e.*, states, units of local government) that perform - criminal justice functions. The BWC-PIP, funded under the 2017 Department of Justice Appropriations Act (P.L. 115-31), supported the implementation of body worn camera programs in law enforcement agencies across the country, including the City of Tucson.

The intent of the program is to help agencies develop, implement, and evaluate a BWC program as one tool in a law enforcement agency's comprehensive problem-solving approach to enhance officer safety and build community

trust. Elements of such an approach include: implementation of a BWC program developed in a planned and phased approach; collaboration that leverages partnerships with cross-agency criminal justice stakeholders, including prosecutors and advocacy organizations and implement appropriate privacy policies; implementation of operational procedures and tracking mechanisms; and training of officers, administrators, and associated agencies requiring access to digital multimedia evidence.

The City of Tucson JAG Grant award included funding for the Pima County Attorney's Office of \$140,940 to support the salary and employee-related expenses for up to two full time LPS positons. In response to the grant award, two newly created LPS redactor positions were approved with funding for the past two years, necessary to assist in addressing the work demands associated with the City's implementation of utilizing BWC. The grant was awarded 09/01/18 and has been extended thru 09/30/20. The Grantor approved a one-year extension for PCAO's carryover amount of \$55,006.07, which will be 100% expended by pay period ending 06/06/2020. The office of Justice Programs (OJP) has informed the City of Tucson that no additional funds will be made available when the current funds are exhausted in June 2020.

Effects of losing two Redactors

As the JAG BWC Grant funding reaches the end of its term, PCAO is requesting general fund support for the two occupied redacting LPS positions. Failure to fund these two positions will have a significant negative impact on office operations as the current number of redacting LPS positions, combined with increaseing BWC footage, continue as a bottleneck in operations effecting mandated evidence disclosure and processing of criminal cases.

While improvements in disclosure have been made, the amount of media, including BWC footage requiring redaction and disclosure, continues to increase, ultimately requiring the balance of the remaining LPS positions to work overtime in order to meet case/court deadlines. This is not only bad for morale, but significantly our ability to retain LPS positions and adversely impacts the budget as well.

Attached is a graph depicting the effects that losing the two JAG-funded LPS redactors will have on the performance of the office and ultimately the processing of criminal cases. Holding all other external factors constant, approximately 150 hours (~18%) of un-redacted media will fail to be reviewed, redacted, and disclosed each month. Failure to provide continuation of funding will add more strain to the operations in the Criminal Division of the Office and cause further delay in disclosure of time sensitive media. This would be in addition to the monthly average of approximately 2,000 hours backlog of BWC footage yet to be reviewed and redacted.

Furthermore, the impact of losing two redactors will have a financial impact on operations. For example, the hours of overtime required to address the 150 hour review/redaction gap each month, assuming external variables remain constant, will be equivalent to the salaries of three redactors. Without benefits, the annual salary of one redacting Legal Process Support is \$30,400. However, on average, we currently have a 2,000 hour backlog of BWC footage even with the two grant-funded redactors.

One anticipates that failure to continue the funding would compound monthly the backlog of BWC footage to be reviewed and redacted. It would cost \$91,200 of overtime to make up the time, causing an increased cost of \$30,400 just to maintain operations. Operationally, the LPS redactors are viewing, reviewing, and editing disclosure eight hours a day and extending their work day through overtime. This is simply not a reasonable, reliable nor accurate solution. Assigning the workload to other classifications would be burdensome and an inefficient and a more expensive response of addressing this time-consuming process.

Conclusion

Reviewing, redacting, and disclosure of body worn camera data, along with other types of media disclosure continue to be a major workload and processing issue for PCAO. Almost every Law Enforcement Agency has equipped their officers with Body Worn Cameras.

As Pima County continues to increase in population size, so too does the need for law enforcement agencies to increase the number of officers. Doing so causes a dramatic increase in Body Worn Camera footage collected as evidence for all the crime occurring within the county.

In order to maintain the current performance improvements of disclosing media in PCAO's Criminal Division, we request general fund support to pay the salaries and employee-related expenses for the two current redacting LPS positions, previously funded by the JAG BWC grant. The amount requested is \$83,856.

Victim Advocates for High Risk DV Victims

Risk Assessment Management and Prevention Program (RAMP)

Last year, we were very successful in obtaining short-term bridge funding from a private funder to address and supplement the partial funding of two Victim Advocate positions for one year. This funding is going away.

The Risk Assessment, Management, and Prevention Program (RAMP) focus is on addressing intimate partner violence early in the cycle of violence before it becomes life threatening. Sustained longer-term funding is necessary to

continue providing services with our partner, Emerge Center Against Domestic Abuse as we have been informed by the private funder that the current award ending June 2020 will no longer be funded.

The goal and objective of this supplemental package is to ensure that we will be able to retain two Victim Advocate positions necessary to provide important services to crime victims in Pima County, specifically domestic violence and strangulation victims and to add a third Volunteer Coordinator/Victim Advocate.

These advocates will continue to complete telephonic follow-up supportive services to elevated and high-risk victims of lethality identified through the APR AIS screening tool. They will also provide support and assistance to victims in the specialized Domestic Violence Court in the Pima County Consolidated Justice Court as many of the same victims identified through APR AIS will be moving through that court system.

One additional volunteer coordinator (Volunteer Coordinator/Advocate): This advocate will expand our volunteer coverage and ensure we are leveraging as many resources as possible. Being able to recruit, train, and supervise more volunteers provides another layer of assurance that victims in Pima County can receive support at any time day or night. This includes having volunteer support at the Initial Appearance Court that occurs at 8pm (outside of regular business hours).

All above advocates would provide additional support for hospital advocacy response for victims of strangulation. This is important as one hospital strangulation call can take an advocate out of the office for an entire day. These additional advocate positions would then allow the Division to be responsive to both hospital calls as well as calls for crimes throughout the community.

The County Attorney's Office leverages the county funding allocated to our Victim Services Program by utilizing more than 125 highly-trained volunteer victim advocates in both court and crisis settings. For every staff victim advocate, we have four or more volunteers. Through a well-orchestrated scheduling operation, we provide staff back-up for all volunteer shifts, thereby ensuring that all calls for service can be responded to in a timely fashion.

There have been additional protocols and projects recently established throughout Pima County that have increased the work load of our already inundated staff and volunteer advocates. Therefore, we are requesting funding for three additional staff advocate positions to meet the demands and continue to provide a high level of crucial services to crime victims in our community. Funding for two of these staff advocates is being sought due to the conclusion of grant funding that has been supporting those positions for the past two

fiscal years. Funding for the third of these staff advocates is to add a full-time volunteer coordinator to enable us to expand and increase the number of volunteer advocates we employ, thereby to exponentially augment the resources provided by the county's general fund.

In April 2018, a county-wide protocol, and subsequently an Arizona Supreme Court Rule, was established in which all law enforcement agencies now administer a domestic violence risk assessment screening tool called the Arizona Intimate Partner Risk Assessment Instrument System (APRAIS). The protocol requires that if the domestic violence victim screens in at an elevated or high risk, Victim Services advocates are called to respond to the scene and provide support, information, and resources to the victim. Advocates are also called upon to provide telephonic follow-up services to victims if no contact was made on scene.

In 2019, grant funding was provided to law enforcement agencies to approve and request forensic strangulation exams for victims of domestic violence. Strangulation is a highly lethal form of domestic violence and victims are at risk of death for hours and even days following the strangulation.

Strangulation exams are crucial for the safety and well-being of victims and for collecting important forensic evidence to hold offenders accountable. However, this also requires victim support during the hours-long process in which a victim is receiving services at the hospital by medical staff and forensic nurses. As there are no other agencies in town that have this type of hospital response advocacy available to domestic violence victims, the obligation and duty falls to the staff and volunteer victim advocates of the Victim Services Division.

The County Attorney's Office stretches the county funding and leverages staff resources allocated to our Victim Services Program, as mentioned above, with the use of hundreds of volunteers, and by seeking and obtaining as much grant funding as possible to pay for staff victim advocates. For example, we were successful in obtaining limited short-term bridge funding for two Victim Advocate positions during the past and current fiscal years as part of a coalition in which our Office has taken the lead and is collaborating with Emerge Center Against Domestic Abuse as well as with the Tucson Police Department, Pima County Sheriff's Department, and Southern Arizona Legal Aid to reduce the lethality, harm, and incidence of domestic violence cases in Pima County. This private grant funding will not be extended beyond June 2020, however. As a result, we will no longer have the necessary funding to support the two advocates who have, for the first 18 months of this protocol, provided crucial follow-up services to almost 2,000 victims of domestic violence who are at increased risk of injury or death.

The increase in the number of victims and the subsequent necessary services from the Victim Services Division, has highlighted the need for more volunteers. However, we have reached the maximum administrative capacity for our current volunteer coordinators, who are also Victim Advocates. While the Victim Services Division needs more volunteers in order to meet the ever-growing needs of crime victims in the community, our current volunteer coordinators are at capacity and unable to provide continuing training, supervision, and mentoring for more volunteers. Providing funding for an additional Victim Advocate to function as a volunteer coordinator/advocate would provide the necessary staff to help the division grow our volunteer program and train and monitor additional volunteer resources to ensure more victims can access services.

Funding for these two staff advocates and the volunteer coordinator/advocate will allow us to better serve the needs of victims of domestic violence who are determined by the statistically-validated APRAIS risk assessment to be at elevated or high risk for subsequent assault that would likely lead to serious physical injury or death.

We have an additional need for funding relating to serving victims of domestic violence, which we are not seeking supplemental funding in this year's budget, but which we provide notice that we may seek funding in the future.

Both the Pima County Sheriff's Office and the Tucson Police Department now have projects in which they identify certain domestic violence (DV) cases where the defendant at Initial Appearance was ordered to have no contact with the victim. Law enforcement officers in person go to the victim's residence to engage with the victim, check on his/her well-being, and ensure the defendant is in compliance with the no contact court order.

Should the defendant be out of compliance and at the victim's residence, the defendant is subsequently arrested, and new charges are added. Law enforcement officers utilize the Victim Services Division to provide in-person services at the crime scene, and in-person, and telephonic follow-up services to these victims to ensure they have the assistance and information they need to feel safe and supported during this time.

Our plan is to extend this type of victim outreach not only to ensure compliance of the defendants but also to keep victims engaged in the criminal justice system. A disturbing 60% or more of cases brought before the specialized misdemeanor DV Court in Pima County are dismissed primarily due to lack of a victim's participation and unwillingness to testify against her abuser. Victims often fail to comply with subpoenas to testify, and misdemeanor cases generally lack sufficient evidence to be proven in the absence of such testimony.

We believe that having advocates complete home visit outreach, alongside law enforcement, to attempt to engage victims would be extremely beneficial in securing their involvement and thus holding offenders accountable and interrupting the cycle of violence to prevent future assaults.

We have applied for a grant to do just that; however, we were not selected as a recipient, and the need remains. If we receive this year's supplemental funding and are able to hire a new volunteer coordinator, and then recruit and train additional volunteers, we hope to be able to meet this need. If that is not sufficient, we will apply for further grant funding. We may seek additional general fund support for this function in a future budget year only if these efforts to meet the needs of victims prove unsuccessful. The amount requested is \$ 203,088.

Expedited Plea Negotiating Team

This supplemental funding package is to develop an Expedited Plea Negotiation Team to speed up the resolution of felony cases, specifically those cases where defendants remain in jail custody.

Felony cases are issued (either post-arrest or pre-arrest) after law enforcement meets with prosecutors in our Operations Bureau Charging Unit. When the reviewing prosecutors determine that there is sufficient evidence to prove the case beyond a reasonable doubt, a charge is filed. Approximately 60% of all felony cases presented by law enforcement are issued and presented to the Grand Jury for charging. (The remaining 40% are referred for misdemeanor prosecution or declined for prosecution.)

Of those felony cases that are charged and prosecuted, roughly half are negotiated to plea agreements by prosecutors in the Operations Bureau, without ever being assigned to a trial team. If the case is not resolved at the Operations Bureau, the case is then assigned to a felony trial team. However, less than 5% of these cases actually proceed to trial, which means that 45%, of the 50% that do not initially plead, are eventually, usually after a significant time has passed, disposed of by plea. Many of these cases are those within-custody defendants. The failure of cases which are disposed of by a plea to plead within a short time causes Pima County unnecessary expenditures.

We believe that significantly more felony cases might be negotiated to plea agreements far sooner by the prosecutors in our Operations Bureau if there were more prosecutors in that Bureau, so that some of those prosecutors could be assigned to serve as an Expedited Plea Negotiation Team. Currently, we are so short-handed that our issuing attorneys are booked solid all day reviewing and filing cases. They have little or no time to spend on the phone negotiating with defense attorneys. Attorneys assigned to an Expedited Plea Negotiation

Team would spend a substantial portion of their time actively involved in negotiating plea agreements in person or by telephone with defense counsel.

Six years ago, in order to enhance internal efficiency within our office, we consolidated both the issuing/charging function and the case evaluation system (CES) plea negotiation function for most felony cases into a single, centralized unit (called the Charging/CES Unit within our Operations Bureau). Following consolidation into the centralized Charging/CES Unit, 55% of our felony cases have been disposed of via plea agreements without ever having been assigned to a trial team. *Previously, only 34% of our cases had been disposed of via plea agreements before being assigned to a trial team prosecutor.* In other words, the number of felony cases disposed of via CES increased by 62% as a result of the consolidation of the issuing and CES functions into the centralized Operations Bureau.

This enhanced efficiency realized by consolidating our Charging/CES Unit within our Operations Bureau has enabled us to handle a growing caseload without any increase in the number of prosecutors and support staff. There is an opportunity now to enhance efficiency further, not only within our office but throughout the entire criminal justice system, if we can expedite the time to disposition of cases via plea agreements using an Expedited Plea Negotiation Team for CES cases within our Operations Bureau.

As you are aware, the time to disposition of felony cases is a significant cost driver of the criminal justice system. The faster we can negotiate the plea agreement with defense counsel in cases that can be resolved in that fashion, the shorter the time to disposition of the 96% of all felony cases resolved by plea, producing significant cost savings to the criminal justice system. For felony defendants residing in jail custody during the pendency of their cases, the cost savings to the County of expediting the time to disposition and the defendants' release or transfer out of the Jail is even greater.

The Charging/CES Unit presents plea offers to defense counsel in most felony cases at the time of Arraignment (10 days following arrest for in-custody defendants and 20 days following arrest for out-of-custody defendants). We ask that defendants accept the plea at or before the first Case Management Conference (30 days following Arraignment). However, the vast majority of pleas are not entered by the time of the first Case Management Conference.

Unfortunately, the time to disposition of felony cases has been growing. Generally, pleas are not entered until after the second or third Case Management Conference, which is 60 to 90 days following Arraignment. The longer time to disposition of cases means more court hearings and more costs for indigent defense, the courts, and jail costs for in-custody defendants.

We currently have only four prosecutors in the Operations Bureau to handle all issuing/charging and all CES plea negotiations (apart from homicide cases and cases handled by our Special Victims Bureau involving sexual assault, child abuse, and domestic violence). Law enforcement agencies presented our five prosecutors with more than 10,579 felony cases in FY 18-19, of which they issued more than 6,700, almost fully occupying their time with the issuing/charging function, and leaving them precious little time to confer with defense attorneys to complete CES plea negotiations.

Currently, these prosecutors have a collected total of 1,455 open cases as of December 2019, which has doubled since 2015. This dramatic increase in the number of open cases will only continue to increase as we cannot afford to transfer prosecutors from our felony trial teams to the Operations Bureau because the caseloads of felony trial teams remain extremely high

The primary reason for this substantial increase in open cases is that felony prosecutors in our Operations Bureau who handle the CES plea negotiations are the same prosecutors who are booked solid every day with issuing/charging appointments with law enforcement agencies/detectives. They simply have no time to dedicate to the CES function to respond via telephone or in person to defense attorneys who make counter-offers to the original plea offer or who seek to confer regarding case details prior to advising their client whether to accept a pending plea offer. The primary form of communication that CES prosecutors have time to engage in is via email after business hours, which does not lend itself to back-and-forth conversations involving complicated exchanges of information and the type of questions and responses to questions necessary for successful negotiations in many cases.

(Another reason for the delay is that we are backlogged in terms of the time it takes our legal processing support staff to redact body worn camera video which must be disclosed to defense counsel before defense counsel will recommend that their client accept a plea agreement. The need for additional legal processing support staff to address this issue is addressed in another supplemental budget request.)

According to the Superior Court's CACTIS/AGAVE Criminal Case Status Reports for 2019, the average caseload of our felony prosecutors (74.8) is more than double the average felony caseloads of the Public Defender (28.2) and the Legal Defender (27.8).

We have an average of only 46 felony prosecutors handling an average of 3,435 felony cases at a given time. Meanwhile, there are more than twice that number – 79 attorneys – employed by Public Defense Services who are handling 2,214 felony cases at a given time. The remaining approximately

1,200 felony cases that we prosecute are defended by contract attorneys paid for by the County and by privately retained attorneys. One financial consequence of having an inadequate number of felony prosecutors is the inability to expedite early case dispositions. With the number of issuing cases doubling over the course of four years and no increase in the amount of staff to meet the new changes, plea deals cannot be arranged, causing an ethical concern for the approximately 200-300 caseload per prosecutor in the CES unit.

One consequence of having an inadequate number of felony prosecutors is delay in the disposition of cases. For defendants who are in custody in the Pima County Jail while their cases are pending resolution, the delay in the time to disposition of their cases is particularly expensive. As you are undoubtedly aware, a large percentage of the Jail population is made up of felony pre-trial detainees.

Adding prosecutors to our Felony Charging Unit should facilitate expediting resolution of the pending felony cases and should result in savings at the Jail and in other parts of the criminal justice system that would offset the personnel costs incurred. The estimated cost is \$252,567 in supplemental funding to provide us with two additional prosecutors and two additional support staff positions, plus associated supplies and services to add to our Operations Bureau to focus upon the CES plea negotiation function. We anticipate the entire cost for these positions will be offset by savings through significantly reduced jail bed days of pre-trial felony defendants.

Indeed, I estimate the savings just for Jail bed days will be on the order of \$480,000 or more. (This does not include other savings that would be realized as a result of expediting case disposition.). This rough estimate of cost savings is calculated as follows:

Review of available disposition data for the past fiscal year, below, reflects the approximate percentages of defendants entering a plea agreement following the number of days since their felony Arraignment:

30 days or less 3%
31-60 days 10%
61-100 days 32%
101-140 days 21%
More than 140 days 46%

Generally, there is a Case Management Conference 30 days following Arraignment. If the plea is not entered by the time of the first Case Management Conference, typically there is another Case Management Conference scheduled 60 days following Arraignment, and so on. So, cases

generally reach plea agreements at 30 day intervals.

Jail bed days for pre-trial felony defendants is approximately \$100 per day or \$3,000 per person every 30 days. Each felony case that reaches entry of the Plea Agreement 30 days earlier would save approximately \$3,000 in Jail costs (not including transportation costs and other criminal justice system costs for the court, prosecution, and indigent defense counsel).

The Sheriff's Department produces a weekly snapshot of the Jail population. Comparing the number of felony pre-trial detainees on that snapshot (1,322 as of December 27, 2018) to the number of felony cases pending on the report produced by the Superior Court (3,196 as of January 1, 2019), one can see that approximately 40% of all felony defendants with cases pending in Pima County are being held in Jail custody.

On an annual basis (not a snapshot), we charged approximately 6,700 felony cases - 40% of that number is 2,680. We estimate that there were roughly 2,680 felony defendants in jail custody last year while their cases were pending.

If we can more quickly process just 20% of our felony cases involving in-custody defendants (448 cases), getting them to disposition just 30 days earlier, we estimate we can save \$1,344,000 in jail costs alone. Expediting the cases of 160 felony inmates at \$3,000 in Jail costs for the month would yield a savings of \$480,000 per year.

Adding two prosecutors and two support staff to the Operations Bureau to focus upon CES and to serve as an Expedited Plea Negotiation Team is anticipated to result in the ability to plead 160 felony cases or more 30 days earlier, for a cost savings of at least \$480,000 in jail expenses. This does not include cost savings that will ripple throughout the criminal justice system by reducing the time to disposition. The amount requested is \$252,567.

Overall Budget Situation

As Pima County Attorney, my primary mission is to keep this community safe by holding criminals accountable, helping victims of crime, preventing crime, and protecting the community. I consider the Pima County Attorney's Office an out-of-the-box criminal justice reform agency and have taken risks in creating new and innovative programs. While cost benefit analysis is always a consideration, it cannot override public safety or protection of victims.

My ability to successfully adjust and realign operations based on ever-changing demands is reflected in the many significant accomplishments achieved by my Office. Challenging this progress is the unduly high caseloads carried by our felony prosecutors currently averaging more than 74 cases per

attorney. This compares with an average public defender caseload of 28 cases and legal defender caseload of 28 cases per attorney at any point in time.

Economic indicators continue to reflect a positive outlook for our financial future, and we must continue, above all, to focus on our employees who have worked hard over the past several years while struggling with financial hardships. The employee compensation plan adopted by the Board of Supervisors and implemented this fiscal year is well deserved for all hard-working county employees.

Unfortunately, many employees, desperate for an increase in income are tempted to leave and do so in response to overwhelming and burdensome workloads, as well as reduced staff levels associated with the overall loss of funding and our inability to hire skilled and experienced replacement staff. In particular, felony attorney caseloads are still unacceptably high, and challenges in hiring skilled and experienced support staff, as a result of turnover, is a constant challenge to my Office's ability to implement even more efficient measures that would benefit the criminal justice system.

I encourage you and the Board to continue to address employee compensation during the development of the FY 2020/21 budget. Ongoing failure to increase compensation for our employees to market levels is occurring, we are falling behind and this will undoubtedly continue to result in the loss of more of our highly skilled and most talented employees.

Similar to most service-oriented operations, the vast majority of funding my Office receives is directly allocated to personnel. The nature of the work we do requires highly trained, skilled and experienced employees. Talented and experienced men and women are crucial to the success of this Office as we work to protect and serve the community. We cannot continue to succeed in this work without adequate, appropriately compensated, and well-trained personnel.

The foundation of my Office budget reflects the amazing contributions and accomplishments attributed 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 my Office by the Board of Supervisors and County Administration, we continue to be among the very best prosecution and government civil law offices 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 compensation for our employees is not increased.

C.H. Huckelberry
January 13, 2020
Re: FY 2020/21 Proposed Budget
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I am proud of the achievements by my office while fulfilling my mandated Constitutional duties efficiently and effectively, despite recessionary budget cuts, continuing budgetary challenges, while implementing numerous criminal justice reforms that benefit criminal defendants, assist victims, prevent crime, and save taxpayers money.

I am very proud of running an exceptionally efficient office, and thanks to the efforts of my hard working staff, to always come in under-budget. I will do my best to maintain that record and believe funding the supplemental budget request is best for our community and this office.

Attachment