



MEMORANDUM

Date: November 4, 2016

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

Re: **Public Defense Services Costs**

Attached is a quarterly report I have requested from the Public Defense Services (PDS) Director. It is important to understand that in most cases, the County has little control over expenditures as they relate to activities in the criminal defense system. The County is statutorily bound to provide public defense services to those who qualify, and the primary driver of these costs relate to arrest and prosecution of felony and misdemeanor criminal charges.

The largest expenditure in the area of juvenile defense arises from dependency and delinquency. The County also provides defense services for Title 36 involuntary commitment mental health proceedings, as well as appeals for post-conviction relief. PDS reporting will track quarterly caseload, as well as quarterly expenditures of the County in these areas.

The table below shows our total budget and expenditures in each category for Fiscal Year 2015/16:

Fiscal Year 2015/16 PDS Quarterly Expenditures by Case Type.

Case Types	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total	Budget
Felony	\$3,665,170	\$4,384,023	\$4,032,060	\$4,305,572	\$16,386,825	\$17,153,954
Delinquency	422,860	399,662	388,721	447,595	1,658,838	2,725,414
Dependency	1,278,838	1,617,670	1,731,554	2,110,121	6,738,183	6,007,884
Mental	130,516	135,304	134,145	133,990	533,955	530,520
Appeals	546,689	772,189	768,627	1,045,549	3,133,054	2,502,756
Misdemeanor	193,236	275,469	241,625	375,530	1,085,860	982,206
					Total	\$29,902,734

Defense resources are primarily the staff employed by the County in the public legal, mental health and juvenile defense areas, as well as contract attorneys managed through the Office of Court Appointed Counsel. While the County cannot control the number of cases it

The Honorable Chair and Members, Pima County Board of Supervisors
Re: **Public Defense Services Costs**
November 4, 2016
Page 2

receives, we can make a difference with regard to efficiency, performance and managing case costs. Such is a primary focus of management in PDS.

CHH/lab

Attachments

c: Ellen Wheeler, Assistant County Administrator
Lori Lefferts, Director, Public Defense Services



PUBLIC DEFENSE SERVICES

MEMORANDUM

To: C.H. Huckelberry
County Administrator

Date: 10/27/2016

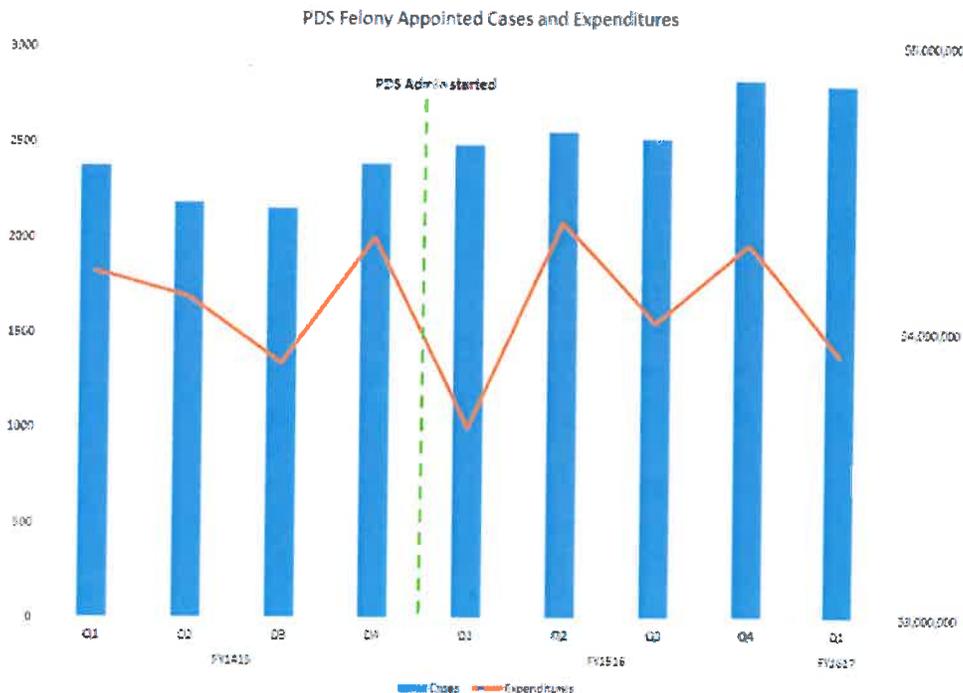
From: Lori J. Lefferts
PDS Director

Re: Public Defense Services Quarterly Report

The first quarter of this fiscal year is complete, and below is a report of the activity for this quarter, along with an eight-quarter history for each case type. From this data, certain trends can be discerned, however, this early in the year, it is difficult at best to forecast with certainty year-end expenditures.

Felony Trials

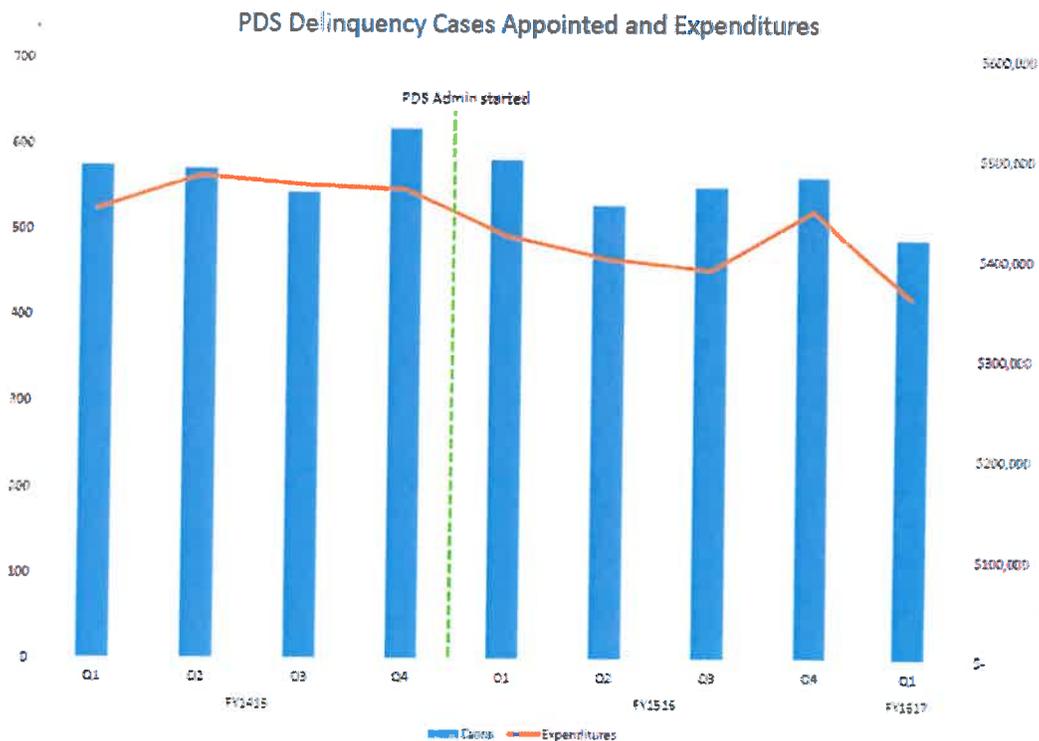
Last fiscal year (FY15/16), felony case appointments were up nearly 5% over the previous year. As shown in the chart below, this year's first quarter indicates a continuation of a high volume of appointments. (Each blue bar represents case assignments for the quarter, the orange line is expenditures by quarter.) Although case numbers were up last year, total felony expenditures were down, due to a reduction in the cost-per-case. Nonetheless, if this trend continues, which is likely, the County can expect increased costs to follow. Because staffed offices are consistently more cost-effective than contract attorneys, they will continue to accept appointments in all cases that are free of conflict. However, if the felony appointments continue to rise, and the volume exceeds the capacity of the defender offices, funds will be used to add attorneys to the Public Defender and/or Legal Defender.



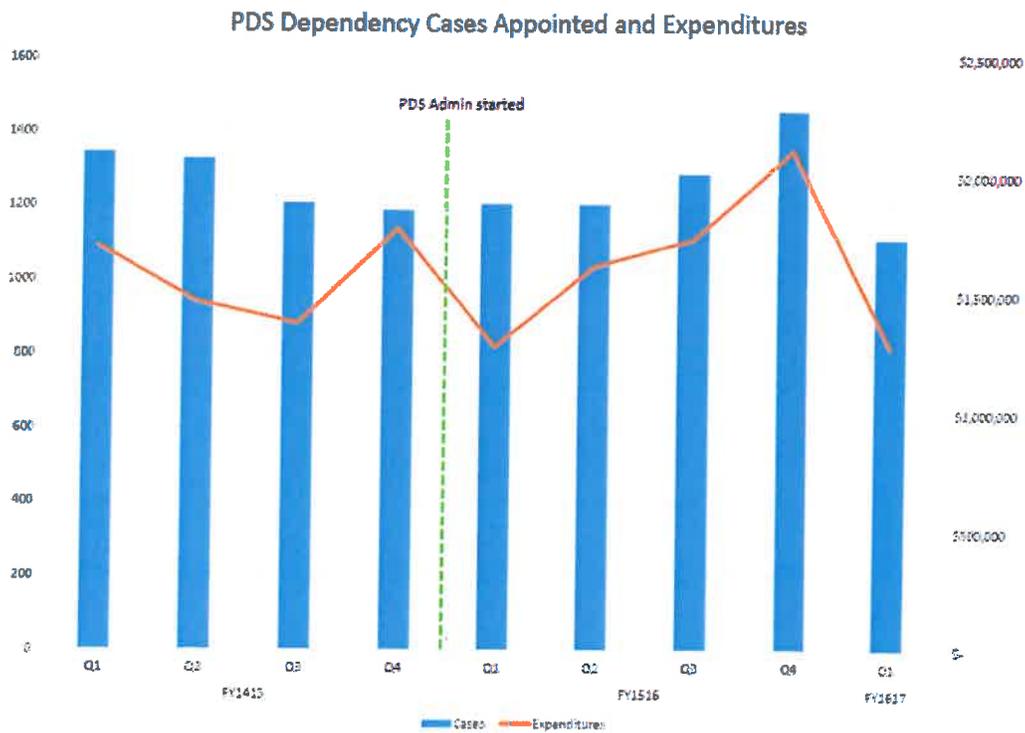
Though the number of death penalty trials pending in Pima County is low (current there are two cases set for trial), it is worth mentioning the high cost of capital litigation. Defending against the death penalty is a very costly endeavor. Under the *Arizona Rules of Criminal Procedure* and the *ABA Guidelines for the Appointment and Performance of Defense Counsel in a Death Penalty Cases*, a “defense team” must be assembled consisting of, at a minimum, two highly-skilled attorneys, an investigator and a mitigation specialist. The defense team must have adequate supporting services, including expert witnesses in a variety of subjects, such as pathologists, DNA analysts, ballistics specialist, and mental health professionals. These cases tend to be highly complex and require extraordinary resources. Even when the best defense is put forth at the trial, when a defendant is sentenced to death, a thorough appeal is conducted, again requiring two capital-qualified attorneys. If the sentence is affirmed by the Arizona Supreme Court, a new defense team is assembled and the entire defense investigation must begin anew in the Post-Conviction Relief process. It is likely that the County Attorney will continue to utilize the death penalty – though sparingly - and in such event, special budgeting may need to be considered.

Juvenile Cases

Juvenile expenditures fall into two case types: Dependency and Delinquency. In recent years, Delinquency Petition filings have been low, and expenditures have been predictable. In FY15/16, by reducing the cost-per-case substantially, PDS saw an overall reduction in expenditures by \$215,000 from the prior year. There is no indication of any change in the trend. The total costs for Delinquencies last year was \$1.5 million, and this year should be slightly less.



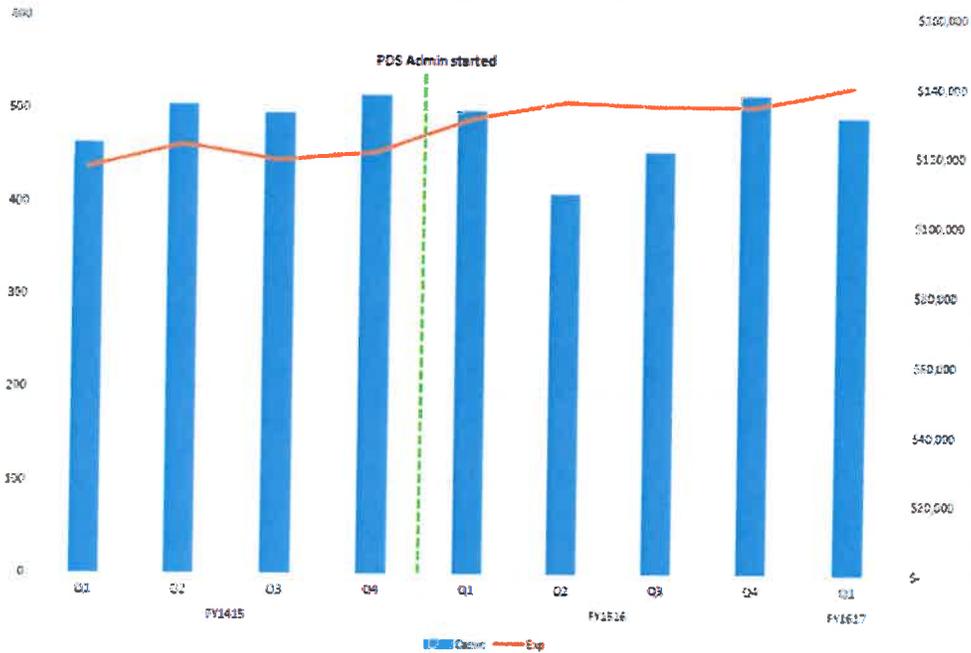
Unlike Delinquencies, Dependency costs are difficult to predict. Despite the filing of slightly fewer Dependency petitions last year, there was an increase in the number of children and parents entitled to counsel, which drove costs up. As is the case with Felonies, defender offices provide a lower cost-per-case in dependencies and severances. To capitalize on that cost-efficiency, two attorneys were added to the Office of Children’s Counsel, and the Public Defender’s Office establish a Dependency unit, which now consists of four attorneys. As more cases are assigned to these defender agencies, costs per case should decline. However, increased appointments will impact the ability to reduce overall costs.



Mental Health Cases

The Mental Health Defender’s Office has seen a reduction in Title 36 Petitions. With numbers down, and costs essentially the same (pay raises caused a slight increase), the agency’s cost-per-case went up. The reduced caseload, however, presents an opportunity for the department to take on dependency work that would otherwise go to contract attorneys. MHD attorneys attended training, and are now qualified and waiting to take Guardian ad litem appointments in Dependency actions. Although Juvenile Court has not yet begun those assignments, this move will save the County a considerable amount in the future.

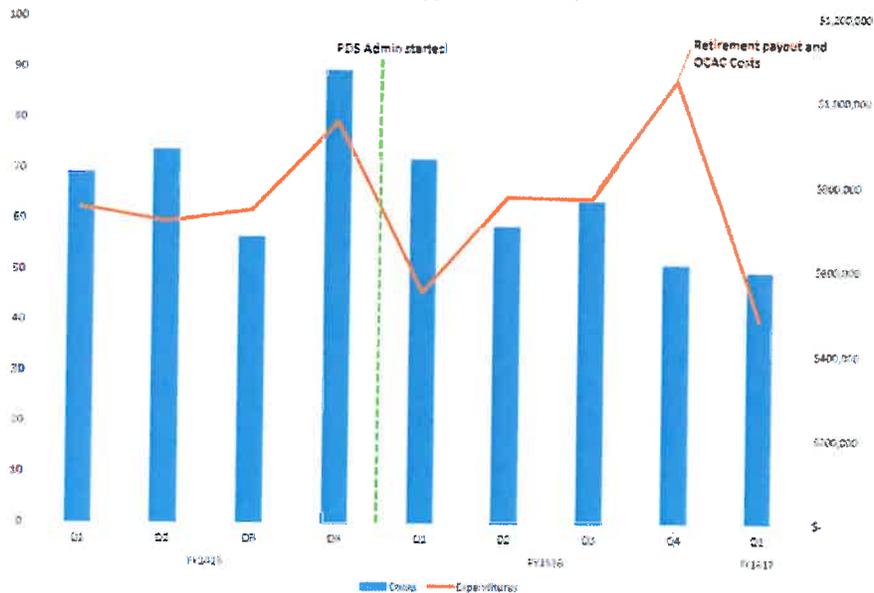
PDS Title 36 Cases Appointed and Expenditures



Appellate Cases

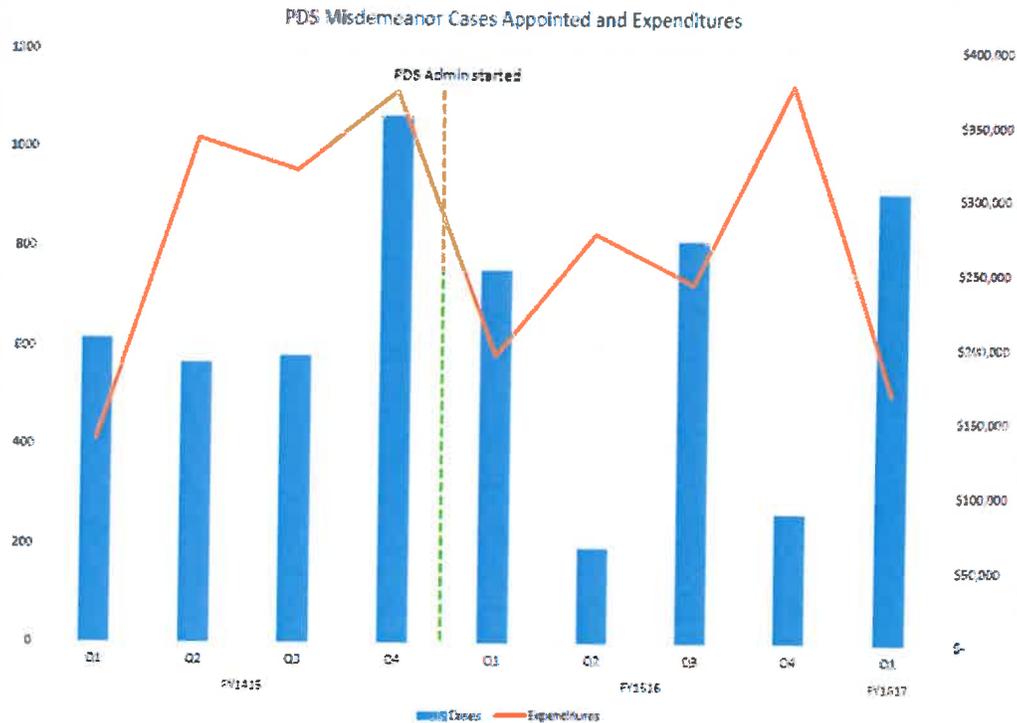
Total expenditures in non-capital appellate cases were down last year as a result of a reduction in the number of both appeals and post-conviction relief cases. Nonetheless, continued efforts are being made to improve cost-efficiencies in this area. The cost-per-case jumped dramatically last year, when high-earners retired and received large payouts for sick and vacation time. All indicators suggest future expenditures for non-capital appeals will decline. Conversely, capital cases have been, and will continue to be costly. Last year, eight capital cases were in the post-conviction stage, with total billings close to \$600,000. Capital cases frequently span several years and are always costly. Current trends suggest those cost may rise slightly in the coming years.

PDS Appellate Cases Appointed and Expenditures



Misdemeanors

The misdemeanor graph below is the product of poor data. Because PDS receives no data from Justice Court, the only source of data is attorney billings. As a result, while total cases *billed* in the year are known, case *assignment* numbers are unknown. The graph simply reflects total cases billed in each quarter, and the billing totals for that quarter. Our data can be vastly improved with the creation of a data feed from Justice Court. This can be accomplished by contracting with a programmer to create a feed between Justice Court and PDS. This would be a wise investment.



Summary

Public Defense Services Administration will provide quarterly updates of these metrics. New case assignments will be monitored to ensure that in-house counsel is prioritized to reduce expenditures. Expenditures will be monitored to ensure that public funds are used only when required. The goal is to limit expenditures without reducing the quality of representation provided to clients. Data-driven decisions allow us to identify and redirect resources where they can be used in the most efficient manner.

C: Ellen Wheeler