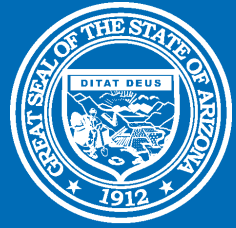




Arizona Attorney General Terry Goddard 2005 Annual Report



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Message from Attorney General Terry Goddard

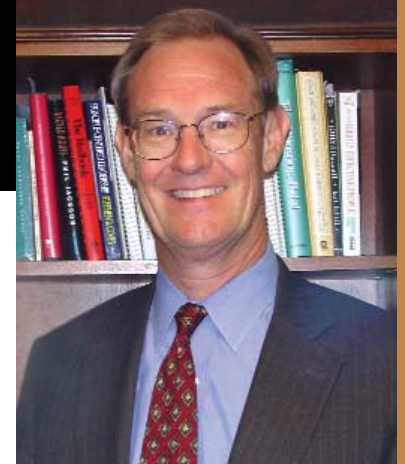
I am proud to present the Arizona Attorney General's Office 2005 Annual Report. This report represents the scope and depth of the work of this Office and its talented staff during the fiscal year July 1, 2004 through June 30, 2005.

This year our Office:

- Led the fight to protect our children, neighborhoods, local police and firefighters from the dangers of methamphetamine labs. I supported legislation that would have made access to pseudoephedrine, the key ingredient to make meth, more difficult for meth cooks. My proposal gained passage in the House but was not given a vote in the Senate. I plan to reintroduce a similar bill in the 2006 legislative session.
- Moved forward on issues involving Colorado City. I supported school district receivership legislation that allows the State to appoint a receiver for financially mismanaged school districts. My Office cooperated with Mohave County officials who indicted eight men on sexual abuse charges, including Warren Jeffs, leader of the Fundamentalist Church of Jesus Christ of Latter Day Saints. My Office also joined the Utah Attorney General's Office in replacing the trustees of the United Effort Plan trust, which owns most of the property in the Colorado City/Hildale area.
- Redoubled our efforts to educate consumers about identity theft and how to protect themselves from becoming victims. In addition, the Attorney General's Office is aggressively prosecuting identity thieves.
- Acted promptly to implement provisions of Proposition 200, which was approved by Arizona voters in November 2004.
- Filed a multi-count civil action against land developer George H. Johnson and affiliated entities. The lawsuit charges the defendants with violations of state law and destruction of the State's natural and archaeological resources.
- Launched the *CUT IT OUT* program, in partnership with the Arizona Coalition Against Domestic Violence and the Arizona State Board of Cosmetology, to address Arizona's number one violent crime – domestic violence.

Attorneys serving in our Office have convicted leaders of drug organizations, settled numerous consumer fraud cases, and protected the civil rights of vulnerable Arizona residents. Over the last year, our Office has also provided valuable services to thousands of Arizona residents, including information on how to avoid predatory lending and Internet safety tips for parents and children.

It is an honor to serve as your Attorney General. I look forward to the challenges we face together in the upcoming year.



2005 Arizona Attorney General's Annual Report



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About the Attorney General's Office

Arizona's Attorney General serves as the State's chief legal officer. The Attorney General oversees the Office's seven divisions: Criminal, Civil, Civil Rights, Public Advocacy, Child and Family Protection, Solicitor General and Administrative Operations.

Attorney General Terry Goddard's management team is led by Chief Deputy James P. Walsh and Chief Assistant Terri Skladany.

Most of the Office's resources are committed by statute to representing more than 150 agencies, boards and commissions in state government.

The Office handles a variety of criminal cases which involve certain types of fraud, drugs, human smuggling, identity theft, organized crime, public corruption, money laundering, illegal enterprises, terrorism,



Attorney General Terry Goddard with Chief Deputy James P. Walsh and Chief Assistant Terri Skladany

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action pursuant to a variety of statutes, including Arizona's Consumer Fraud Act, Antitrust Act, Open Meeting Law and Civil Rights Laws. Additionally, the Office acts in conjunction with its agency clients to pursue violations of various laws and regulations, including those affecting child welfare, the environment, state elections and professional licensing. The Office also brings actions to collect taxes and debts owed to the State.

From a budget standpoint, the Office has been highly cost-effective, generating and saving many millions of dollars more than it spends each year. As one example, liability claims totaling \$406 million were filed against the State, and only \$7.5 million was paid.

computer crimes and criminal appeals. The Arizona Legislature has limited the Attorney General's criminal jurisdiction to those crimes that are more complex and often have statewide significance.

The State's 15 County Attorney Offices have primary jurisdiction to prosecute most property and

violent crimes, including murder, armed robbery, child abuse and rape.

On the civil side, the Office provides civil prosecution and comprehensive legal services for its many clients across state government. The Office takes

2004-2005 Highlights The Fight Against Methamphetamines

2005 Legislative Session

Attorney General Terry Goddard championed legislation modeled after a measure adopted in Oklahoma in 2004. The Oklahoma law has proven to be highly successful in reducing meth labs.

The comprehensive bill, sponsored by Representative Tom O'Halleron, R-Sedona and backed by law enforcement leaders throughout Arizona, was approved on a 38-19 vote in the House. It would have moved all decongestant tablets containing pseudoephedrine behind pharmacy counters, required buyers to sign a log and show an ID, and limited consumers to 9 grams (over 350 pills) in a 30-day period. The bill did not receive a vote in the Senate, however.

Today more than 28 states are considering or have adopted laws like Oklahoma's to reduce meth



The aftermath of a Phoenix Meth Lab explosion in June 2005

cooking. Arizona leads the nation in meth use by children between 12 and 17.

Arizona Hosts Meth Summit For AGs

In February 2005, Arizona hosted 10 Attorneys General and officials from 13 other states. They came together to attack the biggest illegal drug menace in America: the use and production of methamphetamine. Their primary calls for action recommended making pills containing pseudoephedrine, the drug essential to producing meth, harder for meth cooks to obtain. They unanimously resolved that these drugs should be placed behind pharmacy counters and buyers be required to show ID and sign a log to get them.

The Attorneys General noted that meth is closely connected to a wide range of other crimes, including domestic abuse, child endangerment and identity theft. Clandestine meth labs

make neighborhoods unsafe, harm children and impose high costs on taxpayers, businesses, healthcare systems and our environment. The public costs associated with a single neighborhood meth lab have been estimated at more than \$300,000.



The Fight Against Methamphetamines (continued)

The Attorneys General, along with national experts on the meth epidemic, discussed their experiences and best practices to fight this scourge. Their deliberations helped forge consensus on steps to address the devastating impact of meth.

They recommended states take several actions, including:

- Pursue a comprehensive, aggressive approach that addresses prevention through education, vigorous law enforcement and treatment of meth addiction.
- Make pills containing pseudoephedrine, the drug essential to producing meth, harder to obtain by placing them behind pharmacy counters and requiring buyers to show IDs and sign a log to get them. An Oklahoma law imposing such restrictions has produced



Arizona Attorney General Terry Goddard promoting meth bill at the Arizona Capitol

tremendously positive results, including an 80 percent reduction in meth lab seizures. This is the single, most effective step a state can take to fight meth.

- Do everything possible to protect children, who are too often the innocent victims of meth use and production. This includes updating laws governing child abuse by meth users. The law should specify that cooking meth around kids is child abuse, plain and simple.
- Step up efforts to intercept meth supplies coming from so-called "super labs" in Mexico. Once the number of small meth labs within each state has been reduced, more law enforcement resources can be directed toward cutting off these outside sources of meth.
- Work with our federal partners, both in terms of new legislation and additional financial support for law enforcement.
- Mount a broad-based, grass-roots prevention campaign to inform both adults and children of the dangers of meth use.

State Law Enforcement Meth Summit

In March 2005, law enforcement officials from across Arizona gathered to discuss better ways to combat the production and use of methamphetamine. The meeting included more than 50 Arizona county attorneys, sheriffs and police chiefs.

The session included a report by Terry Goddard on the AG Meth Summit. He urged the group to support grass-roots efforts to educate both adults and children of meth's dangers. The officials resolved to build coalitions with other law enforcement agencies and community organizations, including schools, Boys and Girls Clubs, service clubs, pediatricians and behavioral health professionals.

2004-2005 Highlights Colorado City

Arizona Attorney General Terry Goddard and Utah Attorney General Mark Shurtleff continue to work closely together on issues affecting the polygamous communities of Colorado City, Arizona and Hildale, Utah. Their efforts include:

- Increasing access to law enforcement protection for victims of child abuse and domestic violence.
- Increasing services for victims with sensitivity to the culture and beliefs of the community.
- Establishing a safety net for victims of abuse that extends across jurisdictional boundaries.

During Fiscal Year 2005, the following steps were taken:

- **Child Bigamy Law:** The Arizona Attorney General drafted and won approval of

legislation making it a crime to force minor girls into plural marriages. The legislation became law on August 25, 2004.

- **School Receivership Law:**

The Arizona Attorney General strongly supported legislation which passed in the 2005 Session that allows the Arizona State Board of Education to place a school district in receivership if it finds evidence of gross financial mismanagement. This legislation ensures that children will continue to receive an education while a receiver corrects the financial mismanagement.

- **Arizona-Mohave County Center:** In 2004, the Mohave County Board of Supervisors approved \$200,000 to fund a Community Justice Center

located at the Mohave County Community College in Colorado City. The Community Multi-Use Facility opened in August 2004 and allows agencies, including the Arizona Department of Economic Security, Attorney General's Office, Mohave County Attorney and Sheriff, to have a presence in Colorado City. Victims can receive information and assistance for a variety of needs at the Center.

- **Arizona Safe Passage Program:** In 2004, the Arizona Attorney General's Office partnered with the Arizona Department of Public Safety to arrange \$79,347 in emergency funding to provide expanded outreach, assistance for victims and training for professionals. The Arizona Safe Passage Program funded three specific activities to provide outreach and assistance for child abuse

and domestic violence victims in the Colorado City/Hildale community:

- ▶ **Victim Advocate:** The funding helped establish a Victim Advocate position within the Mohave County Attorney's Office for the Arizona Strip with an office in Colorado City. The Victim Advocate works together with law enforcement and prosecutors to protect and assist victims in addition to outreach and educational presentations on victim assistance and resources in the community.
- ▶ **Safe Talk Helpline (1-866-9-SAFE-99):** The Arizona Attorney General's Office and Department of Public Safety have set up a

Colorado City (continued)

toll-free helpline to provide outreach to child abuse and domestic violence victims in the Colorado City/Hildale communities. Helpline calls are answered by professional counselors at Childhelp USA.

► **Training for Professionals on Working with Victims of Polygamous Communities:**

The Arizona Attorney General's Office, working with the Utah Attorney General's Office, developed a training curriculum that will help professionals in providing services to victims of domestic violence and child abuse from polygamous communities.

• **Town Hall Meeting in St. George – March 4, 2005:**

Arizona Attorney General Terry Goddard and Utah Attorney General Mark Shurtleff convened a Town Hall meeting in St.

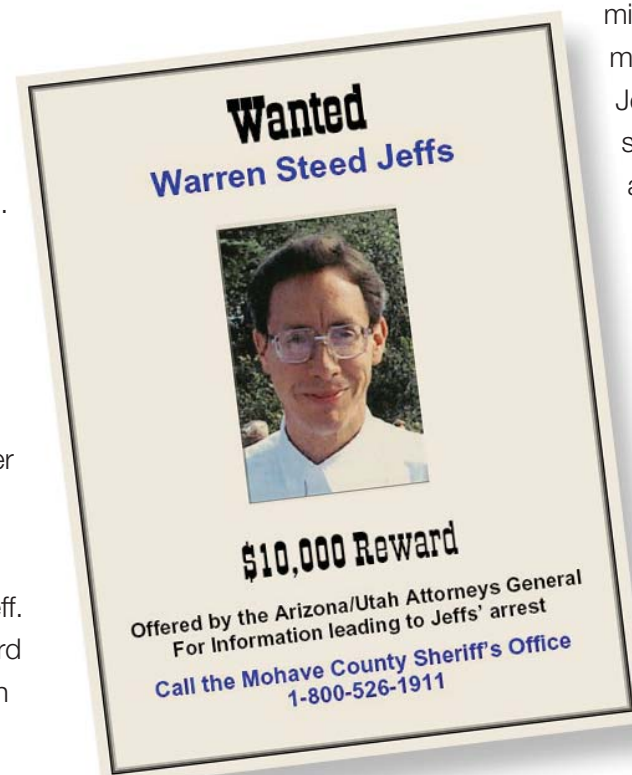
George, Utah, with Arizona Department of Economic Services Director David Berns and the regional administrator of the Utah Department of Child and Family Services. More than 350 people attended the event.

• **United Effort Plan Trust:**

A Utah Court removed the trustees from the United Effort Plan (UEP) which owns significant property and assets in Colorado City/Hildale. The UEP trust is estimated to total more than \$100 million in value. The ousted trustees included Fundamentalist Church of Jesus Christ of Latter Day Saints (FLDS) leader Warren Jeffs.

The action was filed by Utah Attorney General Mark Shurtleff. Attorney General Terry Goddard worked closely with Shurtleff in

the case because the trust holds assets in Arizona and many of its beneficiaries live in the State. A special fiduciary was appointed by the Court to take charge of the trust, inventory its assets and make recommendations on how it should be administered.



• **Indictment of Eight Colorado City Men:**

A Mohave County grand jury indicted nine Colorado City men, including FLDS prophet Warren Jeffs, in June 2005 on charges of sexual conduct with a minor, conspiracy to commit sexual conduct with a minor and sexual assault. Eight men are currently awaiting trial. Jeffs has avoided being served with the indictment and is considered a fugitive.

• **Decertification of Colorado City Police Officers:**

The Arizona Peace Officer Standards and Training Board (AzPOST) will determine if two members of the Colorado City Marshal's Office will keep their peace officer certifications.

2004-2005 Highlights Preventing Domestic Abuse and Cybercrime

CUT IT OUT Program

In 2005, the Attorney General's Office joined forces with the Arizona Coalition Against Domestic Violence and the Arizona State Board of Cosmetology to launch the *CUT IT OUT* program. This national effort draws on the cosmetology community's unique skills and access to women by providing salon professionals training and information so they can assist domestic violence victims in getting help.

Salon professionals see an average of 100-200 clients a month, and the program builds on the special relationships women develop with their cosmetologists. One goal of *CUT IT OUT* is to build awareness of domestic violence through



posters and brochures displayed in salons. Salon professionals are being trained to recognize warning signs and safely refer their clients to help. The Arizona Coalition Against Domestic Violence has been conducting training sessions at Arizona's 43 cosmetology schools and hair shows. The Arizona State Board of Cosmetology is distributing informational materials to approximately 4,500 salons in Arizona.

Terry Goddard Named Boys & Girls Clubs Champion for Kids

In February 2005, Attorney General Terry Goddard was named the Boys & Girls Clubs Arizona Alliance Champion for Kids. A primary focus of this partnership is Internet safety education. During the last year, Goddard traveled throughout Arizona to promote Internet safety at

local Boys and Girls Clubs. This ongoing partnership provides information to parents and children about how to safely travel on the cyber superhighway. Goddard joined with the Boys & Girls Clubs Arizona Alliance and NetSmartz to develop the program.

The Arizona Attorney General's Office Kids Page on the Web offers fun activities and valuable information on Internet safety. In addition, the Office produced a short video that illustrates the dangers found on the Internet, as well as tips to protect children. The video features the Boys & Girls Clubs

Arizona Alliance, Arizona Internet Crimes Against Children Task Force, NetSmartz Workshop and the National Center for Missing and Exploited Children. The video is available in English and Spanish and is used by law enforcement and community organizations for educational and media programs. The video can be viewed or downloaded from the Attorney General's Web site at www.azag.gov.

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Attorney General Terry Goddard with former Mississippi Attorney General Mike Moore, Robbie Callaway, Boys & Girls Clubs of America, and Olivia Brusso McCormick, President of the Arizona Alliance of Boys & Girls Clubs



2004-2005 Highlights Identity Theft

Attorney General Terry Goddard is committed to reducing Arizona's high rate of identity theft. The Attorney General's Office has launched several initiatives to educate consumers and prevent identity theft. The campaign includes brochures, bookmarks, TV public service announcements, videotapes and DVDs available in English and Spanish. In addition, the Attorney General's Office is aggressively prosecuting identity thieves.

Letter to Congress: In May 2005, Attorney General Goddard called on the Arizona Congressional delegation to help protect Arizona residents from identity theft by removing Social Security numbers from Medicare, Veteran and Department of Defense cards.

Goddard cited a November 2004 General Accounting Office report



that noted Social Security numbers "are a linchpin to other personal information held in a variety of records. The extent to which they are exposed to public view, of course, increases the likelihood that they will be misused for inappropriate mining of personal information, violation of privacy and identity theft."

Goddard cited Arizona's effort to prevent ID theft by issuing drivers' licenses without using Social Security numbers. He also noted that State health insurance providers no longer use Social Security numbers as ID numbers on health insurance cards.

ChoicePoint, Inc.: In February 2005, Attorney General Goddard joined 18 state attorneys general in asking ChoicePoint, Inc. to notify any consumers in their states whose information may have been released to a ring of identity thieves. ChoicePoint, Inc., a Georgia-based company, provides personal data to credit providers, government agencies, landlords and others who perform credit history checks. Approximately 7,000 Arizonans may have had their identity compromised.

DSW Shoe Warehouse Data Theft:

In April 2005, Attorney General Goddard warned that consumers who shopped at the Phoenix area Designer Shoe Warehouse stores between November 2004 and February 2005 may have been victims of identity theft. The two Arizona stores affected are located at 3411 W. Frye Road in Chandler and 21001 N. Tatum Boulevard in Phoenix. The DSW investigation revealed that transaction information from 1.4 million credit



Attorney General Terry Goddard greets seniors at Desert West Senior Center in Phoenix during an ID theft presentation in May 2005

Identity Theft (continued)

card purchases completed at 108 stores nationally was compromised. In addition, transaction information involving 96,000 checks was also stolen. The thefts occurred between mid-November 2004 and mid-February 2005.

LexisNexis Security Breach:

In April 2005, Arizona residents were among the 310,000 people nationally whose personal data files were stolen from information broker LexisNexis. In March, LexisNexis initially reported that 32,000 personal information files had been breached. The company revised the number upward a month later to reveal that more than 300,000 files had been breached. In Arizona, 6,215 residents had their information stolen.



CardSystems Solutions, Inc.:

In June 2005, Attorney General Goddard called on CardSystems Solutions, Inc. to notify any Arizona consumers whose information may have been stolen following a security breach. CardSystems, a credit card processing company, experienced a security breach of personal information affecting as many as 22 million Visa-branded cards and 14 million MasterCard-branded cards. Arizona does not

have a state law that requires companies to notify residents of a security breach.

ID Thieves Indicted: In January 2005, Elizabeth Repp and Brian Lee Warner were indicted on charges of fraud and identity theft. The case was a joint investigation with the U.S. Postal Inspection Service. When investigators

Attorney General Terry Goddard announces his letter to Congress calling for the removal of Social Security numbers from Medicare cards

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searched Repp's Phoenix apartment, they found personal data of more than 500 potential ID theft victims. Her apartment was guarded by counter-surveillance equipment and a pit bull. Both defendants pled guilty and were sentenced to seven and a half years in prison.

Phishing Alert: In January 2005, Attorney General Terry Goddard warned Arizona consumers to be aware of an upsurge of email scams commonly known as "phishing" or "carding." The email messages appear to be from financial institutions, government agencies and business firms such as PayPal, eBay or other Internet transaction sites. The messages look official because they include what appear to be logos from the various companies.

2004-2005 Highlights Proposition 200

Proposition 200: In November 2004, Arizona voters passed Proposition 200, requiring Arizona residents to provide proof of U.S. citizenship or immigration status when applying for public benefits, except those that are federally mandated. The law also requires that voters show identification at the polls to vote.

The Attorney General's Office defended Proposition 200 in federal and State court and provided legal advice to State agencies regarding the implementation of the new law. The Office assembled a litigation team of trial and appellate attorneys to defend against challenges to the statute's constitutionality.

Other significant accomplishments related to defending and

implementing Proposition 200 included:

- Persuading the federal district court to permit the State to begin implementing Proposition 200 and defending the district court's decision on appeal.
- Obtaining expedited preclearance from the United States Department of Justice of the portions of Proposition 200 that affect voting.
- Providing a formal legal opinion to the director of the Arizona Health Care Cost Containment System (AHCCCS) concerning state and local public benefits subject to Proposition 200.
- Providing a formal legal opinion to the Secretary of State affirming that an Arizona driver's license issued after October 1996

was acceptable evidence of citizenship for the purposes of registering to vote.

- Providing legal advice to a variety of State agencies concerning the requirements of Proposition 200 and related laws.

- Working with the Secretary of State's Office to develop voting rules that implement the identification at the polls requirement.



2004-2005 Highlights Criminal Cases

- In 2005, the **Criminal Appeals Section** successfully addressed the impact of the United States Supreme Court's decision in *Blakely v. Washington* on Arizona's criminal justice system. *Blakely* required jury trials on aggravating circumstances before a trial court could impose aggravated sentences on defendants. The attorneys in the Criminal Appeals Section not only handled a nearly 300-case work load increase in appeals because of *Blakely*, but also drafted arguments addressing *Blakely* to assist deputy county attorneys with this issue at trial. The attorneys in the Section argued three cases in the Arizona Supreme Court on *Blakely* issues: *State v. Brown*, *State v. Henderson*, and *State v. Martinez*. In *Martinez*, the attorneys persuaded the Arizona Supreme Court to interpret the Arizona sentencing statutes to narrow *Blakely's* effect in Arizona. In addition to the *Blakely* case, the

Criminal Appeals Section filed 899 briefs, habeas answers, petitions for review and responses to petitions for review.

- The **Fraud and Public Corruption Unit** charged 504 criminal defendants with felony offenses, including fraudulent schemes and artifices, illegal enterprise, participating in criminal syndicates and money laundering. The Unit also handled some violent crimes due to conflicts referred from various county attorney offices. Many of the fraudulent schemes cases involved identity thefts. The Unit worked closely with identity theft task forces spearheaded by the Department of Public Safety and the United States Postal Inspectors. The Unit assisted more than 27,000 victims and obtained

restitution in excess of \$60 million. The Unit handled approximately 50 foreign prosecutions, either by extradition or Article IV proceedings. All of these Article IV cases pertain to pending Arizona criminal cases against Mexican citizens who fled to Mexico to avoid prosecution.

- **Majestic Capital Management (Bayou Hedge Fund):** On May 19, 2005, the Arizona Attorney General's Office seized \$101 million from an account in the name of Majestic Capital Management. The Court found probable cause to believe that the seized funds were in the process of being used in a "prime bank instrument" fraud on various financial institutions. The seized funds were deposited in an interest-bearing account at the Arizona Treasury. These funds may have originated with the Bayou Hedge Fund. If current efforts to trace the funds prove that they

came from Bayou, the Arizona Attorney General's Office will release the funds to the U.S. District Court in New York for return to the investors.

- **Coyote Violence Initiatives:** These investigations were aimed at money transmitters and used car dealers who facilitate human smuggling. These initiatives seized eight used car lots, removed over \$5.2 million in Fiscal Year 2005 and significantly disrupted criminal drug and illegal immigration enterprises. The Attorney General's Office has developed cutting-edge analytical tools and is leading the nation in this type of sophisticated investigation and prosecution.

2004-2005 Highlights Consumer Protection Cases

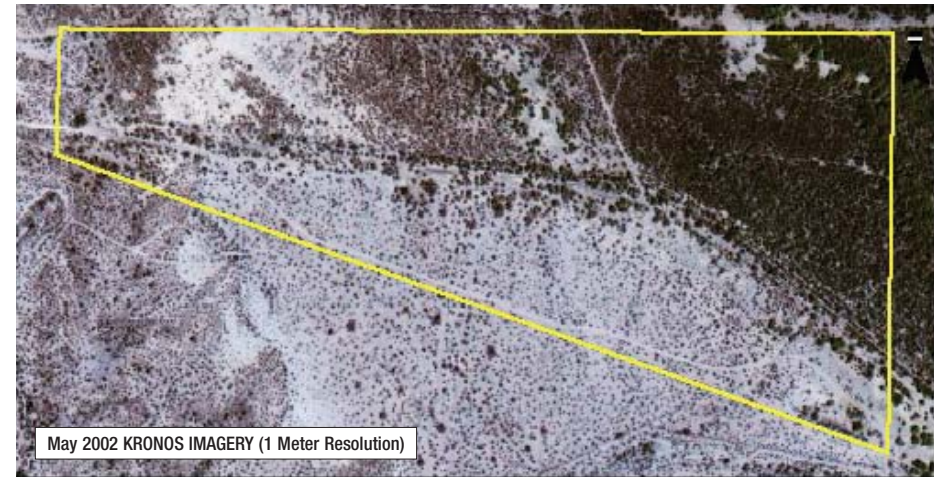
- **El Paso Gas:** In December 2004, the Antitrust Unit settled a lawsuit against the El Paso Natural Gas Corporation and its affiliated companies (“El Paso”). It alleged that El Paso manipulated the supply of natural gas, causing Arizona consumers to pay higher natural gas prices. The settlement, worth \$78,375,000, returned \$3 million directly to Arizona’s low income energy consumers, and required El Paso to expend more than \$72 million to make improvements in pipeline safety and capacity, as well as achieving substantial water conservation.
- **Precision Toyota:** The Attorney General settled a consumer fraud lawsuit against a Tucson auto dealer, Precision Toyota, for \$152,000, one of the highest recoveries for deceptive auto advertising. The Attorney General alleged that Precision Toyota falsely advertised a “50% off MSRP” sale on all new Toyotas. No such offer was available. The “50% off MSRP” sale required consumers to sign a 36-month lease on a new vehicle. After 36 months, Precision would sell the vehicle to the consumer for “50% off” the vehicle’s residual value. The consent agreement required Precision to advertise only in clear, truthful and not misleading language. The \$152,000 covers consumer education, attorneys’ fees and investigation costs.

2004-2005 Highlights Civil Cases

State v. Johnson: In February 2005, Attorney General Terry Goddard filed a multi-count civil action against land developer George H. Johnson and affiliated entities. The lawsuit stems from the defendant's attempt in 2003 to construct a large residential community in southern Pinal County. The lawsuit charges the defendants with violations of State law and destruction of the State's natural and archaeological resources. The lawsuit was filed on behalf of the Arizona Department of Environmental Quality, the Arizona State Land Department, the Department of Agriculture, the Arizona State Museum and the Arizona Game and Fish Commission.

The lawsuit charges the defendants with illegally bulldozing and clearing some 270 acres of State Trust Lands and an estimated 2,000 acres of private lands without obtaining permits required by State law.

The suit seeks penalties under the Native Plants Act for destruction of the protected plants on State Lands and failure to notify the State of pending destruction of protected plants on private lands; damages for the trespasses on State Trust Lands, including damage to plants, archaeological sites and washes; penalties for numerous violations of clean water statutes and regulations; and damages for the death of 21 desert bighorn sheep.



Before and after aerial photos of a portion of State Trust Land, which the State's lawsuit alleges was bulldozed. The land is located within the Los Robles Archaeological District in the National Register of Historic Places.

Administrative Operations Division

Constance Kohl
Chief Director



Mission:

To provide quality administrative services that meet the ever-changing business requirements of the AGO and ensure that resources are allocated and utilized in a manner consistent with law, agency mission and customer need.

• **Case Management System:**

The Attorney General's Office is in the process of modernizing its Case Management System. This system will help coordinate court cases and manage them electronically. The Information Services Section provided technical support in selecting a software vendor and will continue to work closely as the system is put in place and made operational over the next two years.

- **Online Initiatives:** The Attorney General's Office expanded its Web presence with a new, shorter Web address – azag.gov. Information Services created an e-mail subscription service to notify consumers of fraudulent scams. A new Intranet system, *linkAG*, was

developed in support of the Knowledge Management Initiative that provides the entire Office with the ability to create online work groups, find colleagues with specific skills in case areas and facilitate information sharing within the Attorney General's Office.

- **Budget:** AOD managed and/or monitored the revenues and expenses of all AGO divisions; managed budgets for 68 Interagency Service Agreements with 54 agencies with a total

value of \$18,273,300; managed the budgets for 33 Federal Grants with 21 agencies with a total value of \$7.39 million; submitted over 190 monthly, quarterly, semi-annual and annual financial reports to external agencies; reviewed and analyzed 25 funding priorities submitted by the Divisions for consideration in the annual budget process; and researched and developed five decision packages for submittal in the annual budget recommendation.

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ISS Project Manager Jerri Allen takes a quick break from taping a training video for the Offices's new Intranet, linkAG



Administrative Operations Division (continued)

• **Salary Review Committee:**

Staff from Administrative Operations assisted the Attorney General's Office Salary Review Committee in researching and developing a Public Attorney Average Salary Measure for tracking and comparing the compensation of public attorneys in Arizona. The Committee developed a process for calculating the attorney turnover ratios by Division and Bar Year by monitoring and tracking attorney hires and departures. This information was provided to the Legislature in support of the Attorney General Office's attorney salary parity plan, which was approved by the Legislature and signed by the Governor. Once approved, AOD helped implement the plan.

Other accomplishments include:

- ▶ AOD streamlined the Outside Counsel Request for Proposal

(RFP), expanded the law firm database, and, for the first time, transferred RFP documents electronically to law firms.

- ▶ Multiple network security systems were upgraded. All data communications between AGO facilities and e-mail with key client agencies are now secured using the new triple data encryption standard. Intrusion detection systems have been installed to actively monitor for suspicious computer network activity. ISS has updated all of the AGO criminal justice systems in compliance with the latest federal mandates. The AGO computer anti-virus software now automatically updates its virus definition file daily. The e-mail anti-spam server was upgraded to the latest version.



Attorney General Terry Goddard presents Michelle Davis with an "Emerging Star" Employee Award. Michelle works in the Human Resource section.

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- ▶ AOD planned and coordinated the renovation of 29,000 square feet of office space in the two Attorney General's Office buildings (13 percent of total space in both buildings). This project included coordinating the relocation of

151 employees into the renovated spaces. Plans were also developed for further renovations and deployment of staff into the vacated areas.

- ▶ The Office received a "Bronze Award" from United Blood Services for blood drives conducted by the Library and Research Section throughout the year that resulted in an estimated 140 donations. Since 1993, the AGO has donated 1,652 pints of blood, making a life and death difference to 4,956 patients throughout valley hospitals.
- ▶ The Office raised \$24,513 and received an award for "Increase in Leadership Givers" for the State Employees Charitable Campaign coordinated by Human Resources Section.

Child and Family Protection Division

Sharon Sergent
Division Chief Counsel



Mission:

To provide the Department of Economic Security (DES) with high quality and timely legal advice and representation to promote the safety, economic sufficiency and well being of children, adults and families.

Child Support Section

In Fiscal Year 2005, the Child Support Section helped Arizona children receive the support to which they are entitled by:

- Establishing paternity for 4,739 children, a 19 percent increase over Fiscal Year 2004.
- Establishing new child support orders in 7,007 cases, a 6 percent increase over Fiscal Year 2004.
- Obtaining child support judgments of over \$61 million.
- Resolving 2,555 actions for modification of child support to ensure that the support order is fair and reasonable.
- Making 29,102 court appearances.
- Advising the Department of Economic Security Division of Child Support Enforcement on policy and legal matters.

Litigation and advice from attorneys in the Child Support Section were critical to the Child Support Agency achieving its goal of assisting families to become or remain self-sufficient through collection of child support. This year the State had its highest support collections ever. Collections for Fiscal Year 2005 totaled nearly \$300 million. To put this in perspective, in Fiscal Year 1998, collections were approximately \$160 million.

Civil & Criminal Litigation & Advice Section

The Civil & Criminal Litigation & Advice Section ("CLA") represents the Department of Economic Security ("DES"). DES is Arizona's primary social service agency, with over 250 offices and 9,600 employees responsible for more

than 100 social service programs. CLA provides advice and representation for all DES programs except Child Protective Services and Child Support Enforcement.

Significant Achievements

- CLA successfully defended a federal court action in which an operator of group homes sought an injunction against DES to prevent the agency from imposing contract remedies designed to maintain uniform quality of services to developmentally disabled Arizonans.
- CLA successfully defended challenges to DES enforcement of laws requiring that any employee having direct contact with children or vulnerable adults possess a current valid fingerprint clearance card.

Child and Family Protection Division (continued)

- CLA obtained a \$25,000 judgment for attorneys' fees in a licensing enforcement action against Teen Reach, a child welfare agency that unsuccessfully claimed a religious exemption from state oversight.
- CLA avoided potential state liability for over \$200,000 in commission income owed to blind vendors by the U.S. Postal Service.
- CLA assisted DES in development of employment policies for fingerprint clearance and comprehensive drug and alcohol testing.

Protective Services Section

The Protective Services Section of the Attorney General's Office provides comprehensive legal representation to DES on behalf of

abused and neglected children and in support of Child Protective Services' (CPS) efforts to protect children, preserve families and achieve permanency for Arizona's kids. These cases are known as dependency cases and are presided over by the Juvenile Court. The attorneys and staff of the Protective Services Section provide this legal representation in all 15 counties with offices in Flagstaff, Kingman, Mesa, Phoenix, Prescott, Sierra Vista, Tucson and Yuma.

Significant Achievements

Caseloads continued to increase by another 19 percent from Fiscal Year 2004, bringing the total caseload to 6,434 cases by the end of Fiscal Year 2005.

In Fiscal Year 2005, the Protective Services Section:

- Protected more than 11,500 children from abuse and neglect.
- Filed 3,493 total dependency petitions representing 4,924 children.
- Filed 1,056 severance motions.
- Filed 436 guardianship motions.
- Filed 80 adoption petitions.
- Helped place 3,763 children in permanent homes.
- Helped reunite 2,143 children with their parents.
- Placed 465 children with a permanent guardian.
- Helped 929 children be adopted by relatives or foster parents.
- Represented the DES in 148 appeals filed.
- Prevailed in 95 percent of all appeals resolved.

Success in Jury Trials in Dependency Proceedings

In Fiscal Year 2005, 166 jury trials were requested statewide. Of those 166 cases, 15 went to trial during this fiscal year. PSS prevailed on behalf of the DES in 14 of the 15 cases, obtaining a verdict in favor of severing parental rights, which allowed the children to be adopted and placed in safe, permanent homes.

Solicitor General's Office

Mary O'Grady
Solicitor General



Mission:

The Solicitor General's Office is committed to excellence, fairness and integrity, and provides leadership in appeals, elections, ethics, independent advice and legal opinions.

Major efforts made this year by the Solicitor General's Office include:

Tuition Tax Credits:

Successfully defended the constitutionality of Arizona's tax credit for contributions to organizations that provide scholarships to students who attend private schools. The district court held that the tax credit did not violate the Establishment Clause. An appeal is pending in the Ninth Circuit. (*Winn v. Hibbs.*)

Income Tax and Retirement

Contributions: Persuaded the United States Supreme Court to deny a petition for certiorari that sought review of an Arizona Supreme Court decision holding that Arizona's income tax statutes did not violate the intergovernmental tax immunity doctrine. (*Moran v. Hibbs.*)

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Attorney General Terry Goddard presents the Open Meeting Law team with employee awards in May 2005

Sex Offender Notification:

Intervened in a federal district lawsuit to defend the constitutionality of Arizona's sex offender notification statute. (*Stannard v. City of Phoenix.*)

Campaign Finance:

Successfully defended the State in a comprehensive constitutional challenge to Arizona's campaign finance laws. (*Arizona At Its Best v. Brewer.*)

Community Outreach on Open Meeting Law and Public Records Law:

Conducted 35 training sessions throughout the State concerning the open meeting and public records laws. These included training for the League of Arizona Cities & Towns, civil deputy county attorneys, the State Bar, local governments in Paradise Valley, Verde Valley and Sedona, and a variety of state agencies and school districts.



Solicitor General's Office (continued)

Attorney General Opinions:

The Solicitor General's Office coordinated the production of significant Attorney General Opinions, including opinions concerning Proposition 200, the AIMS test, and the uses of Highway User Revenue Funds.

Quality in the State's Appellate

Practice: The Solicitor General's Office continued preparing, reviewing and editing briefs for state and federal appellate courts. The Solicitor General's Office reviewed more than 335 briefs and coordinated 29 moot courts in the past fiscal year.

Arizona's Campaign Finance Laws, Lobbyist Reporting Requirements and Financial Disclosure Requirements for Public Officials:

For the first time, the Attorney General's Office initiated enforcement proceedings against public officers who failed to file their annual financial disclosure statements. During Fiscal Year 2005, the lawyers in SGO handled 285 matters referred by the Secretary of State relating to campaign finance and election law requirements, lobbyist reporting, and public official financial disclosure. SGO attorneys also reviewed and advised the Citizens Clean Elections Commission regarding 29 enforcement matters. They also represented the Commission in the administrative appeal of its decision to remove a state legislator from office because he violated the spending limits that apply to candidates who accept public funding.

Federal Voting Rights Act:

Lawyers in SGO obtained preclearance from the United States Department of Justice of all bills affecting voting that the Legislature enacted during 2005. They successfully received expedited preclearance before the effective date of all bills. They also obtained expedited preclearance of the Proposition 200 initiative and a new Voter Registration Form to conform to Proposition 200 requirements.

Clean Elections: The Solicitor General's Office successfully defended the constitutionality of the Clean Elections Act, an initiative Arizona voters approved in 1998. The district court dismissed the lawsuit, agreeing with the Attorney General's Office that the Clean Elections system for public funding of candidates for state offices complies with the First Amendment. An appeal was pending in the Ninth Circuit as of June 30, 2005. (*American Physicians v. Citizens Clean Elections Commission.*)

Criminal Division

Don Conrad
Division Chief Counsel



Mission:

To protect the citizens of Arizona by successfully investigating and aggressively and fairly prosecuting criminal cases within the State of Arizona. To promote safety, justice, healing and restitution for all of Arizona's crime victims. To effectively represent the State of Arizona in capital and non-capital appeals filed by convicted felons. To investigate and prosecute Medicaid fraud, as well as abuse, neglect and exploitation committed in Medicaid facilities or by Medicaid providers.

The Criminal Division includes three sections: Criminal Appeals, Criminal Prosecutions and Special Investigations.

- **Special Investigations Section** (SIS) provides investigative support to law enforcement and consumer protection sections of the Attorney General's Office, as well as support to law enforcement agencies across the State of Arizona. SIS provides expertise in specialized areas of law covered under the Attorney General's jurisdiction, which is not usually available at other law enforcement agencies, including vulnerable adult abuse, consumer fraud, drug trafficking and human smuggling, environmental crimes, medical fraud, money laundering, white collar crimes, political corruption, youth tobacco enforcement,

antitrust, high technology crimes and prosecution of defendants who have fled to Mexico.

The **Criminal Prosecutions Section** includes four units:

- **Fraud and Public Corruption Unit** prosecutes white collar crime and fraud cases. The Unit typically prosecutes criminal fraud in areas such as securities, insurance, real estate, banking, taxes, government, telemarketing, computers and other areas of financial activity. The Unit also focuses on gang-related crimes and handles conflict matters from other counties.
- **Drug Unit** combats drug trafficking and money laundering organizations operating within Arizona. Additionally, attorneys provide legal advice and training on a statewide basis on issues involving search and seizure, research, Arizona's drug laws,

and on prosecuting cases involving children found at drug-related scenes.

- **Medicaid Fraud Control Unit** is a federally funded unit charged with investigating and prosecuting Medicaid (AHCCCS) fraud; fraud in the administration of the Medicaid program; and abuse, neglect or financial exploitation occurring in Medicaid facilities or committed by Medicaid providers.
- **Tucson Criminal Trials Unit** prosecutes crimes occurring in the Tucson area. The unit also works with multi-jurisdictional groups in southern Arizona to prosecute abuse and financial exploitation of the elderly and vulnerable adults.

Target Employee Recognition

Attorney General Terry Goddard presented the Attorney General's Office Distinguished Service Award to six Target Corporation employees for their efforts to fight meth production in Arizona. The employees worked closely with local police to identify suspects who appeared to be purchasing pseudoephedrine to produce meth. Earlier this year, Target Corp. decided to move all pseudoephedrine-based

medications behind pharmacy counters, a move followed by some other retailers.

Target employees recognized were:

- Jason Beckerman and Steve Schieman - Target Corporation Investigators.
- David Offutt - Target Corporation Investigative Technician.
- Sean Phillips, Sheila Hamm and Candice Brusacoram - Target Corporation Asset Protection Specialists.

Major Cases - Fraud & Public Corruption Unit:

- **State v. Raul Vasquez-Arrieta, Carmen Pardo and Gilberto Garcia-Peralta:** Agents seized a money transfer pursuant to a Damming Warrant. The subsequent investigation revealed that the money was being used to pay off a "coyote" for smuggling undocumented aliens. The grand jury indicted Raul Vasquez-Arrieta, Carmen Pardo and Gilberto Garcia-Peralta in March 2005 on various charges, including conspiracy, money laundering, kidnapping and aggravated assault. Trial was pending as of June 30, 2005.
- **State v. Rosa Pasqual et al.:** This case involves a group that was smuggling undocumented immigrants into the country. The

organization used second-hand cars from various used car dealerships, and forged titles and liens to disguise their activities. The Attorney General's Office used the criminal enterprise and criminal syndicate statutes to prosecute this organization. All of the sentenced defendants received prison terms.

- **State v. Douglas Sanchez:** Sanchez used his position as an associate pastor at two small non-denominational churches to convince parishioners and others to invest in a fraudulent investment scheme amounting to over \$1 million. Most of his victims were elderly and/or individuals with disabilities. The defendant was convicted of nine felony counts, including fraudulent schemes and artifices, theft, taking the identity of another, and illegally conducting an enterprise. He was sentenced to 12.5 years in prison.

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Attorney General Goddard presents Jason Beckerman and Steve Schieman with the Distinguished Service Award for their efforts to fight meth production



Criminal Division (continued)

- **State v. Collin Pacheco (Conflict Case from Yavapai County):** A jury found Pacheco guilty of four counts of Sexual Conduct with a Minor under the Age of Twelve, and five counts of Molestation of a Minor under the Age of Twelve. Pacheco was sentenced to four consecutive life sentences on the sexual conduct counts. Each life sentence requires the defendant to serve no less than 35 calendar years before he is eligible for release (defendant would have to serve 140 years before he is eligible for release).
- **State v. John Castle & William Castle:** The defendants defrauded two elderly men out of more than \$400,000 in a land investment scheme, telling the victims that they were investing in a shopping center project. Within a week after receiving the victims' money, the brothers began laundering it through multiple

corporations and diverting the funds into other investments. The crime had a serious financial and emotional impact on the victims, nearly wiping out the life savings of one. William Castle was sentenced to 10 years in prison. John Castle was awaiting trial as of June 30, 2005.

- **State v. Kevin Ross:** Maricopa County Assessor Kevin Ross was convicted by a jury on one count of conflict of interest. Based upon the jury's conviction, the court immediately ordered Ross to be removed from office. The defendant received a probation sentence.
- **State v. Adrian Walters & Cassandra Hawkins:** Adrian Walters and Cassandra Hawkins were convicted of running a marijuana drug ring in which they were acquiring marijuana in Phoenix and then shipping it to

various locations across the country, including New York, Georgia and Ohio. They were sentenced to prison and ordered to pay costs for the wiretap and prosecution in excess of \$800,000.

- **State v. Algene Brown:** Brown was convicted by a jury on one count of manufacturing dangerous drugs, one count possession of dangerous drugs and four counts of child abuse. The defendant was an accomplice in a meth lab operation and was also securing high-grade ephedrine to manufacture additional methamphetamines. The child abuse counts related to the presence of four children who had access to the meth lab area. In a second case, Brown was convicted by another jury for

manufacture of dangerous drugs and two counts of child abuse. He was sentenced to 23 years in prison.

- **State v. Joseph Martinez and Christina Brown:** Police obtained a search warrant for a suspected meth lab and inside found both suspects, along with their 19-month-old child. A seven-year-old child also lived with Martinez and Brown, but was not home at the time. The meth lab was located in the master bathroom and closet, with meth chemicals and glassware found in the kitchen and elsewhere in the house. Methamphetamine and paraphernalia were found throughout the house. Air quality readings were extremely hazardous within the house, and the children had easy access to all of the chemicals and equipment stored there. Trial was pending as of June 30, 2005.

Environmental Unit

- **State v. Far West Water & Sewer Co., Connie Charles, Brent Weidman:** Two workers died by asphyxiation in a Yuma sewer tank. Investigation revealed that numerous safety regulations were ignored by the company and its officers, who were charged with manslaughter, aggravated assault, endangerment and causing death in the workplace. Trial was pending as of June 30, 2005.

Tucson Criminal Trials Unit

- **State v. Maryanne Chisholm:** Chisholm was indicted by a Pima County Grand Jury on one count of Illegally Conducting an Enterprise, three counts of Fraud Scheme, and 53 counts of Illegal Sale of Security. The indictment alleges that the defendant sold \$25 million in unregistered securities to 1,200 victims, including about 700 investors

with hearing impairments. Trial was pending as of June 30, 2005.

- **State v. Ernesto Mendez-Cañez:** Mendez-Cañez was indicted by a Pima County Grand Jury on one count of conspiracy, one count of unlawful transportation of marijuana for sale and 16 counts of unlawful use of a wire communications in furtherance of a drug offense. The indictment alleges that Mendez-Cañez was allegedly a significant distributor and smuggler of drugs, who was caught during a wire tap. Trial was pending as of June 30, 2005.

- **Methamphetamine Precursor Sales Initiative:** The AGO seized three businesses that specialized in the sale of methamphetamine precursors with knowledge that the buyers intended to use the chemicals to produce meth. The State has obtained the forfeiture

of all property in one of these cases, resulting in a settlement of \$650,000. The other cases were pending as of June 30, 2005.

- **State v. Gravano:** The Court of Appeals affirmed a judgment against the wife of Sammy "the Bull" Gravano for over \$900,000 in disgorgement of ecstasy sales income and another \$800,000 in attorney fees, upholding our State's racketeering statutes against various constitutional attacks. Gravano was arrested in 2000 for operating an ecstasy trafficking

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Sammy "the Bull" Gravano



organization. In 2002, he was sentenced to 19 years in prison.

Major Cases—Special Investigations Section

- **State v. Apache County Sheriff Brian R. Hounshell and Chief Deputy Brian Hough:** Hounshell is alleged to have improperly used public monies, equipment and personnel for his personal benefit. Hough is alleged to have facilitated in the misuse of personnel. Trial was pending as of June 30, 2005.
- **State v. Robert Shawn Owens:** Owens, an associate of several local attorneys, represented himself as being able to bribe judges, prosecutors and law enforcement to have criminal charges go away. Operating as a "legal investigator," Owens is alleged to have stolen in excess of \$800,000 from victims. Trial was pending as of June 30, 2005.

- **State v. Theresa Schambach et al.:** While working as an employee of the Arizona Department of Education, Schambach prepared fraudulent invoices and travel claims in the names of six of her friends and caused each of these individuals to be falsely established as vendors with the Arizona Department of Administration. Schambach then arranged for state warrants to be made payable to these individuals for services that were never rendered. Schambach or these individuals then cashed the warrants and shared a total of \$212,436 stolen from the State. On September 15, 2004, the seven participants were indicted in Maricopa County on fraud schemes and theft charges. Six suspects, including Schambach, have entered plea agreements and have been sentenced to

combined totals of more than 15 years probation and \$212,436 in restitution.

- **State v. Howard Bradley:** Howard Bradley scammed more than \$990,000 from about 50 new small business owners and acquaintances by selling them fraudulent investments, as well as advertising in magazines which were never published. On November 17, 2004, Bradley pled guilty to one count of fraud schemes and artifices with one prior felony and one count of theft. On January 21, 2005, Bradley was sentenced to 13 years in prison and ordered to pay \$992,239 in restitution.
- **State v. California Alternative High School:** In November 2004, the State obtained a Temporary Restraining Order

against Daniel Gossai, the owner of California Alternative High School, which claimed to provide a high school diploma to participants who paid for and completed a 10-week program. Gossai allegedly targeted primarily non-English speakers with little formal education. The State alleged that the value of the program is negligible and does not meet the requirements for an Arizona high school diploma. Settlement negotiations were in progress as of June 30, 2005.

Office of Victim Services

The Office of Victim Services (OVS) promotes and facilitates justice and healing for Arizona's crime victims.

- **Attorney General's Distinguished Service Awards:**
 - ▶ **Leadership:** For exercising principles and practices of effective leadership thereby serving as a model or setting an example for others. Presented to Kym Pasqualini, National Center for Missing Adults, a division of Nation's Missing Children Organization.

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Arizona Attorney General Terry Goddard with employees from the Office of Victim Services



Criminal Division (continued)

► **Public Policy:** For making an invaluable contribution or playing a critical role in ensuring public policy reforms, including legislative enactments, aimed at improving the treatment of crime victims. Presented to Deborah Tredway of the Arizona Coalition Against Domestic Violence for her determination to change the penalty in spousal rape cases in Arizona.

► **Service Coordination:** For being instrumental in establishing comprehensive, coordinated, multi-disciplinary approaches to service crime victims within a community. Presented to Mesa Police Department Detective Coy Johnston and Domestic Violence Specialist Andrea Sierra from the Domestic Violence Enforcement Response Team (DVERT).

► **Advocacy/Direct Services:** For passion and perseverance in facilitating victim justice and healing by promoting and ensuring victims' legal rights as well as crucial services. Presented to Terri Woodmansee, Crisis Services Coordinator for the Goodyear Police Department, and to the Phoenix Fire Department's Community Assistance Program.

► **Innovative Practices:** For developing programs to serve victims in a new way, providing services where none previously existed or using technology to assist victims. Presented to Childhelp USA for its Mobile Center of Northern Arizona. Childhelp USA has made itself a frontrunner in the race to eliminate child abuse and to provide the best possible services to victims.

• **State v. Elizabeth Repp et al.:** In January 2005, the Arizona Attorney General's Office indicted Elizabeth Ann Repp and Brian Lee Warner on nine felony counts, including Fraudulent Schemes and Artifices, Taking the Identity of Another, Unlawful Possession of an Access Device and Misconduct Involving Weapons. Repp and Warner were found with personal information of approximately 500 different individuals and businesses. Both defendants

have pleaded guilty and were sentenced to seven and a half years in prison.

OVS staff continues to work with victims to ensure that any identity theft is discovered before a significant loss is incurred.

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Attorney General Terry Goddard with stuffed animals donated for kids who are children of victims or victims themselves



Public Advocacy Division

Susan Segal
Division Chief Counsel



Mission:

To use the discretionary power of the Office of the Attorney General to pursue those who prey upon the public and threaten the economic and environmental well-being of Arizonans.

Community Services Program

The Arizona Attorney General's Community Services Unit provides educational programs that focus on preventing consumer fraud, protection of civil rights and victims' rights. Community Services staff focus on Arizona's most vulnerable populations, including seniors, minorities and those not fluent in English. A corps

of volunteers generously donate their time to enable these services to be offered in communities throughout Arizona.

The Community Services Program uses Satellite Offices throughout Arizona. These donated offices provide community-based venues that make it easier for residents to access information on consumer fraud, civil and victims' rights and other topics. Volunteer staff at the

Satellite Offices make educational presentations for community groups, distribute educational materials at community events and assist individuals with filing complaints or referrals for assistance.

The Community Services Program has a Mobile Community Services Office – the Fraud Fighters Van – that provides information to residents in their own communities on how to protect themselves from consumer scams, how to file a consumer complaint form and how to receive information about the Office's Civil Rights and Victim Assistance programs.

The Fraud Fighters Van is the newest tool to help bring services and information to senior centers,



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Arizona Attorney General Terry Goddard with Community Outreach Staff at Prescott Rodeo Parade

libraries, elected officials' offices and local neighborhood events throughout Arizona.

Consumer Protection and Advocacy Section

- **State v. Crosby et al.:**

Defendants claimed to provide customers with low-interest credit cards. Consumers paid defendants \$250-\$499 and received only a booklet that provided names of banks that provided low-interest credit cards to consumers who qualified. Settled for \$140,000 (\$100,000 in civil penalties and \$40,000 in restitution).

- **NorVergence, Inc.:** Arizona joined 20 other states in a nationwide settlement with Wells Fargo Financial Leasing, Inc. (WFFL) and Lyon Financial Services d/b/a U.S. Bancorp Business Equipment Finance Group (USB). The settlement is in connection with a

widespread telecommunications fraud involving NorVergence, Inc., a bankrupt New Jersey-based telephone equipment and service company. The settlement will return about \$458,727 to Arizona consumers. NorVergence's deceptive sales pitch offered to reduce local telephone, long-distance telephone, wireless, and Internet services using purportedly high-tech devices called Matrix boxes. NorVergence promised consumers a possible 30 percent reduction in their telecommunications bills. NorVergence typically required an equipment rental agreement for three to five years at a monthly rate of \$200 to \$4,000 per month, but the Matrix boxes did not provide the promised telephone or Internet services. After securing

contracts with businesses, NorVergence sold the rental agreements to approximately 40 different finance companies, including USB and WFFL. NorVergence had over 9,000 customer accounts nationwide.

- **Tobacco Compliance:** During Fiscal Year 2005, the Office's Youth Tobacco Program accomplished its goal of conducting compliance checks in all Arizona counties. Some 1,766 compliance checks were

conducted during Fiscal Year 2005, an increase of over 25 percent compared to the 1,296 checks performed in Fiscal Year 2004. Also, the Office gained the participation of five new local law enforcement agencies with the compliance check efforts, increasing citations from 13 in Fiscal Year 2004 to 82 in Fiscal Year 2005.

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Attorney General Terry Goddard with Youth Tobacco Inspectors. The teens help the Attorney General's Office with tobacco sales compliance checks.



- **Tobacco Sales:** The Tobacco Enforcement Unit's efforts resulted in a decrease of nearly 40 percent in cigarette sales this year of companies that did not participate in the national 1998 tobacco settlement. These efforts helped to ensure that Arizona will continue to receive its annual share of settlement payments.
- **Loan Mart:** The Attorney General represented the Department of Banking in an enforcement action against Loan Mart, a deferred presentment company, commonly called a pay day loan company. Arizona law allows a company to roll over a pay day loan only three times and limits the loan to \$500. Loan Mart rolled over loans more than three times and did not limit loans to \$500. Loan Mart claimed that it did not have to comply with Arizona law because it made the loans through First State Bank of Delaware. Loan Mart argued that Arizona law was preempted by federal law and Delaware law because the bank is regulated by the FDIC and the State of Delaware. The State of Arizona prevailed, and Loan Mart was assessed a \$20,000 civil penalty.
- **National Research Center for College and University Admissions:** The Attorney General entered into a multistate assurance of discontinuance with National Research Center for College and University Admissions (NRCCUA) regarding its "Post Secondary Planning Survey." In 2001, more than two million high school students completed the survey. NRCCUA claimed it shared information only with colleges and educational institutions. Instead, NRCCUA shared names, addresses, birthdays, gender, grade point averages, racial/ethnic backgrounds, and religious affiliations with banks and loan companies. The settlement requires NRCCUA to disclose that it sells personal information and to send notices to parents/adult students informing them how to opt out. NRCCUA provided the Attorney General's Office with \$10,000 for consumer and public protection education.
- **Virtual Realty:** The Attorney General and the Bank Superintendent filed suit against Virtual Realty Company, Virtual Realty Funding Company, and their owner Kenneth D. Perkins, alleging the companies misled homeowners into signing over their homes. According to court documents filed in Maricopa County Superior Court, beginning in 2003, Virtual Realty Funding Company (VRF) began advertising through newspaper classified ads, the Internet and direct mail that the company could assist homeowners who were behind in their mortgage payments from losing their homes. Company sales representatives led homeowners to believe that they could help save their homes, but in fact the transactions offered by VRF were structured so that homeowners would transfer title to VRF or sell the home to a business associate of VRF. The VRF representatives did not tell homeowners they were deeding their homes to the company, and if the homeowner failed to meet any requirement of the agreement, the home could be sold. The homeowners believed the company would help keep their homes and their possessions. The Attorney

General's Office has asked the Maricopa County Superior Court to:

- Prohibit VRF and its owners from violating the Arizona Consumer Fraud Act, the Arizona Debt Management Companies Act and the Arizona Mortgage Brokers and Mortgage Bankers Act.
- Require the defendants to return to all the victims any money or property acquired through deceptive practices.
- Impose a penalty of up to \$10,000 for each violation of the Arizona Consumer Fraud Act.
- **Taser Inquiry:** Concerns about safety claims made by Taser International, a Scottsdale company that sells electric stun guns to police and consumers, led to the opening of an informal inquiry. The company was very cooperative. Discussions

produced agreement that changes would be forthcoming in Taser's unqualified claims of safety. The company also agreed to reduce its use of the term "non-lethal" and clarify that the term is intended to fit a Department of Defense definition, which is not the same as the dictionary definition.

Environmental Enforcement Section (EES)

- **Pima County Wastewater Management:** EES and the Arizona Department of Environmental Quality (ADEQ) reached a settlement totaling \$1.3 million with Pima County for water quality violations. On Sept. 7, 2002, raw sewage was discharged for 12 days from the County's Northeast Outfall Interceptor into the Santa Cruz River. The settlement also covers

214 other unlawful releases from the County's system since January 2001 through March 2005. Under the terms of the agreement, Pima County will pay a \$500,000 civil penalty and implement an \$800,000 Supplemental Environmental Project (SEP). The SEP calls for Pima County to purchase land near its wastewater facilities for wildlife habitat, flood control and other purposes.

- **ADEQ v. Metco Metal Finishing:** Metco Metal Finishing's south Phoenix facility was cited for accumulating hazardous waste beyond the 90-day waste storage limit. Metco also was cited for allowing hazardous waste paint to dry in the open air, for failing to keep emergency contact information pursuant to its contingency plan and for an incident involving a December 2, 2003 unplanned waste release that rendered two employees

unconscious. EES assisted ADEQ in negotiating a settlement that requires Metco to pay \$100,000 in civil penalties.

- **Queen Creek Landfill:** This case involves 14 unreported methane exceedances from the Queen Creek landfill, which is owned by Maricopa County. ADEQ and Maricopa County negotiated a settlement in which Maricopa County agreed to pay a \$40,000 cash penalty and perform a \$190,000 Supplemental Environment Project.
- **ADEQ v. New West Materials:** EES represented ADEQ in negotiating a consent judgment to obtain injunctive relief and civil penalties of \$42,000 against New West Materials for violations of its air quality permit and state air-quality laws in the operation of its rock crushing and screening facility in Mesa. The violations

Public Advocacy Division (continued)

included exceedances in the hours of operation of the facility and the resulting amount of pollution caused by the facility.

- **Phelps Dodge Sierrita:** This three-way air quality case has been ongoing since 1999. EPA sought enforcement of a variety of air quality violations. The State of Arizona joined EPA on several of these violations. The U.S. District Court of Arizona filed the consent decree on August 12, 2004. Under its terms, Phelps Dodge is required to submit an application for a Title V Air Quality Permit, perform vigorous monitoring of its molybdenum roasters and pay \$1.4 million in penalties. Of the \$1.4 million, Arizona received \$140,000.

- **Animal Cruelty (Jesus Real):** EES obtained a civil judgment authorizing the permanent removal of several neglected horses from their owner and imposing the maximum fine allowed on the defendant.

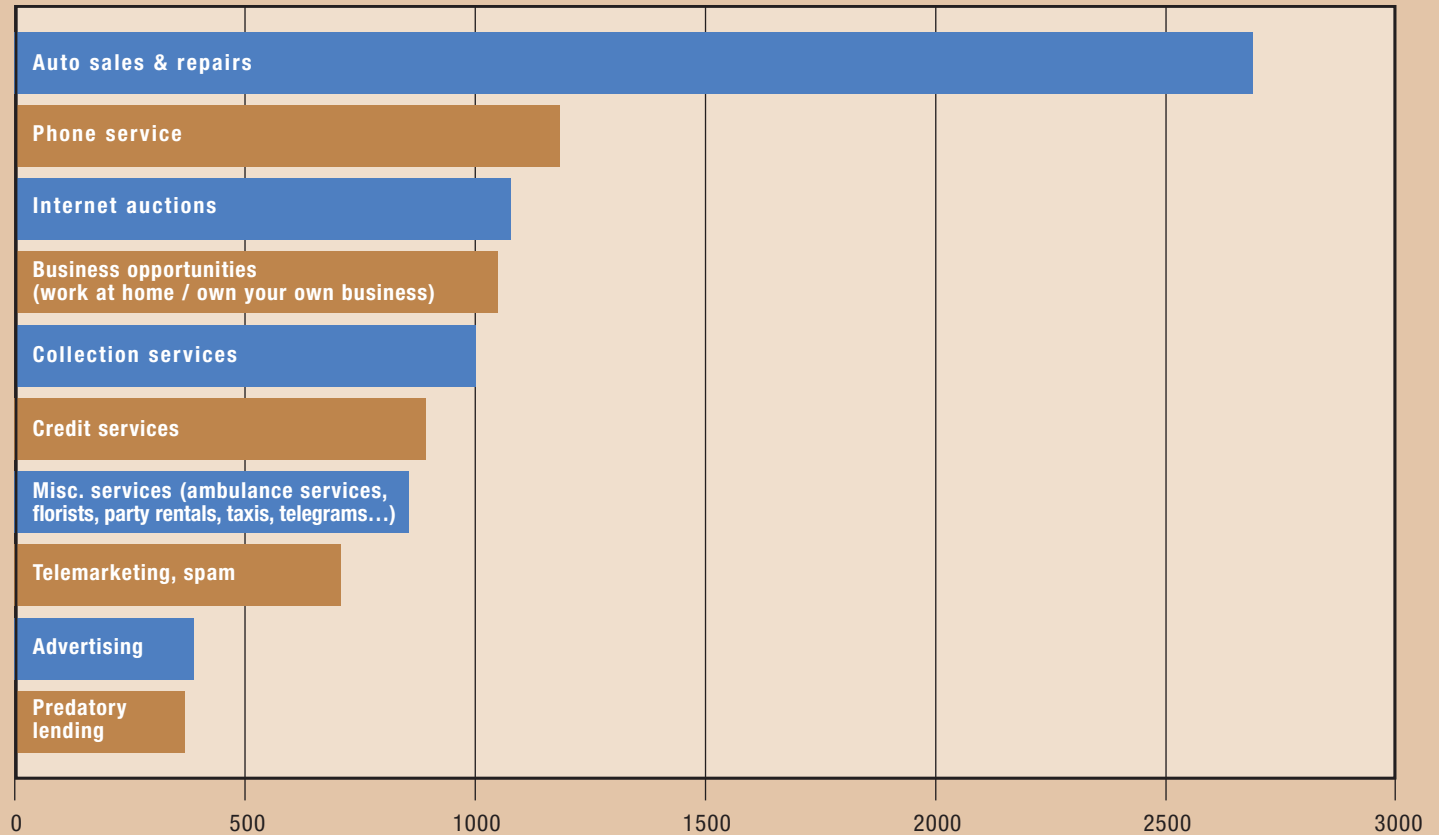
Consumer Complaints

Nearly 25,000 Complaints Filed

The Attorney General's Consumer Information & Complaints (CIC) Unit received nearly 25,000 consumer complaints in Fiscal Year 2005. For the third year in a row, car sales and repair services ranked as the No. 1 complaint filed.

Each complaint is reviewed by a CIC staff member, and many complaints result in enforcement actions against companies or merchants under the Arizona Consumer Fraud Act. The Office is prohibited by law, however, from giving individual consumers legal advice.

Consumer fraud, as defined by Arizona law, is any deception, false statement, false pretense, false promise or misrepresentation made by a seller or advertiser. Persons who believe they have been victims of consumer fraud should first contact the company



TOP 10 CONSUMER COMPLAINTS (July 1, 2004-June 30, 2005)

in writing and request the relief thought to be appropriate.

Consumers can file an online complaint with this Office by visiting www.azag.gov or by

calling 602-542-5763 in Phoenix, 520-628-6504 in Tucson, or 1-800-352-8431 outside the two metro areas.

Civil Division

Pam Culwell
Division Chief Counsel



Mission:

The Civil Division is a dynamic team of legal professionals representing Arizona with dedication, integrity and innovation. It has eight sections that focus on specialty areas of civil law, including public finance, procurement, client representation, tax, bankruptcy, collections, liability management, employment, licensing, transportation, public safety, education, health, rule review, contract approval and natural resources. The Civil Division provides comprehensive legal services to over 150 agencies, boards and commissions. The Division measures its success not only by the cases that it wins, but also by the problems it resolves and the litigation it helps the State avoid.

- **Tax, Bankruptcy and Collection:** The work of the attorneys and staff in the Tax, Bankruptcy and Collection section resulted in the recovery or savings to the State of over \$19 million in the last fiscal year.
- **Walgreen Ariz. Drug Co. v. Arizona Department of Revenue:** The Arizona Court of Appeals ruled for the State, rejecting Walgreen's attempt to include \$17 billion from the return of principal from low-risk short term investments in the denominator of its sales factor, holding that the definition of "sales" does not include return of principal. This decision prevents large multi-state corporations doing business in Arizona from manipulating their gross receipts in an effort to ultimately reduce the amount of income tax owed to Arizona. The Arizona Supreme Court denied review.
- An administrative action against Kino Hospital Pharmacy in Tucson for failure to account for over 250,000 doses of medications, many of which were prescription-only narcotics, resulted in the Pima County Board of Supervisor's agreement to surrender the Kino Hospital's pharmacy license and pay a civil penalty of \$111,802. These actions closed what was believed to be a major conduit of illegal narcotics sales in Pima County.
- Two cases brought \$365,000 in restitution to students of failed technical schools. A case against a computer technology training school resulted in the State Board for Private Post-Secondary Education ordering

\$250,000 in restitution paid to students whose education was interrupted when the school closed. Another case resulted in the State Cosmetology Board's order to pay \$106,000 in restitution against a school that operated without a license.

- ***Cholla Ready Mix v. Arizona Department of Transportation:*** The U.S. Ninth Circuit Court of Appeals upheld Arizona Department of Transportation's (ADOT) decision to not accept material mined from Woodruff Butte in its highway projects. Woodruff Butte is eligible for listing in the National Register of Historic Places and has historic, cultural and religious significance to several Native American groups. Following the Ninth Circuit Court's decision, the United States Supreme Court denied the plaintiff's Petition for Writ of Certiorari. This decision ended a \$12 million claim against the State.

- ***Lehane v. Arizona:*** Plaintiffs brought an action against ADOT's Motor Vehicle Division alleging it violated the federal Privacy Act by failing to provide the proper notification to applicants for drivers' licenses in the 1990s. The plaintiffs were seeking reimbursement of the fee charged by MVD for issuance of a replacement license, compensatory damages for identity theft and an injunction requiring the State to provide replacement licenses without charge. The plaintiffs planned to have the case certified as a class action. Before the class could be certified, however, the Superior Court granted the State's motion to dismiss. The case was upheld on appeal.

- ***State v. Darbouze:*** The plaintiff alleged he lost control of his vehicle on an icy highway and ADOT was negligent because it had constructive notice of the conditions which may lead to the formation of ice. The trial court granted summary judgment, finding that there must be actual notice of the hazard (e.g., ice) not just knowledge of the conditions which may lead to the formation of ice. The decision was affirmed by the Court of Appeals and is significant given the varied highway conditions which exist in Arizona.
- ***USDA Audit:*** The U.S. Department of Agriculture audited Arizona's funding for the National School Lunch Program and determined the State was not providing the proper dollar match. TBC attorneys

convinced the USDA representatives that Arizona was in compliance with the funding requirements. Without this income, the Arizona Legislature would have had to budget an additional \$2.8 million each year to school districts participating in the lunch program.

- ***Twenty-First Century Community Learning Center Grant:*** Buena Vista Children's Services was awarded a 21st Century Learning Center Grant through the Arizona Department of Education (ADE). ADE moved to terminate the grant after noting inappropriate uses of the grant monies. The Attorney General's Office settled the matter with Buena Vista, reimbursing the State \$103,127.

Licensing and Enforcement Section

- ***In the matter of David J. Rauch:*** Accountancy Enforcement Unit attorneys prosecuted a case against this Phoenix certified public accountant for lack of independence and failure to disclose his personal financial interest in investments he recommended to his clients. The action resulted in an \$85,000 penalty and a restriction on Mr. Rauch's certificate.
- ***In the matter of Dan Nahom:*** Accountancy Enforcement Unit attorneys prosecuted a case against a partner in one of the "Big Four" accounting firms for departures from accounting standards in an audit of a client's financial statements. This action resulted in a \$100,000 penalty

and an 18-month suspension of Mr. Nahom's certificate.

- ***In the matter of John V. Back:*** Accountancy Enforcement Unit attorneys prosecuted a case against a partner in another "Big Four" accounting firm for diverting funds from clients for his personal use before returning the funds many months later. This action resulted in a \$20,000 penalty and a revocation of Mr. Back's certificate.

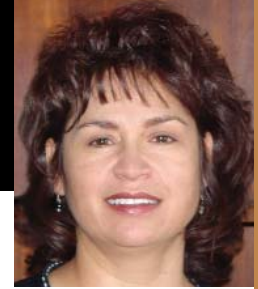
Natural Resources Section

- ***Lost Dutchman Heights Project:*** The Attorney General's Office assisted the State Land Department in the development of a new approach to the planning and disposition of large tracts of State Trust Land. The Lost Dutchman Heights Project (approximately 7,800 acres) in

Apache Junction is the first application of this concept. This strategy could result in sales over the next 8 to 10 years that generate over \$500 million in trust revenues.

Civil Rights Division

Virginia Herrera Gonzales
Division Chief Counsel



Mission:

To enforce civil rights laws and eliminate discrimination statewide by increasing public awareness of civil rights and greater access to victims, and providing dispute resolution services for the people of Arizona. The Division will continue to focus on outreach to vulnerable citizens (e.g., non-English speakers, elderly and teens), particularly in the areas of sexual harassment and enforcing the rights of the disabled.

The Civil Rights Division enforces state and federal statutes that prohibit discrimination in employment, voting, public accommodations and housing by investigating and litigating civil rights complaints.

In addition, the Division provides conflict resolution services and mediation programs statewide. The Division not only is responsive to complaints it receives, but actively addresses discriminatory activity by providing education. It also conducts surveys and inquiries in efforts to eliminate discrimination.

The Division is comprised of two sections, the Compliance Section and the Litigation Section.

• **Compliance Section** enforces civil rights laws in the areas of housing, employment, public accommodations, disability and voting. This Section investigates

complaints of civil rights violations, provides education and outreach materials to the public and occasionally publishes reports on civil rights matters.

• **Litigation Section** is responsible for civil rights litigation involving employment, housing, public accommodations (including disability), and voting rights. It also provides legal resources for legislative and other activities. The Conflict Resolution Program is part of the Litigation Section and provides services statewide, including mediation, facilitation, conciliation and training. The mediation programs encompass civil rights, truancy, victim-offender, and other court and agency issues.

In Fiscal Year 2005, the Division:

- Filed 16 housing, employment, and public accommodations lawsuits and resolved them by obtaining relief for discrimination victims.
- Continued its very successful civil rights mediation program with a 73 percent success rate.
- Brought \$566,588 to discrimination victims and the State through conciliation and mediation agreements and consent decrees.
- Investigated 10,512 new and pending charges and resolved 1,052 cases. Almost 11 percent of these cases were resolved through voluntary settlement agreements between the parties that generated \$208,379 for victims of discrimination.

Civil Rights Division (continued)

- The **Litigation Section** resolved 16 lawsuits involving housing, employment and public accommodations yielding \$127,773 in relief to the victims, injunctive relief and compensation to the State.
- The **Conflict Resolution Program** staff and volunteer mediators mediated 234 civil rights cases and successfully reached an agreement in 73 percent of them. The Unit-mediated agreements produced a total of \$230,406 to victims, as well as non-monetary relief.
- The **Compliance Section** reduced its aged-case percentage to 11 percent. HUD requires that 50 percent of all housing cases be closed within 100 days of the date the charge was filed. The division also increased its number of housing closures from 105 to 224.

The Compliance Section resolved more than 400 employment discrimination cases and is on target to resolve 527 cases for the current EEOC contract period which ends September 30, 2005.

Impact Cases Investigated and Resolved:

- **Beeny v. The Meadows:** This case involved a failure to accommodate a person with a serious mental illness. Respondent refused to allow the complainant to break her lease so she could move to a different apartment that would better accommodate her disability-related needs. It billed her for breaking the lease and reported her failure to pay the fee to a credit-reporting agency. In the settlement, the respondent

agreed to waive the fees, clear the complainant's credit record and pay her an additional \$1,500.

- **State v. Sale:** This housing discrimination case was based on family status. An RV park refused to renew the annual space lease for a family with children, both because the park wanted to convert to housing for older persons and in retaliation

for the family having filed a fair housing complaint against the park. The Division also found that the park steered families with children away from renting spaces at the park and, by its rules, practices and lease provisions, subjected families with children to different terms, conditions and privileges. Under the settlement, the complainants will receive \$15,000, the Attorney



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Attorney General Terry Goddard with Patricia Bianchi, Virginia Herrera Gonzales, Raquel Rodriguez and Wendy Cevallos, all members of the Tucson Civil Rights Office

General's Office will receive \$3,500 and the park owners and managers will undergo fair housing training and change the park's practices, rules and lease agreements to provide equal housing opportunity to all tenants.

- ***State v. Equity Residential:*** The State entered into a Consent Decree after a resident who used a wheelchair in an apartment complex was denied an assigned, accessible parking spot. The resident submitted six written requests for the parking spot and the requests were ignored. The settlement included requiring the defendant to donate \$1,000 to the Power Paws organization (which trains service dogs) and \$1,000 to the Division to be used to monitor compliance with the provisions of the decree and to enforce civil rights laws in Arizona. The defendant implemented a training policy for its employees about the Fair Housing Act

and revised its reasonable accommodation request process to ensure timely responses to such requests. The defendant also assigned the resident the parking space he wanted and made modifications to the apartment complex to accommodate his disability.

- ***State v. Prescott Canyon Estates:*** The Division filed a housing discrimination case against the Prescott Canyon Estates HOA for refusing to allow a family to have their 26-year-old autistic son live with them. The subdivision was designated a 55-or-older community and had a rule that no one under 35 years old was allowed to live there. After lengthy litigation, the State and the Arizona Center for Disability Law entered into a settlement with the HOA. The State received a judgment in its

favor and was awarded \$20,000 in attorneys' fees. The settlement also provided for a permanent injunction that requires the HOA to provide reasonable accommodations to age-eligible residents or home buyers who are parents or guardians of dependent children with disabilities. The Center received costs and fees of \$105,630.

- ***Heredia et al. v. Hacienda San Luis:*** This is a group of six cases that involved allegations of housing discrimination and redlining. The respondent was alleged to have taken advantage of the vulnerable status of non-English speaking farm workers. The cases were settled in favor of the complainants.

Racial Profiling: In February 2005, the Civil Rights Division prepared and issued a "Racial Profiling Policy Guidance" paper to law

enforcement agencies statewide. The policy was based on a settlement reached with DPS in a lawsuit alleging racial profiling.

Among other items, that settlement provided for data collection by the Department of Public Service. In the past, it has been difficult for law enforcement agencies to defend themselves against charges of racial profiling because the relevant data and records may not be reviewed and audited. Having data from all police stops is crucial, as victims of racial profiling are often stopped, detained and searched without being ticketed or arrested.

The Civil Rights Division prepared this guidance for Arizona law enforcement agencies to use in developing or revising internal racial profiling policies and procedures. The guidance is intended to ensure that incidents of racial profiling are appropriately addressed and resolved.