

**CITY ATTORNEY'S OFFICE
ANNUAL REPORT
July 1, 2023 – June 10, 2024**

Note: As the City's Attorney, I cannot comment publicly on matters in the Annual Report that could arguably waive the attorney-client privilege or otherwise reveal confidential information related to the City's legal position or ongoing litigation. This makes it difficult to fully address the Council on *all* matters related to my performance in a public document. As such, please note that I must limit this report to matters I can publicly address. The following report is further limited only to the legal matters the City Attorney's Office (CAO) handled in-house (we send very few cases and matters to outside counsel for handling).

BUDGET SAVINGS:

I run an efficient organization. In Fiscal Year 23/24, the CAO (comprised of 4 departments) achieved **budget savings of over \$600,000 for the general fund and over \$1.5M for the Risk fund**. This was accomplished by doing more legal work in-house, through vacancy savings (meaning everyone else works harder) and having substantial pretrial litigation success. The savings in the Risk fund is also a direct result of lowering the City's accident/injury rate for the first time since I began my appointment. This was accomplished by engaging a stronger and more proactive Safety and Risk Management leadership team.

In addition to operating as efficiently as possible, I led and supported the CAO, a talented and hard-working team of professionals, in accomplishing the following:

Civil: With only 12 current civil lawyers reporting to me (and 7.5 staff), the Civil Department accomplished the following with its *in-house* staff:

- **52** Total litigation cases defended/prosecuted by internal CAO lawyers (includes 14 condemnation cases; only 1 new litigation case was sent to outside counsel this fiscal year)
- **16** Resolved litigation cases
- **29** Court Hearings
- **24** Depositions taken/defended
- **32** Ordinances drafted
- **240** Resolutions drafted
- **90+** Publicly noticed meetings attended, often after regular business hours
- **300+** Contracts prepared and/or reviewed
- **19,959** Public Records Requests monitored
- **349** Complex Public Records Requests handled by the CAO

Prosecution: With only 11 current Prosecutors reporting up through my chain of command (and 15 staff), the Prosecution Department accomplished the following:

- **14,150** Charges prosecuted (includes long form charges and charges from misdemeanor arrests/citations)
- **6,056** Cases prosecuted (includes 955 DUI cases and 737 Domestic Violence cases)
- **1,225** SPD and other requests for long form complaints received and analyzed for charging decisions (includes 566 complaints filed, 586 turndowns, and 73 pending)
- **100** Jury and bench trials (most cases resolve without a trial)
- **469** Individuals who successfully completed a Diversion Program

Victim Services: With only 5 current Victim Advocates reporting up through my chain of command, the Victim Services Department accomplished the following:

- **25,643** Victim Services notifications and victim advocacy actions performed
- **3,338** Victims assisted during prosecutions

Safety and Risk Management: With only 10 current Safety and Risk Management employees reporting up through my chain of command, the Department accomplished the following:

- **792** Formal claims investigated which includes the following:
 - **197** Notices of Claims demanding a total of \$19,467,775
 - **213** Worker's Compensation injury claims (received)
 - **382** Internal auto and property damage claims
- **105** Off-site Field Investigations (of the 792 formal claims above)
- **183** Worker's Compensation claims closed
- **\$691,674** Subrogation recoveries secured
- **635** Contractual Reviews
 - **335** contract reviews
 - **215** Special event applications
 - **85** Stadium events

AWARDS AND RECOGNITIONS

- Senior Assistant City Prosecutor Ken Flint is receiving the statewide inaugural Arizona Prosecuting Attorney's Advisory Council (APAAC) Misdemeanor Appellate Prosecutor of the Year award.
- Deputy City Attorney Luis Santaella was elected president of the Arizona City Attorney's Association (ACAA). He organized the 2024 Annual City Attorney Conference and presented a training on the State Legislative Process.

CIVIL DEPARTMENT HIGHLIGHTS:

- ***Vacation Rentals*** – Provided extensive support to the Police Department and Code Enforcement on vacation rental and nuisance party enforcement.
- Drafted ***Ordinance No. 4626*** which amended the City’s nuisance party and unlawful gathering ordinance to make it more enforceable through inclusion of promoters and additional authority to the police.
- Drafted ***Ordinance No. 4627*** which made it unlawful to rent vacation rentals to juveniles.
- ***Acquiring property rights for roadway projects*** – The CAO has litigated approximately 16 active cases related to roadway projects, including three major projects that will reduce traffic congestion and street flooding along Scottsdale Road, Pima Road and Happy Valley Road. Six of these active cases have been resolved this year.
- ***Prescription Opioid Litigation*** – The CAO has led and coordinated Scottsdale’s participation in ongoing multidistrict litigation targeting several companies involved in the opioid addiction epidemic. The City has already received more than \$650,000 in settlement funds and should receive more than \$10 million in settlement funds over the next 6-18 years.
- ***Ambulance Program Contracts*** – Drafted contracts needed for the Fire Department’s new ambulance program, including meeting with Fire Department leaders to collaboratively draft back-up agreements with neighboring ambulance providers and a dispatch agreement with Maricopa Ambulance.
- ***Ambulance Program Certificate of Necessity*** – Assisted Scottsdale Fire Department (SFD) in connection with the issuance of a Certificate of Necessity by the Arizona Department of Health Services for SFD to operate a ground ambulance service. These efforts included preparing a contingency transfer for startup costs, negotiating a new Base Hospital Agreement, entering into an EMS Billing Services Contract, and preparing a template Business Associate Agreement to ensure HIPAA compliance between SFD and various partner agencies and third-party vendors.
- ***Fire Department IGAs*** – Assisted Scottsdale Fire Department with entering into IGAs with various agencies to ensure SFD continues to provide the highest level of emergency services to Scottsdale citizens. These IGAs included the 2024 Arizona Mutual Aid Compact, a Mutual Aid Agreement with the Town of Fountain Hills, and a Public Safety Training Agreement with the City of Glendale.
- ***Family Leave Ordinance*** – Drafted Ordinance in S.R.C. 14-91 providing parental leave as it relates to the birth, adoption, or fostering of a child.
- ***Provided training*** to employees in the Human Resources department on recent legal developments in employment law.
- ***Library Policies*** - Assisted the Library with revisions and updates to 5 departmental policies as part of ongoing project to update and revise all existing policies.

- ***Purchasing Contracts*** – Worked with Purchasing to develop a new template for "piggyback" contracts to formalize and streamline procurements from contracts and solicitations issued by other governmental agencies under S.R.C. 2-191. Previously, there were no contract templates or defined processes for such procurements.
- ***Honor Health*** – Assisted Planning in responding to Zoning Ordinance interpretation requests involving properties owned by HonorHealth and Banner Health Arizona, and in defending the Zoning Administrator's responses at a highly contested Board of Adjustment meeting. The BOA affirmed the Zoning Administrator's interpretations.
- ***SPD Virtual Shooting Simulator and Shoot House Facility*** – Assisted Scottsdale Police Department with revising a single source purchase order and contract for a virtual shooting simulator and processing a change order for a live action shoot house in connection with CIP Project Number 27.
- ***Museum of the West*** – Drafted a Construction Agreement and amendments to the Museum of the West Management Agreement connected to the expansion of the Museum of the West.
- ***Protect and Preserve Scottsdale Task Force*** – I personally provided legal advice to this Task Force. In coordination with the Clerk's Office and City Treasurer, the CAO finalized two options for tax ballot measure resolutions for the Council and drafted an ordinance to specify the distribution of revenues from such tax, if approved.
- ***Permanent Base Adjustment*** – Drafted a resolution to ask the voters to approve a permanent base adjustment. The CAO also provided legal advice on many items including the ballot question and a resolution amending the City's financial policies to add an expenditure limitation review policy.
- ***Scottsdale Stadium Phase Two Improvements*** - Drafted a resolution and provided legal advice to authorize Scottsdale Stadium Phase Two Improvements, including a Construction Manager at Risk contract to provide construction services and a general fund contingency transfer for renovations, to be paid from the Tourism Development Fund.
- ***Old Town Scottsdale Character Area Plan*** – Provided legal advice and drafted legal documents to amend the Old Town Scottsdale Character Area Plan including the Old Town development types, Downtown zoning districts, including the ability to grant discretionary bonus provisions and/or bonus development standards.
- ***Headwaters Residential Healthcare Facility Rezoning*** – Provided legal advice and drafted a resolution and ordinance related to the Headwaters Residential Healthcare Facility rezoning, as well as an amended development plan for a new three-story minimal residential healthcare facility and five one-story duplex buildings.
- ***Bellevue I Properties Project-Based Vouchers*** – Provided legal advice and drafted a resolution and contract with the Housing Authority of Maricopa County for the provision of independent entity services for Bellevue I Properties Project-Based Vouchers (PBV) units to perform inspections and rent reasonableness determinations.

- **Core Center** – Provided legal advice and drafted a development agreement and ordinance amending the stipulations, site plan, and development plan for Core Center at the Airport, including the approval of Bonus Development Standards.
- **Partners for Paiute Neighborhood Center** – Provided legal advice and drafted an agreement and resolution with Partners for Paiute Neighborhood Center, to work cooperatively in support of human services programs, social services, and other activities supporting youth, families, and seniors; and recreational, educational, and cultural programming.
- **Scottsdale Community Partners** – Provided legal advice and drafted an agreement and resolution with Scottsdale Community Partners, to work cooperatively in support of human services programs, social services, and other activities supporting youth, families, and seniors.
- **The Parque Rezoning** – Provided legal advice and drafted a development agreement and ordinance approving a rezoning, which included a development plan with bonus development standards on a ±32.29 gross acre site.
- **Cosanti Commons** – Provided legal advice and drafted a development agreement, reviewed and finalized resolutions and ordinances for a general plan amendment, and rezoning including a development plan for a mixed-use development.
- **Optima** – Provided legal advice and drafted an amendment to the Optima development agreement.
- **Arizona Legislature** – Testified multiple times at the Arizona legislature on proposed laws that potentially affected the City of Scottsdale, public safety or the criminal justice system.
- **SB1025** – Helped increase public safety through the enactment of SB1025 which lowers the blood alcohol threshold for DUI of transportation network (Uber, Lyft), taxi, limousine, and livery drivers from .08 to .04.
- **Drafted multi-modal transportation flow chart** for patrol officers. Worked with SPD Traffic Unit to provide legal review and advice for a quick reference guide addressing enforcement of traffic laws related to multi-modal transportation (e-bikes, scooters, motor-driven cycles, etc.).
- **Policy Updates Re: Delayed Bookings** – Worked with SPD to update policies and processes involving delayed bookings of suspects due to post-arrest hospitalization.
- **Policy Updates Re: Mandatory Parental Notification** – Worked with SPD to update policies and processes involving mandatory parental notification when juveniles are taken into custody for certain offenses.
- **New Legal Update Training Process** – Worked with SPD to create virtual training addressing new Arizona laws for 2023. This training reduced officer overtime expenditures and provided officers more flexibility.

- **CLE Training** – Prepared and presented training to the Arizona Law Enforcement Legal Advisors Association pertaining to confidentiality when advising governmental review boards.
- **Provided training** to the Scottsdale Police Department on legal topics such as search and seizure, domestic violence cases, and courtroom testimony.
- **Provided after-hours legal assistance** to the Scottsdale Police Department, including assistance related to significant accidents.
- **Manfredi v. City, et al.** – Plaintiff sued after his vehicle was sideswiped at a high rate of speed by a suspect fleeing from the police. An eyewitness placed Scottsdale police at the scene and involved in the pursuit of the suspect vehicle. The CAO analyzed reports and available data, demonstrated how the Scottsdale Police Department was not involved in the investigation or traffic stop, and quickly secured the dismissal of the City from the lawsuit.
- **Petramala v. COS** –The CAO filed and argued a Motion to Dismiss, which the Court granted with no costs or fees owed by the City.
- **Liberti v. COS** – The litigation team prevailed in federal court – all the way to the U. S. Supreme Court – on this wrongful death civil rights lawsuit stemming from an officer-involved shooting. Plaintiff then sued *again* falsely claiming that the involved officers’ body camera footage was altered. The Superior Court granted the City’s motion to dismiss this second lawsuit. Plaintiff appealed the ruling to the Arizona Court of Appeals, and the court remanded the case back to the trial court on a single claim. The CAO again filed a Motion to Dismiss, and the trial court dismissed the case. Plaintiff has again appealed to the Arizona Court of Appeals, which the CAO is defending.

PROSECUTION HIGHLIGHTS:

- Handled a heavy criminal case load while ensuring justice, protecting the community and supporting victims.
- Prosecutors attended jail court all 365 days this year, including holidays.
- Implemented a pilot lien enforcement program related to unpaid fines by vacation rental owners.
- Successfully supported the prosecution of short-term vacation rental ordinance violations along with nuisance party and unruly gathering ordinance violations.
- Hired and trained two new Assistant City Prosecutors.
- Successfully passed an Arizona Department Public Safety Audit of Arizona Criminal Justice Information System use.
- Prosecuted criminal conflict cases for Maricopa County, Town of Gilbert, City of Phoenix, City of Tempe and La Paz County.

- Continued to provide statewide assistance through the Scottsdale Traffic Resource Prosecutor Program thus enhancing community safety for Scottsdale and statewide.
- Participated in the Mesa Hate Crime Symposium.
- Along with the City Court, implemented a revised community court which focuses on homeless people suffering from mental illness or substance abuse.
- Participated in the Arizona Prosecuting Attorney's Advisory Council (APAAC) governing board as a council member.
- Provided trainings at the APAAC Drug Driving Conference: Cross Examination of Defense Experts; DUI Drug Case Preparation.
- Provided training at the APAAC Advanced DUI conference including on Motion Overview: *From Pleadings to Hearing and Beyond*.
- Provided Scottsdale Police POST Academy Trainings on Domestic Violence.

VICTIM SERVICES HIGHLIGHTS:

- Implemented victim advocate coverage for jail court proceedings on weekends and holidays as a pilot program.
- Guided and supported a large number of crime victims through the criminal justice system, including assisting them with orders of protection, address confidentiality, finding necessary services and asserting restitution claims.
- Victim advocates conducted a charity drive during Domestic Violence Awareness month and participated in various activities such as podcasts with SPD.

SAFETY & RISK MANAGEMENT HIGHLIGHTS:

- ***Injury Reduction*** – In 2023, the Industrial Commission of Arizona recorded the Injury Rate or “Experience Modification Rate” for the City as being the lowest in the past 7 years. The reduction in recorded injuries for the City can be attributed to the many new proactive initiatives implemented by the Safety and Risk Management Department.
- Received a total of **\$19,467,775** in third party liability demands in FY 23/24. The Safety and Risk Management Department has paid a total of **\$147,307** towards settlement of liability claim demands received this fiscal year, which represents **less than 1% (.7%)** of all liability claim demands made against the City this fiscal year.
- A total of **\$1,304,537** in liability claim settlements were made during this fiscal year, which included settlements from pending Notices of Claims received in prior fiscal years.
- Safety and Risk Management has recovered a total of **\$691,674 in subrogation recoveries** this fiscal year, offsetting the amount of payments spent in settling liability claims by approximately half.

- Established the **Injury Review Board**. This Board is tasked with initiating Root-Cause Analysis regarding injury causation for better loss prevention and risk mitigation.
- Provided a weekly **Risk Bulletin** via City-wide communications containing updates and information on topics related to claims, Worker's Compensation, and Safety and Risk Management.
- Promoted the **See Something Say Something** Program throughout the City. To date, 140 employees have reported potential hazards via this program, with 105 being reported in FY 23/24.
- Updated the **Accident Review Board** Administrative Regulation, AR245.
- Processed **610** total first- and third-party claims (liability, property, and vehicle), which includes 31 Auto Liability, 197 General Liability, 242 Physical Damage, and 140 Property Damage claims.
- Held monthly meetings with Police, Fire, Solid Waste, and Water departments to discuss claim trends, safety updates, and risk mitigation practices. These departments represent over 85% of all annual claims generated within the City.
- **Tour De Scottsdale** – In addition to riding the proposed route, working with the Streets, Police, and Special Event departments, Safety and Risk Management played an important role in ensuring the event was incident and claim free, despite this event having over 2700 participants.
- Sourced and implemented the use of a new medical provider (Instant Ortho) to increase medical service locations for injured employees.
- **Recuperated \$383,962** in Worker's Compensation recoveries from private insurance carriers.
- Processed over 3,000 invoices related to Worker's Compensation Injury claims.
- Hold weekly meetings with both Police & Fire to discuss the status of Worker's Compensation claims for each department.
- Created an electronic **"20-day" or Notice of Pending Closure** letter on Worker's Compensation claims.
- Designed and created injury Dashboards for each City department. Dashboards reflect claim criteria and trends such as counts, severity, location, body part, and other pertinent claim information. These dashboards are utilized during monthly department meetings.

FY 2024/25 GOALS

Civil Department Goals:

- Support the Council, Charter Officers, and all City staff while limiting the City's liability exposure with prompt, proactive legal advice.
- Defend as much litigation in-house as resources allow as efficiently as practical.
- Support the City's public safety efforts through training and after-hours legal support.
- Onboard and train a new civil lawyer to fill an existing vacancy. This attorney is necessary in order to provide in-house legal advice regarding real estate, planning and zoning matters, and Boards and Commissions.

Prosecution Department Goals:

- Ensure the administration of justice, protect the community and support victims by prosecuting the high number of cases and charges Prosecution expects to receive during the upcoming fiscal year.
- Support successful prosecution of short-term vacation and rental ordinance violations, along with nuisance party and unruly gathering ordinance violations.
- Work toward establishing a citizen's academy for Prosecution and Victim Services to provide the public with more familiarity and transparency into the workings of the City Prosecution Department.

Victim Services Department Goals:

- Effectively and compassionately support the high volume of victims expected during the upcoming fiscal year.
- Continue victim advocate coverage of jail court proceedings on weekends and holidays.

Safety and Risk Management Goals:

- Recruit and onboard a new Safety Manager. The City's current Safety Manager is retiring to work for a private company. He will leave big shoes to fill.
- Continue to refocus the organization on safety and loss prevention in an effort to further lower the City's accident rates.
- Work closely with the City Manager and Executive Team to address major safety and risk exposure concerns.
- Complete Emergency Action Plan for OCC and City Hall.
- Expand footprint of Blue Wall program throughout the City.