

2016
Annual Report
of the



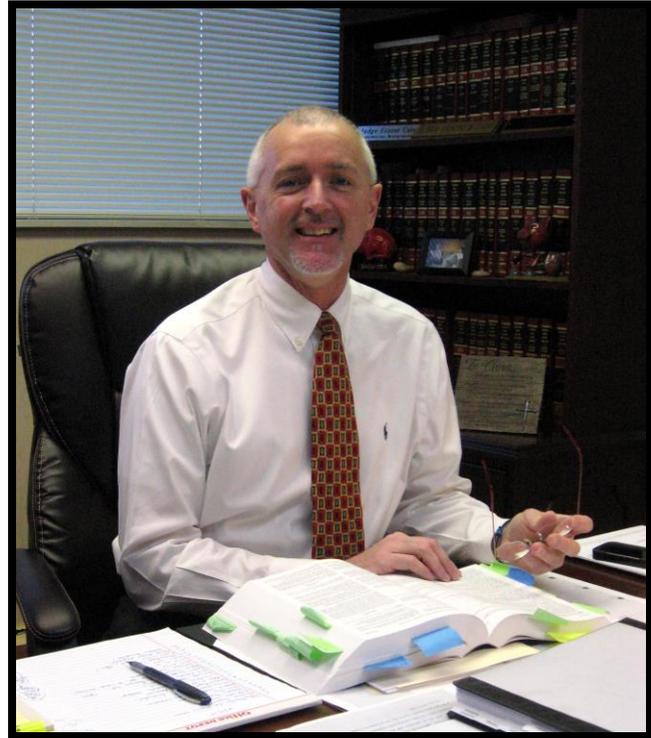
Springdale
City Attorney's
Office

Prepared and Presented to Springdale City Council

February 28, 2017

**ANNUAL REPORT OF THE
SPRINGDALE CITY ATTORNEY'S OFFICE
FOR THE YEAR 2016
PUBLISHED ON FEBRUARY 28, 2017**

I am pleased to present the Annual Report of the Springdale City Attorney's Office for the year 2016. As you can see, 2016 was a very busy year for the City Attorney's Office. Each year presents new challenges and new opportunities for our office. 2016 was no different. Various new issues, and new challenges, presented themselves in 2016. Through it all, I am very honored and blessed to have the opportunity to serve the citizens of the City of Springdale as their City Attorney.



I welcome any feedback you may have on this annual report. If you would like to see other types of information contained in future reports, please let me know. As you know, this office publishes a report on DWIs, No Drivers' License offenses, and publishes the CALL and the MAP, and these reports provide detailed information on the arrest and prosecution of other offenses in Springdale District Court. I will continue to provide you with this report each year that I serve as City Attorney.

It was truly a pleasure working with each of you in 2016, and I look forward to another banner year in 2017.

Ernest B. Cate
City Attorney
ecate@springdalear.gov

INTRODUCTION

The Springdale City Attorney's Office is staffed by the City Attorney and three Deputy City Attorneys. In addition to the attorneys, the staff includes six full-time employees.

The City Attorney's Office is divided into three divisions: Criminal Division, Hot Check/Victim Restitution Division, and Civil/Risk Management Division.

MISSION STATEMENT

The Mission of the Springdale City Attorney's office is to deliver outstanding legal services to the City of Springdale by providing sound legal advice to city officials and employees to help them achieve their goals; representing the city in litigation, and protecting public health, safety, and welfare by effectively prosecuting all misdemeanor crimes and violations which occur within the City of Springdale.

**CITIZEN AND CITY EMPLOYEE INITIATED
CONTACTS WITH THE CITY ATTORNEY'S OFFICE**

In 2016, there were an estimated 14,099 contacts with the City Attorney's Office which involved either a phone call to the office or a citizen or employee of the City coming into our office. The following is a breakdown of the type of citizen/employee initiated contacts with our office in 2016. The overall number is down slightly from 2015, primarily due to the use of e-mail. However, the number of citizens who came into the office increased by 11.07% in 2016 (4,155 citizens).



Dixie Putt, Receptionist

**2016
ESTIMATED CITIZEN/EMPLOYEE INITIATED
CONTACTS WITH THE CITY ATTORNEY'S OFFICE***

<u>Nature of Contact</u>	<u>Total Number</u>
Phone Calls	8,647
Persons who came into office on hot checks	250
Persons who came into office (not on hot checks)	
Citizens	4,155
City Employees/Officials	<u>1,047</u>
Total Number of Citizen/Employee Contacts	14,099

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(\*excluding e-mail communications)

# Criminal Division

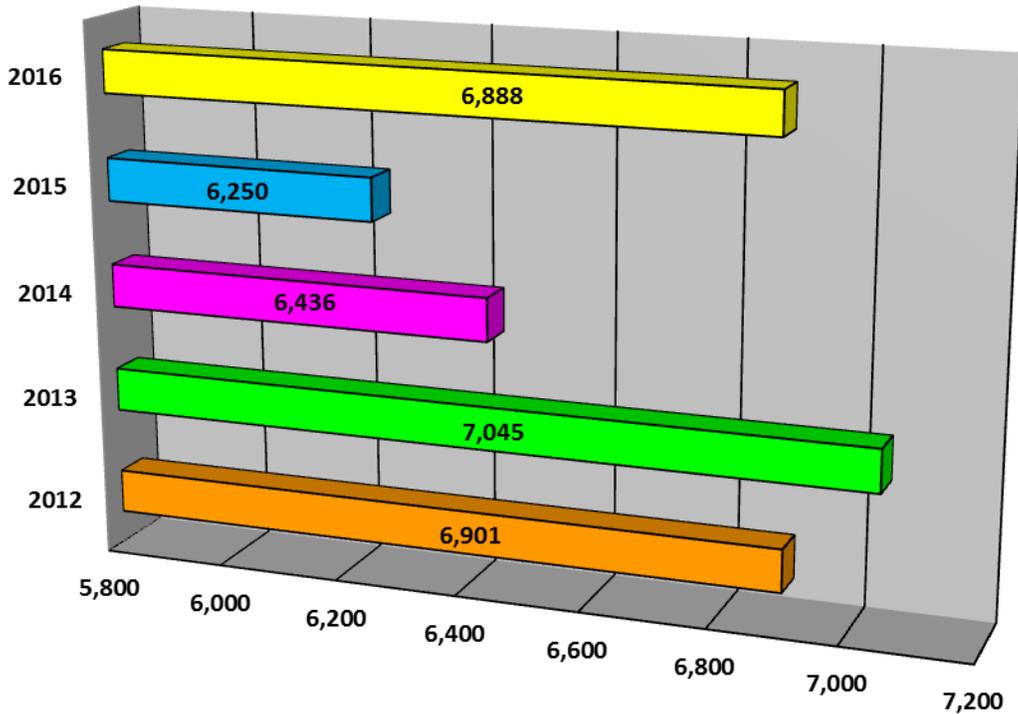


## CRIMINAL DIVISION OF THE CITY ATTORNEY'S OFFICE

### Defendants Handled:

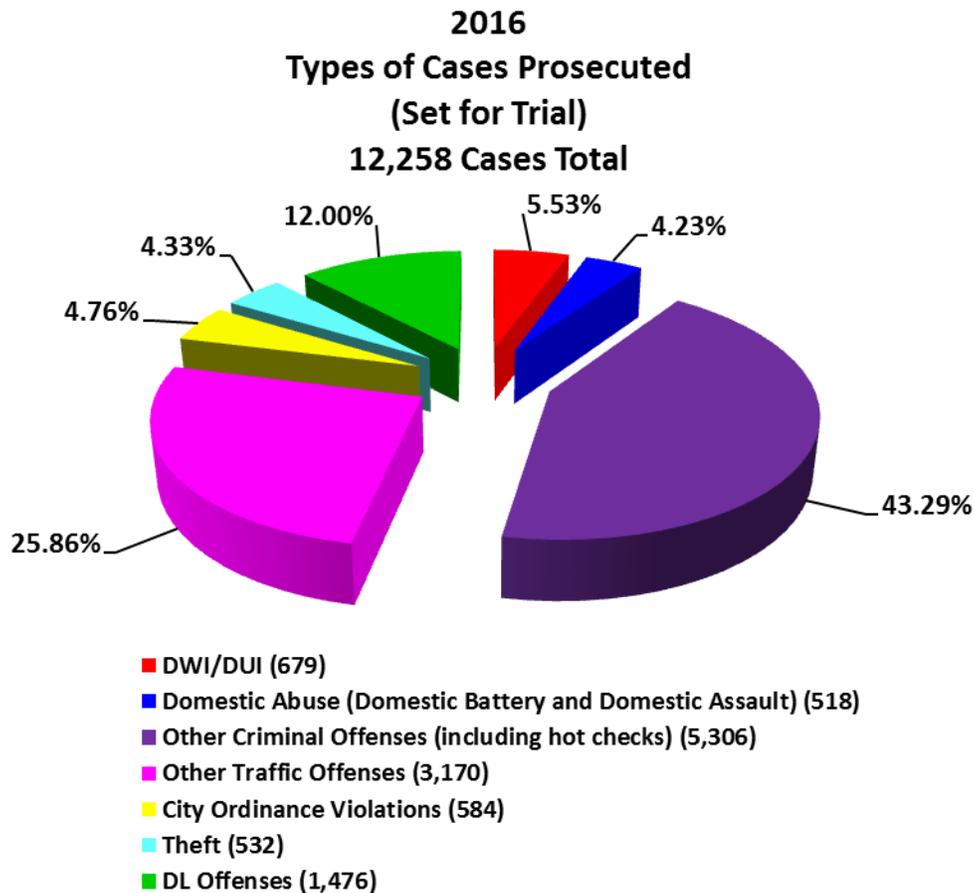
In 2016, the Criminal Division of the City Attorney's Office handled cases involving 6,888 defendants, which is up 10.21% from 2015. Of these 6,888 defendants, 5,211 were handled at trial, while 1,677 were settled before the case went to arraignment. The 5,211 cases (defendants) handled at trial in 2016 is slightly higher to that of 2015 (4,984). The number of cases (defendants) handled at trial in previous years were 4,984 in 2015, 4,976 in 2014, 5,461 in 2013, and 5,303 in 2012. Set out below is a chart showing the total number of defendants handled by the City Attorney's Office over the past five years. The 6,888 total of 2016 is higher than 2014 or 2015, but is lower than 2012 and 2013.

**Total Court Cases (Defendants)  
Handled by City Attorney's Office  
2012-2016**



## Type of Criminal Cases Handled in Court During 2016:

The Springdale City Attorney's Office prosecuted a total of 12,258 criminal charges on the 5,211 defendants set for trial in 2016 (most defendants had more than one charge). This represents an increase of 13.50% from 2015. Of the 12,258 total charges prosecuted at trial, the following is a percentage breakdown by the type of charge:



The percentage of cases handled at trial on DWI/DUI charges decreased from 6.41% (693 cases) in 2015 to 5.53% (679 cases) in 2016. The percentage of cases handled at trial on domestic abuse offenses decreased to 4.23% (518 cases) in 2016 compared to 4.77% (515 cases) in 2015. The percentage of cases involving city ordinance violations increased to 4.76% (584 cases) in 2016, compared to 4.61% (498 cases) in 2015. Theft charges made up 4.33% (532 cases) of all cases prosecuted at trial, and drivers' license offenses made up 12.00% (1,476 cases) of all cases prosecuted at trial.

**Warrants/Summons Issued:**

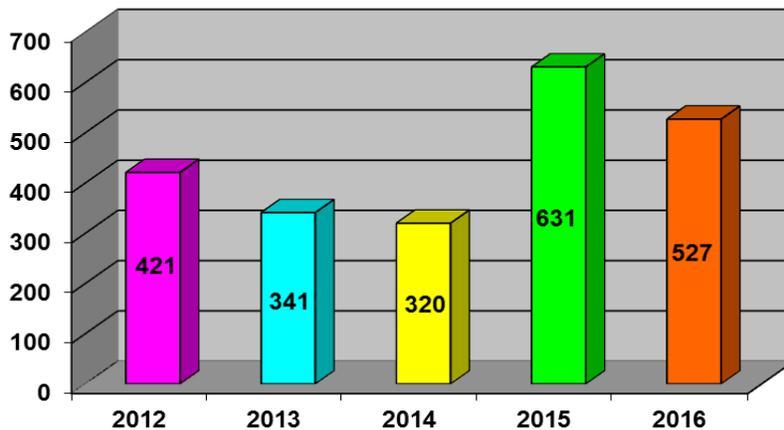
The Criminal Division of the City Attorney’s Office issued a total of 527 affidavits, which resulted in an arrest warrant or criminal summons being issued during the year 2016. The next chart sets out the total number of affidavits prepared for the issuance of warrants or a summons in the past five years.

Some of the warrants or summons issued were a result of citizens making contact with our office and filing a complaint. However, in 2016, there were 371 cases referred from the Criminal Investigation Division of the Springdale Police Department to the City Attorney's Office for a decision on whether a warrant should be issued. This is almost identical to the 378 cases referred from CID to the City Attorney's Office in 2015.



Taylor Samples, Senior Deputy City Attorney and David Phillips, Deputy City Attorney

**Affidavits For Warrant/Criminal Summons Issued by City Attorney's Office 2012 - 2016**



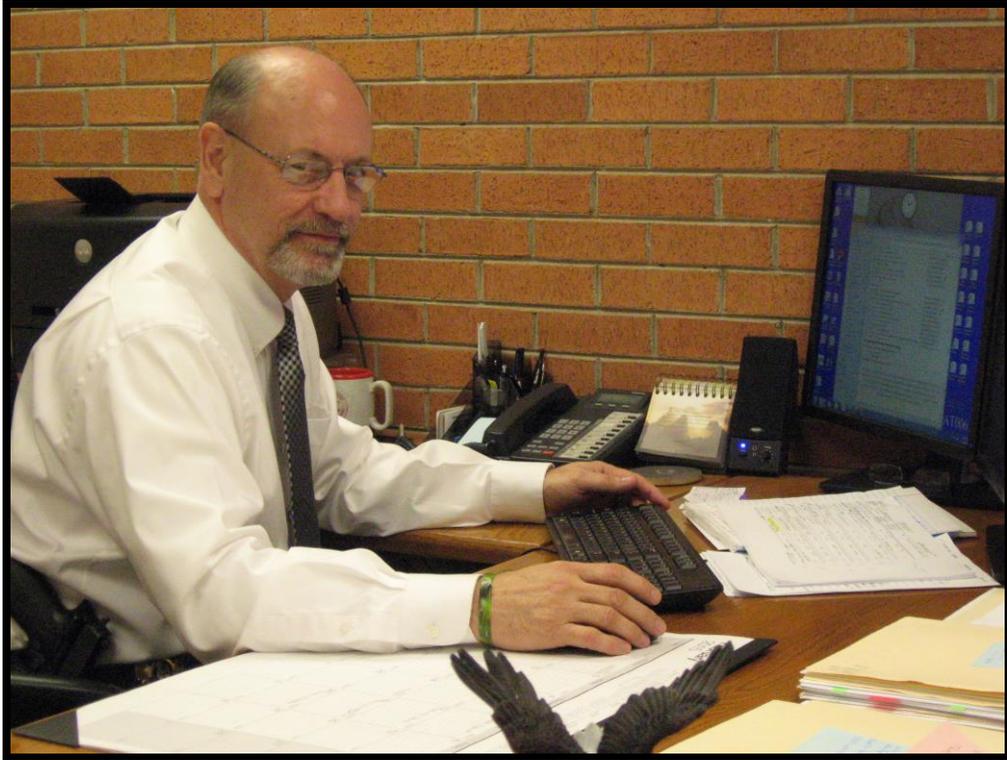
**2016 Activity by Victim Advocate:**

Lynda Belvedresi acts as Case Coordinator/Victim Advocate for the City Attorney's Office. One of her main duties involves contact with misdemeanor domestic abuse victims. In 2016, Lynda was recognized for her work with domestic violence victims, and was awarded the Peace at Home Family Shelter's Community Courage Award. Lynda also assists those victims who qualify to recover victim restitution through the Arkansas Crime Victims Reparations Program.



**2016 Restitution Paid to Crime Victims:**

In 2016, the City Attorney's Office, in a partnership with the Springdale District Court, collected \$229,439.54 which was paid to crime victims of the City of Springdale, an increase of 66.89% over 2015 (this does not include hot check violations, which are set out later in this report). Counting non-hot check restitution paid to victims and hot check restitution paid to victims, our office was responsible for collecting a total of \$262,150.15 for crime victims of the City of Springdale in the year 2016, an increase of 32.86% over 2015. In addition, prosecutions at trial by the City Attorney's Office resulted in \$155,177.36 in non-hot check victim restitution being ordered to be paid by defendants in 2016, down slightly from the \$167,005.24 ordered in 2015.



**Steve Helms, Investigator**

**2016 Activity by Investigator:**

The main functions of Steve Helms, the Investigator in the City Attorney's Office, are to serve subpoenas, locate witnesses needed for court, locate persons who have warrants issued by our office, and to investigate various matters referred to our office. In 2016, the Investigator contacted 134 victims and 75 witnesses, totaling 209 persons contacted. The Investigator also investigated 51 different incidents, which required follow-up investigation. He also served 104 subpoenas, and was instrumental in the service of 631 warrants and summonses, up from 602 in 2015.

Steve was also very instrumental in helping improve school bus safety. In 2015, Steve investigated 60 complaints of drivers passing a stopped school bus, after the school bus driver forwarded a complaint to the City Attorney's Office. In March of 2016, he interviewed teacher and students regarding school bus law, in August he attended in-service training for school bus drivers, and in November he assisted in a program to install cameras on school busses.

**Other 2016 Activities Generated by the Criminal Division:**

In addition to the above listed activities, the City Attorney's Office answered a total of 1,791 discovery requests from defense attorneys. This is a 21.09% increase over 2015 (1,479 discovery requests), and a 41.56% increase over 2014 (1,265 discovery requests). When a discovery request is filed with the City Attorney's Office, our office has to provide the information related to the case to the defense within a certain amount of time, as required by law. Most discovery requests are now answered by email, which saves copy and postage costs.



**Jacquie Roth  
File/Discovery Clerk**

**Studies Published in 2016:**

The City Attorney's Office published its 2015 annual activity report in February of 2016. Also in 2016, the City Attorney's Office conducted an analysis of citations issued for No Drivers' License in Springdale for 2016. The results of this analysis will be published in the April 2017 edition of *The C.A.L.L.*

All reports can be accessed on our website by going to the City of Springdale website at [www.springdalear.gov](http://www.springdalear.gov), going to "Departments" and clicking on "City Attorney."

## **2016 Training:**

Employees in the City Attorney's Office attended training in the following areas:

- Attorney's Guide to Local Government Law, 2/04/16
- Attorney's Guide to Local Government Law, 2/05/16
- International Municipal Lawyer's Association (IMLA) mid-year conference 4/16/16 - 4/18/16
- Arkansas Bar Association Annual Meeting 6/16/16 - 6/17/16
- Western District Trial Seminar 9/16/16



## **2016 Community Involvement, Training Provided, and Other Programs:**

In 2016, the City Attorney's Office continued to distribute material aimed at combating drunk driving, domestic abuse, and educating the public on the seriousness of passing school buses that are stopped with red lights

flashing. In addition to the pamphlets, the City Attorney's Office made the following presentations, training, or contacts with the community:

- 1/12/16 - Attorneys from the City Attorney's Office provided training to newly promoted Sergeants at the Springdale Police Dept.
- 2/04/16 - Ernest B. Cate, City Attorney, taught Attorney's Guide to Local Government Law Seminar to attorneys in Fayetteville
- 2/05/16 - Ernest B. Cate, City Attorney, taught Attorney's Guide to Local Government Law Seminar to attorneys in Jonesboro
- 2/16/16 and 2/18/16 - Ernest B. Cate, City Attorney, taught at the Arkansas Law Enforcement Training Academy
- 2/17/16 and 2/18/16 - Taylor Samples, Senior Deputy City Attorney, taught at the Arkansas Law Enforcement Training Academy
- 2/17/16 - David Phillips, Deputy City Attorney, taught at the Arkansas Law Enforcement Training Academy
- 4/27/16 - Ernest B. Cate, City Attorney, taught at the Arkansas Law Enforcement Training Academy
- 6/30/16 - David Phillips, Deputy City Attorney, spoke at Springdale Rotary Club
- 8/02/16 and 8/04/16 - Ernest B. Cate, City Attorney, taught at the Arkansas Law Enforcement Training Academy
- 8/03/16 and 8/04/16 - David Phillips, Deputy City Attorney, taught at the Arkansas Law Enforcement Training Academy
- 8/03/16 - Taylor Samples, Senior Deputy City Attorney, taught at the Arkansas Law Enforcement Training Academy
- 8/25/16 - Ernest B. Cate, City Attorney, taught at the Arkansas Law Enforcement Training Academy
- 10/12/16 - Sarah Sparkman, Deputy City Attorney, taught at the Arkansas Law Enforcement Training Academy
- 9/19/16 thru 9/23/16 - the City Attorney's Office held a "Legal Survival Skills for Rookies" class for the Springdale Police Department
- 11/12/16 - David Phillips, Deputy City Attorney, spoke to the Daughters of the American Revolution

# Hot Check Division



## HOT CHECK DIVISION

The Hot Check Division continues to be very successful in collecting money for merchants. A total of 389 hot checks were brought into our office by merchants for collection in 2016. The number of hot checks continue to decline because many merchants no longer take checks, often taking debit cards or credit cards instead. In 2016, \$48,037.58 was paid to merchants of the City of Springdale who were the victims of hot check writers. This is down from the \$59,828.74 paid to merchants in 2015.

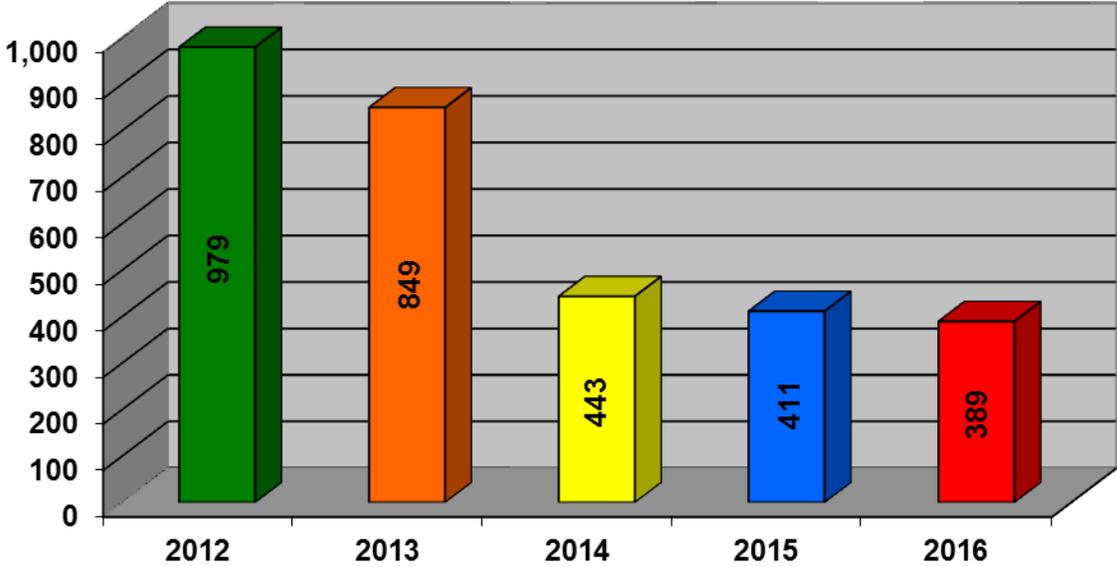


**Linda Brown**  
**Hot Check/Restitution Administrator**

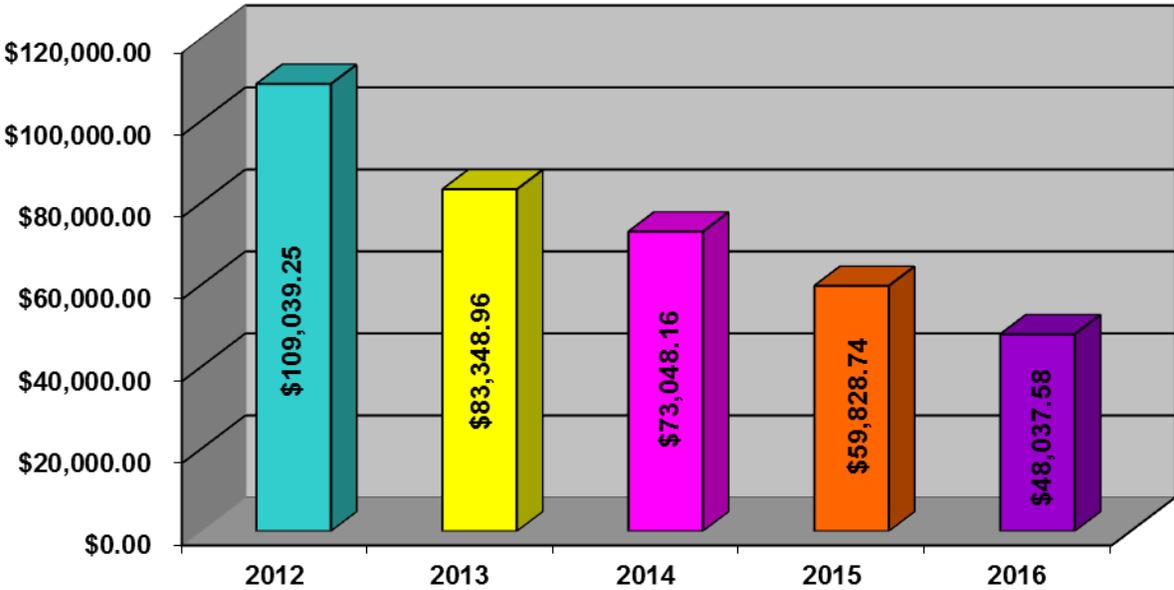
Beginning in 2015, the Hot Check Division was renamed the Hot Check/Victim Restitution Division. This Division monitors all cases involving victim restitution to ensure that payments are actually being made as ordered, issuing revocation warrants on those defendants who are not in compliance, and ensuring that victim restitution is promptly paid to crime victims once collected in full by the Court.

The two graphs that follow reflect how many hot checks have been brought into our office by merchants the last five years, as well as how much money our office has paid to merchants in the last five years.

**Number of Hot Checks Brought to  
City Attorney's Office for Collection  
2012 - 2016**



**Total Amount Paid to Merchants  
2012 - 2016**



# Civil Division



CIVIL/RISK MANAGEMENT DIVISION

2016  
CIVIL/RISK MANAGEMENT DIVISION  
ACTIVITIES

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| <u>Activity</u>                                                                               | <u>Total Number</u> |
|-----------------------------------------------------------------------------------------------|---------------------|
| Letters/Memos Written                                                                         | 345                 |
| Resolutions drafted for Council                                                               | 27                  |
| Ordinances drafted for Council                                                                | 77                  |
| Other studies published                                                                       | 2                   |
| C.A.L.L. newsletter published                                                                 | 4                   |
| Other legal documents prepared<br>(includes contracts, deeds, etc.)                           | 115                 |
| Lawsuits Handled                                                                              | 15                  |
| Other Legal Matters:                                                                          |                     |
| ~ Property referrals from Code<br>Enforcement for lien or raze/removal                        | 213                 |
| Amount of public funds recouped from<br>clean-up liens in 2016                                | \$61,267.73         |
| Meetings Attended of City Council,<br>Commissions or Boards (including<br>Committee Meetings) | 120                 |
| Amount of clean-up liens placed on<br>properties in 2016                                      | \$102,147.69        |

## **Code Enforcement Involvement**

The law gives cities the authority to remedy ordinance violations on private property and then recover the costs associated therewith as a lien on the property. In 2016, the Code Enforcement Division referred 198 of these properties to the City Attorney's Office for action, a 15.12% increase over 2015 (172).

In 2016, the City Attorney's Office was successful in recouping a total of \$61,267.73 in public funds that had been expended to remedy code violations on private property.



**Cindy Horlick,  
Administrative Legal Assistant/Paralegal**

Some of the amounts recovered in 2016 were recovered without having to file a lien on the property. In those cases, the City remedied the violation, the City Attorney's Office made demand for the amount expended by the City, and payment was made to the City prior to a lien being filed. Many times, however, a demand by the City was not enough to recover the amount spent to bring a property in compliance. In those instances, the

City Attorney's Office prepared, and the City Council passed an ordinance placing a lien on the property in the amount spent by the City to bring the property into compliance. With a property lien, the City's interests are adequately protected, and the funds will be recovered by the Tax Collector as back taxes.

In addition, in 2016 the Building Inspector's Office delivered 23 unsafe structures files to the City Attorney's Office for raze and removal. Of these 23 unsafe structures, the City Council passed ordinances to raze and remove many of these unsafe structures.

### **2016 S.N.A.P. Involvement**

In addition to taking action to recover public funds that have been spent to remedy ordinance violations on private property, the City Attorney's Office also actively participates in SNAP. SNAP (Springdale Nuisance Abatement Partnership) was established in 2006. The partnership includes the following departments of the City of Springdale: Police Department, Fire Department, Building Inspection, Code Enforcement, Planning and Community Development, Public Works, and the City Attorney's Office. The partnership also includes local representatives from the State Alcoholic Beverage Control and representatives from the Arkansas Department of Health.



**Sarah Sparkman  
Deputy City Attorney**

SNAP holds a monthly meeting at 11:00 a.m. the first Wednesday of every month. These meetings are designed to allow each department to address nuisance and code enforcement issues throughout the City of Springdale,

including remedies and solutions to abate these nuisances. The result of these meetings is an organized and coordinated effort to abate nuisances and code violations in the City of Springdale. In 2016 the City Attorney's primary representative to the SNAP team was Sarah Sparkman, Deputy City Attorney.

A representative of the City Attorney's Office also attends meetings with owners of businesses who willingly cooperate with the SNAP team in addressing solutions to problems on their property. If the nuisance business does not comply, the business license revocation ordinance is utilized.

### **Risk Management Meetings**

The City Attorney's Office conducted risk management meetings along with the Human Resource Director with every department of the City of Springdale in 2016. This consisted of a total of 14 hours in meetings on risk to the City and ways to avoid liability.



**Pictured from left to right  
Sarah Sparkman, Deputy City Attorney  
Taylor Samples, Senior Deputy City Attorney  
Ernest Cate, City Attorney  
David Phillips, Deputy City Attorneys**

# Proactive Office



## A PROACTIVE OFFICE

The Springdale City Attorney's Office strives to be proactive. The following are ways the City Attorney's Office is proactive:

### 1. PUBLICATIONS

A. **The C.A.L.L.** ~ The C.A.L.L. (City Attorney Law Letter) was first published by our office on July 1, 1997. The goal of the publication is to provide Springdale police officers with the latest information on case law, laws passed, and other legal issues effecting law enforcement. C.A.L.L. is published by our office each quarter, on January 1, April 1, July 1 and October 1. We also put the latest edition of C.A.L.L., as well as archived issues of C.A.L.L. on our web site which can be accessed at: <http://www.springdalear.gov/cosa/call.htm>

B. **The M.A.P.** ~ The M.A.P. (Municipal Attorney Periodical) was first published by our office on September 1, 1998. The goal of this publication is to provide legal information to elected officials of the City of Springdale (Mayor, City Council, and City Clerk), as well as officials appointed to boards and commissions of the City of Springdale, department heads, and supervisors of the City. The newest laws, case decisions, and legal issues effecting these positions are covered in *The M.A.P.* *The M.A.P.* is published semi-annually, on March 1 and September 1. We also put the latest edition of *The M.A.P.*, as well as archived issues of *The M.A.P.* on our web site which can be accessed at: <http://www.springdalear.gov/cosa/map.htm>

2. **RISK MANAGEMENT MEETINGS** ~ In partnership with the Mayor's office and personnel office of the City, the City Attorney, personnel officer, and the department head and risk manager of each department meet annually to discuss liability issues effecting that department. A review is made of potential legal issues effecting that department in the future and the previous year is reviewed as to risk management issues (such areas as number of employees hurt on the

job, workers compensations claims filed, accidents that occurred, new policies/procedures initiated, and other liability issues).

3. **ATTORNEY AVAILABILITY TO SETTLE TRAFFIC TICKETS ~** Our office always has an attorney on duty during regular business hours to meet with persons who want to settle traffic tickets involving minor traffic offenses (such as speeding, disobeyed traffic signal, etc.) before their arraignment date in Springdale District Court. This program is in partnership with the Springdale District Court. By settling these tickets before arraignment, the court docket is more efficient because there are fewer cases set for trial, and the citizen is able to settle their ticket without making an appearance in court, which involves additional inconvenience to the citizen.
4. **ATTORNEY AVAILABILITY FOR FILING CHARGES AND MEETING WITH VICTIMS ~** Our office always has an attorney on duty to meet with victims of crimes. This includes victims on cases in which the offender has already been arrested, as well as cases in which the victim is wanting to file new charges.

No appointments with an attorney have to be made and the victim can just walk into our office during normal business hours, at a time convenient to the victim. Our office also has an attorney assigned to each criminal investigation case sent to our office by the Criminal Investigation Division (CID) of the Springdale Police Department.

5. **CITIZEN/POLICE CONTACT THROUGH OUR WEB SITE ~** Our office has a web site ([www.springdalear.gov](http://www.springdalear.gov)) and citizens can make inquiries to our office through email. This is another way in which citizens can make contact with our office, and get a response at times convenient to them. On our web site we also have information posted weekly on officers we need for court. This way, police officers needed for court can log on to our web site and find out if they are needed for court without having to personally contact our office.

6. **PERSONNEL PERFORMANCE/APPRAISAL AUDITS ~**

The City Attorney will contact several persons each year who have dealt with the City Attorney's Office, and will get their opinion on their dealings with the City Attorney's Office. In the past, we have found areas we needed to improve on as a result of this process. When contact is made with the citizen, they are asked such questions as how long they had to wait in our waiting room before having their business taken care of, how they felt they were treated, how well they were satisfied with the services provided, and whether they have any suggestions for improvement.

7. **MONITORING CRIMINAL CASES ~**

A. **Monitoring Cases Through the City's Computer System.** The City Attorney's Office monitors criminal cases contained in the City of Springdale computer system. For instance, we log all DWI arrests, theft charges, domestic violence arrests, and domestic violence cases in which the suspect was not arrested. This allows for early identification of any problems with the cases. It further allows us to make quicker contact with the victims. For instance, by monitoring the cases, we are able to identify persons who are victims of DWI crashes. We then send the victims a letter before the offender goes to court and ask them to contact our office concerning the damages they incurred. At this stage, it is often found out that the defendant did not have insurance and restitution is pursued through the prosecution. By early intervention in the case, there is a greater chance the victim will receive restitution from the offender.

B. **Monitoring Cases at Arraignment.** The City Attorney assigns an attorney from the office to all arraignments held at the Springdale District Court. The attorney assigned reviews each major criminal case for potential problems in prosecution. For example, by reviewing records of the person being arraigned for DWI, the attorney assigned to arraignment has discovered that the defendant has pending DWI cases in other jurisdictions, and this allows us to monitor the cases from the

other courts (for example, the defendant at Springdale may have three pending cases in other jurisdictions for DWI, which would make the Springdale case a No. 4, which is a felony). The arraignment prosecutor is also able to bring up issues of restitution, in the event the defendant pleads guilty at arraignment. This allows us an opportunity to collect restitution for victims more efficiently.

8. **TRAINING** ~ In a partnership with other City departments, our office, on a regular basis, provides training to Springdale police officers, and often times other personnel of the City. The training is designed to identify and solve potential legal problems before they occur. For instance, we usually conduct a one week training class each year for police officers who have been on the street approximately two years or less (in a seminar called Legal Survival Skills for Rookies). We also, on a bi-annual basis, provide training for Council members who have just been elected to the City Council. All Council members, as well as City Board and Commission members, and department heads are encouraged to contact our office any time they identify a potential legal problem, or have a question.
9. **INFORMATIONAL BROCHURES** ~ Our office publishes a number of brochures on a variety of issues. We have brochures explaining the procedure of what is going to happen for persons filing charges in our office, brochures on preventing domestic violence and drunk driving, a brochure which provides information to persons whose land is being effected by city projects, a brochure on parking in residential zoning districts, and a brochure to provide education to persons on the law concerning passing stopped school buses, while the bus is stopped with its red lights flashing.
10. **PROGRAMS IN SCHOOLS** ~ In a partnership with the Police Department School Resource Officers and the Springdale Public Schools, our office has made presentations to the Law and Public Safety Academy at the Springdale High School, as well as other schools within the City of Springdale.

11. **ORDINANCE REVIEW** ~ The City Attorney's Office, in partnership with the Springdale City Council, routinely reviews ordinances of the City of Springdale to ensure our ordinances are kept up to date and current with new laws and case decisions.
  
12. **CIVIL SERVICE RULES AND REGULATIONS REVIEW** ~ The City Attorney's Office, in partnership with the Civil Service Commission and the Police Chief and Fire Chief, routinely reviews the Civil Service Rules and Regulations to make sure they are kept up to date and current with new laws and case decisions. In 2008, in a partnership with the Springdale Police Department, Springdale Fire Department, the Department of Information Services, and the Springdale Civil Service Commission, the Civil Service Rules and Regulations were made available online through the City of Springdale website. Persons wanting to access these rules and regulations can go to the website of the Springdale Police Department, click on "Civil Service Commission" and click on "Civil Service Commission," which is a link set out on the left side of the department's home page. After accessing the Civil Service homepage, click on "Civil Service Manual" to the right under "Related Documents".
  
13. **PERSONNEL RULES AND REGULATIONS** ~ In partnership with the Mayor's office, the Human Resource Officer, and our department, the Personnel and Procedures Manual is routinely reviewed to make sure such policies are kept up to date and current with new laws and case decisions. In partnership with these three departments, as well as the Department of Information Services, the Personnel and Procedures Manual can now be accessed through the City of Springdale website ([www.springdalear.gov](http://www.springdalear.gov)), click on "Department" at the top, then click on "Personnel and Procedures Manual" to the left "Human Resources" and then click on "Employee Personnel Manual."

**STAFF OF CITY ATTORNEY'S OFFICE**

Ernest B. Cate ~~~~~ City Attorney

Taylor Samples ~~~~~ Senior Deputy City Attorney

Sarah Sparkman ~~~~~ Deputy City Attorney

David D. Phillips ~~~~~ Deputy City Attorney

Steve Helms ~~~~~ Investigator

Cindy Horlick ~~~~~ Administrative Legal Assistant/Paralegal

Lynda Belvedresi ~~~~~ Case Coordinator/Victim Advocate

Linda Brown ~~~~~ Hot Check/Restitution Administrator

Dixie Putt ~~~~~ Receptionist

Jacque Roth ~~~~~ File/Discovery Clerk