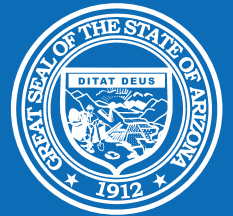




# Arizona Attorney General Terry Goddard 2008 Annual Report



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# Message from Attorney General Terry Goddard

*I am proud to present the Attorney General's Office 2008 Annual Report. This report shows the scope and depth of the work of this Office and its talented staff during the fiscal year July 1, 2007 through June 30, 2008.*

## **A broad range of accomplishments highlighted a very productive 2008 fiscal year for our Office. They included:**

- A record \$12 million settlement resolving a lawsuit against a Scottsdale-based land developer and two other companies for destruction of the state's natural and archeological resources. The case ranks as the largest environmental recovery in Arizona's history.
- Dramatic progress in our fight against methamphetamine. According to the 2008 Arizona Youth Survey, meth use among young people in Arizona declined by more than 50 percent in many categories between 2006 and 2008.
- Precedent-setting agreements with Mexico's top law enforcement officials to work more closely together to fight crime in both countries and eliminate the border as a refuge for criminals. These binational agreements were my top priority during my year as chair of the Western Conference of Attorneys General (CWAG), which represents 15 Western states and three Pacific territories.
- The breakup of major human smuggling, arms trafficking and money laundering operations. A 232-count indictment was returned against 48 defendants to knock down a human smuggling organization based in Phoenix and Naco, Ariz. In the arms trafficking case, 1,300 weapons were seized to dismantle an operation that supplied hundreds of arms to criminal organizations in Mexico. And 47 defendants were named in a 115-count indictment that shut down a shuttle van service that operated between Phoenix and Mexico and laundered drug money.

- A \$58 million settlement with Merck and Co., resolving a three-year investigation by Arizona and 29 other states concerning the company's deceptive promotion of its pain-relieving drug Vioxx. It ranks as one the largest multi-state consumer settlements ever against a pharmaceutical company.
- Significant legal victories for consumers in cases involving securities, investment and mortgage fraud. They included helping 9,100 Arizona homeowners receive more than \$5 million in restitution from Ameriquest Mortgage Co. as part of a predatory lending settlement. We also obtained important settlements in cases alleging deceptive business practices and deceptive advertising.
- The highest honor given by the U.S. Department of Housing and Urban Development (HUD) for outstanding programs addressing fair housing issues. HUD's Blue Ribbon Award was presented to the Office's Civil Rights Division.
- Continuing our extraordinary record of defending the state. As one example, our Office defended against claims in liability lawsuits totaling more than \$3.5 billion during the year with only \$7.6 million being paid to settle or discharge those claims.

It is an honor to serve as your Attorney General.







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## About the Attorney General's Office

### ***Attorney General serves as Arizona'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 Finance.

Attorney General Terry Goddard's management team is led by Chief of Staff Terry Fenzl and Chief Deputy Terri Skladany. The Office handles a variety of criminal cases that involve complex financial frauds, drugs, human smuggling, identity theft, organized crime, public corruption, money laundering, illegal enterprises, computer crimes and criminal appeals.

The Attorney General's criminal jurisdiction is limited to crimes that are usually complex and have statewide significance, while the State's 15 County Attorney Offices have primary jurisdiction to prosecute other crimes.

On the civil side, the Office provides comprehensive legal services for its many clients across state government. For example, the Office is committed by statute to representing more than 150 State agencies, boards and commissions.

The Office also takes civil action to enforce a wide 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



*Attorney General Terry Goddard with Chief of Staff Terry Fenzl (left) and Chief Deputy Terri Skladany (right)*

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.

Finally, the Office defends the State, its employees, and its agencies when they are sued for damages.

During this challenging economic time, the Office has done everything it can to operate as efficiently and cost-effectively as possible, while bearing in mind that

our statutory, ethical and professional duty, first and foremost, is to represent the State and protect its people in all the ways mentioned above as effectively as possible.

## **Record Environmental**

**Settlement:** A 2005 lawsuit filed against land developer George H. Johnson, several of his companies and two other companies was settled for \$12.1 million, making it the largest environmental recovery by state agencies in Arizona history. The suit charged the defendants with numerous violations of state law and destruction of the state's natural and archeological resources. Attorney General Goddard announced the

settlement along with five top state officials whose agencies were parties to the suit.

Violations included:

- Bulldozing and clearing of nearly 270 acres of State Trust Lands located in and near the Ironwood National Monument and the Los Robles Archeological District.
- Bulldozing and clearing an estimated 2,000 acres of private lands in the Santa



*These were among the bulldozers used to clear hundreds of acres of land in violation of state environmental laws.*



*An area of state land illegal cleared by the defendants.*

Cruz River Valley without obtaining required permits.

- Destroying portions of seven major Hohokam archeological sites, circa A.D. 750-1250.
- Negligently causing a disease epidemic that killed at least 21 rare Arizona desert bighorn sheep.

- Violating the state's clean water laws by failing to secure required permits and discharging pollutants into state rivers.

- Destroying over 40,000 protected native plants on State Trust Lands, including Saguaro, Ironwood, Mesquite,

Palo Verde and other protected species.

Prior to the settlement mediation, the Special Discovery Master ruled that the State had established a prima facie case for punitive damages against George Johnson.



## Office Highlights (continued)



Attorney General Terry Goddard with Meth Poster Contest winners at Phoenix Prep.

### **Big Drop in Statewide Meth**

**Use:** The 2008 Arizona Youth Survey found major progress has been made in the state's fight against methamphetamine, which has been the state's No. 1 law enforcement problem. The survey, completed in the spring of 2008, showed that meth use by young people has declined substantially – by more than 50 percent in many cases – between 2006 and

2008. The survey, coordinated by the Arizona Criminal Justice Commission, measured statewide and county-by-county meth use among students in grades 8, 10 and 12.

The multi-faceted fight against meth has included local and federal laws restricting the sale of pseudoephedrine, the key ingredient in meth production;

the good work of local anti-meth coalitions around the state; the two-year-old ARIZONA METH PROJECT, a hard-hitting TV, radio and print ad campaign aimed at young people and other educational efforts such as the Boys and Girls Clubs' MethSMART program.

More encouraging news in the statewide effort to combat meth came in the form of a report by the Governor's Methamphetamine Task Force that the number of clandestine meth lab incidents in Arizona dropped from 254 in 2002 to only eight in 2007.



Evidence seized in meth lab bust

### **Binational Law Enforcement Agreements:**

At the end of a three-day forum in Phoenix, state Attorneys General from the U.S. and Mexico announced precedent-setting agreements they said marked “a new era of binational cooperation to fight organized crime in both countries.” The agreements built on progress made at a conference several months earlier in Cuernavaca, Mexico.

The agreements are between the Conference of Western Attorneys General (CWAG) and Mexico's National Conference of Attorneys General. Attorney General Goddard served as the chair of CWAG, which represents 15 Western states and three Pacific territories. The

Mexican delegation included Eduardo Medina Mora Icaza, Attorney General of the Republic of Mexico.

The agreements call for increased cooperation and information-sharing among law enforcement authorities in the two countries in four primary areas: human trafficking, drug trafficking, money laundering and arms trafficking.

Another significant agreement involves the broadening of a legal provision in the Mexican criminal code to investigate and prosecute organized crime. The provision previously had been limited to criminal prosecutions but now will also be utilized to conduct joint investigations.

## Office Highlights (continued)

### **Fighting Cross-Border**

**Crime:** The Office stepped up efforts to combat organized criminal activity that crosses the Mexican border and prosecuted major cases involving human smuggling, arms trafficking and money laundering.

In February, we obtained a 232-count indictment against 48 defendants to smash a major human smuggling organization responsible for bringing thousands of undocumented immigrants into Arizona each year. A seven-month investigation by the Arizona Financial Crimes Task Force found evidence of the smuggling ring operating in Phoenix and Naco, Ariz. The immigrants were charged about \$2,500 each to be smuggled

into the U.S. in groups of six to 10 people per day. In an average week, the organization generated as much as \$130,000 in cash.

In May, we announced the breakup of an extensive weapons trafficking operation in Phoenix that supplied hundreds of AK-47 assault rifles, other long guns and handguns to criminal organizations in Mexico. Three men were



*Officers from a multi-agency task force seize guns from X Caliber Guns store.*



*Weapons seized in breakup of weapons trafficking operation.*

arrested and 1,300 weapons were seized following an 11-month investigation that involved federal, state and local law enforcement agencies. One of the men arrested, George Iknadosian, owner of X Caliber Guns store in Phoenix, is accused of selling the arms to straw buyers who were buying them for resale and transport to Mexico. Many of the guns

purchased from X Caliber have been recovered in Mexico, including some in the hands of drug smugglers.

In August, we indicted 47 defendants to shut down a shuttle van service that operated between Phoenix and three Mexican cities and laundered money for drug organizations. Investigators found evidence that drug

dealers would drop off cash to the shuttle van service, and drivers would strap the money to their bodies and take it across the border. During the six-month investigation, 40 search warrants were executed that netted \$1.4 million in cash, 7,000 pounds of marijuana, 55 pounds of meth, 26 vehicles and a large array of weapons.

## Office Highlights (continued)

### **Record Pharmaceutical**

**Settlement:** Our Office joined with 29 other states in a \$58 million settlement with Merck and Company, Inc., to resolve a three-year investigation concerning its deceptive promotion of its pain-relieving drug Vioxx. The amount represented the largest multi-state settlement ever against a pharmaceutical company. Arizona's share was \$2.3 million.

Merck, based in Whitehouse Station, N.J., aggressively promoted Vioxx as a safe and effective pain reliever. In fact, studies showed that it carried an increase risk of cardiovascular events, including heart attacks, compared to older, less expensive drugs. Instead of disclosing these risks, Merck misrepresented



the cardiovascular safety of Vioxx when promoting it directly to consumers through TV commercials and to health care professionals.

In 2004, Merck finally admitted that Vioxx caused serious cardiovascular adverse events and withdrew the drug from the market. The Consent Judgment requires Merck to submit television ads

directed to consumers to the Federal Drug Administration (FDA) for approval before they can appear. It also expressly prohibits Merck from misrepresenting the findings of any scientific study. The settlement further requires Merck to disclose conflicts of interest of the company's promotional speakers.

Three other important medical-health settlements were reached in multi-state cases.

Guidant Corp., a subsidiary of Boston Scientific and one of the world's top three manufacturers of Implantable Cardioverter Defibrillators (ICDs), agreed to a \$16.75 million settlement. ICDs are devices that doctors surgically implant in a patient's chest to detect abnormal heart rhythms. If the heart stops, the device delivers a small jolt of electricity to start it functioning again. The case was based on allegations that the company sold a type of ICD with short-circuiting defects without notifying consumers or doctors of the defects. Arizona received \$815,000 which is being used for consumer education and investigations and enforcement of the Consumer Fraud Act.

Settlements were reached with two of the nation's largest pharmacy benefits management companies, Caremark Rx and Express Scripts Inc. The complaint against Caremark was resolved in a \$41 million settlement. The company allegedly encouraged doctors to switch patients' prescriptions and represented that patients or their health companies would save money. But doctors were not adequately informed of the effect the switch would have on costs, and Caremark did not disclose to health plans that money the company received as a result of the drug-switching would be retained by Caremark. The \$9.3 million settlement with Express Scripts resolved similar allegations.



## Office Highlights (continued)

### **National Fair Housing**

**Award:** The Attorney General's Civil Rights Division received the highest honor given by the U.S. Department of Housing and Urban Development (HUD) for outstanding programs that address fair housing issues. The citation praised the Office's leadership in attacking predatory lending and resolving building design issues that affect handicapped residents. It also commended the Office's outreach and education efforts.

HUD's Blue Ribbon Award was presented in April to Melanie Pate, chief counsel of the Civil Rights Division, at the 2008 National Fair Housing Conference in Atlanta. Attorney General Goddard noted that the award coincides with the 40th anniversary of passage of the U.S. Fair Housing Act and that



*Civil Rights Division members (from left) Ernest Granillo, Michael Walker, Melanie Pate, Sandra Kane, Diana Varela and Stephen Scott*

the Office "is working toward the day when fair housing in Arizona is no longer a goal but a reality."

The Civil Rights Division has a cooperative agreement with HUD to investigate housing discrimination complaints in Arizona. The Division conciliates or litigates complaints in which it has found reasonable cause

to believe discrimination has occurred.

### **Standing Up Against Fraud:**

The Office gained several legal victories for consumers in cases involving mortgage fraud and deceptive business practices.

Settlement of a predatory lending lawsuit against Ameriquest Mortgage Co. provided more than \$5 million

in restitution for some 9,100 Arizona consumers. The national settlement resolves allegations that Ameriquest and its affiliates misrepresented and did not adequately disclose the terms of home loans, such as whether a loan carried a fixed or adjustable rate; charged excessive loan origination fees and prepayment penalties;

refinanced borrowers with improper or inappropriate loans and improperly inflated appraisals used to qualify borrowers for loans.

In another mortgage fraud case, a Maricopa County Superior Court judge ruled that Virtual Realty Funding Co. and its owner, Kenneth D. Perkins, were in violation of the Arizona Consumer Fraud Act and state banking laws and ordered them to pay \$1.2 million in restitution and civil penalties. The company advertised that it could help homeowners behind in their mortgage payments avoid losing their homes. In fact, the transactions offered by the company were structured so that homeowners would transfer title to Virtual or sell the home to a business associate of the company.

## Office Highlights (continued)

Allegations of deceptive business practices against Ashley Furniture Homestore were resolved in a \$400,000 settlement. The settlement requires the company to change its practices in regard to advertising and delivery and cancellation of orders. More specifically, it provides consumers with a right to cancel late orders and a right to prompt repair or replacement of defective furniture. The complaint filed against Ashley also requires the company to clearly disclose minimum purchase requirements necessary to qualify for zero interest financing.

A \$225,000 settlement resolved allegations of deceptive advertising against Bill Heard Chevrolet, Inc. of Scottsdale. The dealership failed to disclose important terms and conditions of offers advertised in newspapers, through direct mail or on the Internet. In some cases, the dealership did not always pass on an advertised discount to consumers, and in other instances the dealership refused to sell advertised vehicles at prices consistent with its advertising.

### ***Defending Employer Sanctions and Election***

**Laws:** Attorneys from the Solicitor General's Office successfully defended challenges to the legal Arizona Workers Act, which took effect Jan. 1, 2008. It provides for state sanctions against employers that knowingly or intentionally employ unauthorized aliens and requires that Arizona employers use the federal E-Verify program to confirm that any new employees are authorized to work in this country.

This litigation involved two consolidated actions in federal district court. After an expedited trial, the district court upheld the constitutionality of

Arizona's new law, rejecting plaintiffs' preemption and due process challenges. The ruling was also upheld by the Ninth Circuit Court of Appeals.

The Solicitor General's Office also continued to defend the constitutionality of Arizona's requirements of polling place voter identification and proof of citizenship to register to vote, which voters approved as part of Proposition 200 in 2004. The litigation involved three consolidated cases brought

in federal court in 2006. The court granted summary judgment in defendants' favor on 10 claims in August 2007. In addition, the Court granted defense motions to dismiss newly added claims as well as some of the plaintiffs in subsequent months. The Office successfully negotiated the settlement and dismissal of the challenge to the polling place identification requirement asserted by various Native American tribes and plaintiffs. The remaining cases were prepared for trial, and the U.S. District Court upheld the constitutionality of the laws.



## Office Highlights (continued)

### *Producing Money for the*

**State.** The Attorney General's Office provides value to the state and its citizens in many ways that are hard to measure financially— from breaking up criminal organizations to stopping deceptive business practices to protecting children from abuse.

But the Office also works hard to be cost-effective and each year generates tens of millions of dollars. For fiscal 2008, the total came to \$208.6 million. The largest categories of money saved or generated are listed at right.

The Office also has an excellent track record defending against high-dollar claims in liability lawsuits. Claims against the state last year totaled more than \$3.5 billion, and only \$7.6 million was paid to settle or discharge them.

## Examples of how the Attorney General's Office generated \$208.6 million for the State and the Public in 2008

**\$115.5 million** from the diligent enforcement of the tobacco master settlement agreement

**\$28.5 million** in restitution for Arizona victims from complex financial and high technology crimes

**\$20.0 million** for environmental protection removal actions and penalties

**\$12.1 million** recovered for destruction of Arizona's natural and archeological resources

**\$11.3 million** in delinquent receivables collected on behalf of State agencies

**\$8.3 million** in penalties and costs from antitrust and consumer litigation

**\$5.6 million** in penalties from drug, money laundering, and other trafficking and racketeering enterprises

**\$4.1 million** recovered for Arizona consumers in response to complaints

**\$1.3 million** for victim relief and civil rights training and monitoring

**\$0.9 million** in penalties and costs for state boards

**\$0.8 million** for equal opportunity and housing enforcement

**\$0.2 million** in restitution for victims in cases involving state boards



Chief Counsel Don Conrad

## Mission:

*To protect the citizens of Arizona by successfully investigating and aggressively and fairly prosecuting criminal cases within the State of Arizona. To promote and facilitate safety, justice, healing and restitution for all of Arizona's crime victims. To continue to effectively represent the State in capital and noncapital appeals filed by convicted felons.*

## Division Summary

*The Criminal Division is made up of Capital Litigation, Criminal Appeals, Criminal Prosecutions, Financial Remedies, Special Investigations and Victim Services.*

### Criminal Prosecutions Section

The Criminal Prosecutions Section consists of four units:

The **Fraud and Public Corruption Unit** prosecutes white collar crime and fraud by individuals and organized criminal syndicates. The Unit typically prosecutes criminal fraud in areas such as securities, insurance, real estate, banking, taxes, government, telemarketing, computers, welfare and other areas of financial activity. The Unit also focuses on gang related crimes, human smuggling and handles conflict matters from other counties.

This year, the Unit charged 866 criminal defendants with felony offenses including fraudulent schemes and artifices, illegal enterprise, participating in criminal syndicates, money laundering and numerous violent crimes. A number of these cases involved the prosecution of human smuggling which were investigated by the Financial Crimes Task Force comprised of investigators and detectives from the Department of Public Safety, the Phoenix Police Department and the Attorney General's Office. The cases involving fraudulent schemes involved losses to victims in the tens of millions of dollars.

The Unit worked closely with identity theft task forces spearheaded by the Governor's Fraud and Identity Theft Task Force, and the United States Postal Inspectors. The Unit assisted over 6,186 victims and obtained restitution for many of those victims in excess of \$29,100,000. The Unit handled approximately 69 foreign prosecutions, many of which were extraditions or prosecutions of Mexican citizens being tried in Mexico for offenses committed in Arizona.

The **Drug and Violent Crimes Unit** combats drug trafficking and money laundering organizations operating within Arizona. Additionally, attorneys in this Unit provide statewide legal advice and training on issues involving search and seizure, Arizona's drug laws, prosecuting cases involving children found at drug-related scenes and courtroom testimony.

The Drug Unit charged 637 criminal defendants. The Unit was involved in wiretap investigations which resulted in five indictments of 64 defendants. The Unit also prosecuted cases involving the manufacturing of methamphetamine in clandestine laboratories. A number of these involved the presence of children, resulting in the filing of child abuse charges against the meth manufacturers. During the year, the Attorney General's Office opened cases involving 23 children endangered by meth production.

The **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 or their employees.

The Unit received 82 allegations/complaints regarding fraud, misuse of funds or patient abuse in the AHCCCS program. Among these cases, a total of 63 fraud, three misuse of funds and 16 abuse/neglect cases were investigated by the Unit in conjunction with the Arizona Department of Health Services, Arizona Adult Protective Services, AHCCCS Administration, local police departments and the Attorney General's Elder Abuse Project. Following a preliminary investigation, 47 new cases were opened for full investigation. In 2008, the Medicaid Fraud Control Unit recovered \$1,201,900 for the Arizona Healthcare Cost Con-

tainment System (AHCCCS), and recovered criminal restitution for victims in the amount of \$860,851.

The **Tucson Criminal Trials Unit** prosecutes crimes occurring in southern Arizona. The Unit also works with multi-jurisdictional task forces in southern Arizona to prosecute abuse and financial exploitation of the elderly and vulnerable adults.

### **Major Cases – Criminal Prosecutions Section**

#### ***State v. Martinez Pacheco, et al***

After a lengthy investigation and a five-week wiretap, the Unit filed the first human smuggling wiretap in Arizona in a 162-count indictment against 64 defendants who were part of two large human smuggling

organizations. All 20 of those initially apprehended pleaded guilty, many of them receiving prison sentences. This case was followed by a second human smuggling wiretap that resulted in a multi-count, multi-defendant indictment.

#### ***State v. Decker, et al***

The Unit filed a 136-count indictment against eight defendants on charges of preparing false income tax returns and forged mortgage documents as part of the tax filings submitted to the Arizona Department of Revenue. It was alleged that the fraud resulted in a loss of more than \$10 million to the State of Arizona. All defendants were convicted and sentencings are scheduled. Restitution of \$2 million was awarded to the Department of Revenue.

#### ***State v. Gill***

The Unit obtained a 20-year prison sentence against Gregory Gill for his role in a securities fraud scheme involving approximately 70 elderly investors. Gill was also ordered to pay \$7,815,248 in restitution. One of the salesmen in the fraud, Tad Ulrich, was sentenced to prison and ordered to pay \$4,373,000. Another salesman who had lesser involvement, Wallace Butterworth, was sentenced to probation and \$728,000 in restitution.

#### ***State v. Herndon***

The Unit obtained a prison sentence against Ryan Herndon for fraudulent investments involving approximately 300 victims. Herndon was ordered to pay \$2,763,000 in restitution and sentenced to 3.5 years in prison.

#### ***State v. Fielding***

The Unit obtained a 10.5-year prison sentence against Rodney Fielding arising out of a fraudulent land scheme involving restitution of \$2,470,000.

#### ***State v. Jaramillo***

The Unit obtained a conviction against former Giant Industries accountant Thomas Jaramillo for embezzling nearly \$1.5 million from the company. Jaramillo was sentenced to 3.5 years in prison.

#### ***State v. Waite***

The Unit obtained convictions against three members of Red Mesa Unified Schools District Governing Board for misuse of public monies. Superintendent William Bean and the Business Manager were both sentenced to prison and ordered to pay \$279,368 and \$384,550 in restitution. The third defendant,

Board Member Sadie Tso, was sentenced to probation and restitution.

### ***State v. Merolle***

The Unit obtained a jury conviction and a 7.25-year prison sentence for Raymond Merolle for theft in excess of \$100,000 and arson. This case was investigated by the Arizona Department of Insurance Fraud Unit, the Chandler Police Department and the Glendale Police Department.

### ***State v. Accardo***

After a 2½-month trial, the Unit obtained a death penalty conviction against Vincent Accardo for 1st degree murder in a murder-for-hire scheme. The Unit prosecuted the case due to a conflict referral by the Yuma County Attorney's Office.

### ***State v. Purvis***

After a month-long trial, the Unit obtained a jury conviction and prison sentence against Edward Purvis for bribery and harassment of public officials arising out of his filing false liens against public officials.

### ***State v. Jeffs***

The Unit provided an attorney to assist Mohave County Attorney Matt Smith in the prosecution of Warren Jeffs for alleged sex crimes involving his role as leader of the FLDS.

### ***State v. Ramirez***

After a month-long trial, the Unit obtained a jury conviction and a 280-year prison sentence against Bernie Ramirez, aka Jimmy the Pimp, for kidnapping, sexual assault against two victims, involving minors in drug offenses and public sexual indecency.

### ***State v. Desposito***

After a month-long jury trial, the Unit obtained a conviction and 15.75-year prison sentence against Thomas Walter Desposito for his involvement in a large-scale methamphetamine trafficking organization.

### ***State v. Coronado***

The Unit obtained a 2.5-year prison sentence against Blanca Coronado on three counts of money laundering for her involvement as the manager of Mota's Shuttle, a low-cost shuttle service, in which she used the shuttle service to launder \$2 million dollars per month and send it to various drug organizations in Mexico.

### ***State v. Mendivil***

The Unit obtained a 16-year prison sentence for Levi Men-

divil Vega for his involvement in a drug smuggling organization that transported large quantities of marijuana, cocaine, and methamphetamine from Mexico to Arizona stash houses. The drugs were then transported to Ohio, Nebraska, and Illinois. Many members of the organization were recruited by the Chicago-based Latin King criminal street gang for the purpose of establishing a new drug distribution network between Arizona and Chicago.

### ***State v. Gamboa***

The Unit obtained a 20-year prison sentences against Armando Molina Gamboa, Mario Velasco-Felix and Noel Velasco-Felix for their roles in a drug organization that was responsible for trafficking large amounts of methamphetamine and cocaine from Mexico to several locations in the Phoenix area for subsequent transfer to several

other states. The case resulted in the seizure of 49 kilograms of cocaine, 50 pounds of meth, two pounds of crack cocaine, 16 guns, 33 vehicles and \$2.5 million in drug proceeds.

### ***State v. Gutierrez***

The Unit obtained a prison sentence of 2.5 years for theft against Julie Ann Gutierrez, who, in her capacity as the office manager for a nursing home management office, stole money from nursing homes in the amount of \$163,830.

### ***Vaez Wiretap***

After a Drug Enforcement Administration wiretap investigation supervised by this office involving a cocaine and heroin trafficking organization, nine defendants were indicted in February, 2008 on charges including conspiracy, transportation and possession of heroin



and cocaine, money laundering and use of a wire communication to facilitate a drug-related transaction.

During the investigation and subsequent execution of arrest and search warrants, 3.5 pounds of heroin, 24 grams of cocaine, over 200 pounds of marijuana, \$16,000 in cash and numerous guns were seized. This was a joint investigation by Drug Enforcement Administration, Oro Valley Police Department, Sierra Vista Police Department, Marana Police Department, Counter Narcotics Alliance, Tucson Police Department, United States Border Patrol, Arizona Air National Guard and the Arizona Attorney General's Office. As of July, 2008, four of the nine indicted are receiving mandatory prison sentences as a condition of their plea agreements.

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### Criminal Appeals/Capital Litigation Section

The Criminal Appeals Section works to uphold convictions and sentences of criminal defendants in Arizona. This year, the Section filed 737 briefs, habeas answers, petitions for review, and responses to petitions for review. The Section successfully sought U.S. Supreme Court review in two Fourth Amendment cases, *State v. Gant* and *State v. Johnson*.

The Section successfully defended a post-conviction attack on the constitutionality of the trial of Eric Clark, the Flagstaff teenager who was convicted of killing Flagstaff Police Officer Jeff Moritz. The Section also successfully overturned on appeal the dismissal of an indictment against Apache

County Sheriff Brian Hounshell. Hounshell pleaded guilty in September 2007 to solicitation for misuse of public monies, a Class 6 felony, and submitted his resignation. In December he was sentenced to three years probation and a one-year deferred jail term.

The Criminal Appeals Section represents the State of Arizona in the Arizona Court of Appeals, the Arizona Supreme Court and the United States Supreme Court when criminal defendants appeal their non-capital felony convictions. The Section also represents the State in the United States District Court and the Ninth Circuit Court of Appeals when those defendants challenge their convictions and sentences in federal habeas corpus petitions. In addition

to representing the State in criminal appellate litigation, the Section provides legal advice to county attorneys throughout Arizona regarding criminal trial prosecutions.

The Section provides unique benefits to the State. By representing the State in all non-capital felony appeals, the Section maintains consistent and uniform positions regarding issues of criminal law, which allow for the orderly and consistent development of criminal law in the state and federal courts. In addition, because the attorneys in the Section are appellate specialists, they provide efficient, specialized representation that is difficult to develop at the local level. This increases the likelihood that dangerous criminals will have their convictions and sentences affirmed on appeal, protecting the commu-

nity and saving resources that would otherwise be expended on expensive retrials and re-sentencings.

**Capital Litigation Section** argued and won significant cases in state and federal court. Most notably, the Arizona Supreme Court upheld the first degree murder conviction and death sentences in all of the death penalty cases decided this year.

The Capital Litigation Section handles all appellate and post-conviction proceedings involving the more than 114 death-row inmates in Arizona. Those proceedings include the direct appeal to the Arizona Supreme Court and the United States Supreme Court following conviction and sentencing, state post-conviction relief proceedings in the trial court and the Arizona Supreme Court, and federal

habeas proceedings in federal district court, the United States Court of Appeals for the Ninth Circuit and the United States Supreme Court. The Section also assists trial lawyers with research and advice regarding death penalty issues.

Major cases of the Criminal Appeals/Capital Litigation Section included:

### ***State v. Harrod***

James Harrod was re-sentenced to death for the murder-for-hire of Phoenix heiress Jeanne Tovrea. Police originally identified Harrod as the hit man who carried out the murder when his voice, left on the victim's answering machine, was played on the national television show *Unsolved Mysteries*.

### ***State v. Andriano***

The wife of a terminally ill cancer patient planned to poison him to death so she could be free to see other men. When her plans to poison him fell through, Mrs. Andriano bludgeoned and stabbed her already poisoned husband to death. The Arizona Supreme Court affirmed the conviction.

### ***State v. Owens***

On February 14, 2008, the Arizona Court of Appeals affirmed the conviction of Timothy Kevin Owens for 22 felonies stemming from his involvement in an extensive drug-trafficking enterprise. Charges included illegally conducting an enterprise, conspiracy, kidnapping, solicitation to commit first degree murder, six counts of possession of dangerous drugs for sale, possession of a deadly weapon during the commission

of a felony drug offense, two counts of soliciting threats and intimidation, solicitation to commit kidnapping and first degree burglary. Owens is currently serving 22 concurrent prison terms, the longest of which is a life sentence without the possibility of parole for 25 years.

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## **Financial Remedies Section**

The Financial Remedies Section employs Arizona's civil racketeering remedies to combat the effects of organized criminal conduct on legitimate commerce. FRS focuses primarily on money laundering in drug and fraud cases. FRS supports statewide efforts to deprive racketeers of the profits that keep them operating. During this fiscal year FRS recovered approximately \$4,775,000 as racketeering proceeds. Attorneys in FRS also advise and

provide training to law enforcement across the Southwest United States and Mexico in the areas of forfeiture, money laundering and racketeering.

### ***Human Smuggling***

Five used car dealers' assets were forfeited totaling more than \$1.6 million. The forfeitures were based on their racketeering activities including facilitation of drug and human smuggling.

### ***Western Union Related Cases***

Three related developments in the ongoing litigation against Western Union Financial Systems, Inc. ("Western Union") improve or solidify the office's tools relating to control of money laundering.

In *State ex rel. Goddard v. W. Union Fin. Servs., Inc.*, ("Western Union I"), the court

upheld the State's jurisdiction to subpoena records relating to financial transactions that occur outside of Arizona but are relevant to criminal conduct that takes place in part in Arizona. It also held that money transmitters must file Suspicious Activity Reports ("SARs") relating to transactions that take place outside of Arizona but involve conduct that is within the jurisdiction of Arizona's courts.

In *Western Union v. Goddard*, a replacement judge ruled that the trial court abused its discretion when it found that the Geographic Targeting Orders issued by the Attorney General to obtain identification from people transacting large amounts of money at money transmitters were not permitted by statute. The Court of Appeals has now decided many of the issues in this declaratory judgment action in the State's favor.



In *State ex rel. Goddard v. Western Union Fin. Servs., Inc.*, (“Western Union II”), the court upheld a seizure program aimed at disrupting money laundering through Western Union money transmitting services in Northern Sonora, Mexico. The court found that the electronic credits on Western Union’s system are “property” that can be seized for forfeiture. It also held that Arizona’s courts have jurisdiction over electronic credits moved directly to Sonora from a state other than Arizona, so long the transaction relates to conduct that occurs in part in Arizona.

### **Vertin**

In May, 2007, the Court of Appeals affirmed the forfeiture of over \$1 million of real property in Buckeye seized from Ronald and Todd Vertin. The Vertins ran a purported feed store

which was in fact a front for the sale of iodine to the illegal methamphetamine market. The properties were either used to facilitate the sale of iodine or were maintained with the proceeds from the sale of iodine. The Vertins sold enough iodine to support the manufacture of approximately 476 pounds of methamphetamine.

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### **Special Investigations Section**

The Special Investigations Section (SIS) provides investigative support to prosecution sections of the Attorney General’s Office as well as to law enforcement agencies across the State of Arizona. SIS opened 384 investigations in the last fiscal year. SIS employs Special Agents who are State-certified peace officers as well as financial investigative auditors and

analysts. SIS has continued to provide expertise in specialized areas of law enforcement to other agencies, providing 1,230 law enforcement assists during the year.

### **Major Cases**

Some of the successfully prosecuted cases outlined by other sections in this report were also investigated and supported by members of SIS.

#### ***Rod & Lisa Fielding***

This case involved multiple victims who invested money with Rod and Lisa Fielding to purchase vacant land for resale and profit and suffered a loss of approximately \$2.4 million. The Fieldings used the money for their personal benefit and

concealed this from the victims. Rod Fielding pleaded guilty to two counts of operating an illegal enterprise and was sentenced to 10.5 years. Lisa Fielding pleaded guilty to two counts of operating an illegal enterprise and was sentenced to six months in jail.

#### ***Bradley Forward***

This case involved the investigation of a Chandler Police Officer who illegally used law enforcement computers to research and obtain confidential information relative to complainants in an Arizona Corporation Commission investigation. The investigation was relative to the sale of various business ventures by Edward Purvis and Gregg Wolfe. Immediately following his indictment, Forward resigned from

the Chandler Police Department. He subsequently pleaded guilty to computer tampering and agreed to cooperate as a state witness in the trial and conviction of Purvis and Wolfe.

#### ***Edward Purvis and Gregg Wolfe***

This case involves a self-proclaimed financier, Edward Purvis, who filed bogus multi-million dollar non-consensual liens against court personnel and state lawyers to thwart an investigation of an alleged fraud scheme. Purvis also bribed a friend, Bradley Forward, to illegally research people using law enforcement computers to obtain confidential information and learn about the ACC Securities Division investigation into Purvis’ ventures. Purvis was convicted on all counts and was sentenced to 1.5 years in prison and fined \$10,000.

### ***Roque Mora Sánchez***

While a resident of Sierra Vista, Arizona, Mora Sánchez sexually molested his two minor natural daughters over a period of several years. One of the daughters was impregnated by her father and gave birth to a baby boy. The suspect was indicted on several counts of sexual conduct with a minor and fled to his native Mexico to avoid prosecution. In June, 2007, the Cochise County Attorney's Office and the Sierra Vista Police Department requested our assistance in extraditing the suspect from Agua Prieta, Sonora, Mexico where he was hiding. SIS reacted quickly and worked with the Office of the Attorney General of Mexico (PGR), in order to obtain a provisional arrest warrant in Mexico for the suspect. The suspect remained in custody in Mexico awaiting the decision of Mexi-

can authorities on our request for his extradition to Arizona.

### ***Scottsdale Financial Funding Company***

This prosecution involved the fraudulent sale of \$8 million in investments to about 80 investors, who were primarily senior citizens. Four individuals were indicted and ultimately pleaded guilty. Three defendants have been sentenced, with one of them receiving two consecutive 10-year sentences. Restitution has been ordered in the amount of \$7,892,200 to the victims. The case was a joint investigation of the Attorney General's Office and the Arizona Corporation Commission.

### ***Arla Blasingim-Stenzel***

While working as an Arizona attorney, Blasingim-Stenzel, embezzled at least \$500,000 from at least 30 clients. In addition,

she failed to provide representation to clients who had already paid for her to handle their bankruptcy cases. She pleaded guilty and was sentenced to three years in prison.

### ***Charlotte Mae Conley***

Defendant Charlotte Conley, while employed as a Value Options Case Manager, defrauded one of her clients of \$74,622. The victim had become a client of Value Options (a behavioral health agency) after her husband suddenly died and his insurance benefits no longer covered her care. In addition to documenting the theft by Conley, the thorough investigation conducted by an AGO agent revealed the existence of an insurance policy payable to the victim that was previously unknown by her and which

otherwise may never have been paid. In August, 2007, Charlotte Conley was sentenced to 12 months in jail, five years probation and ordered to pay restitution to the estate of the victim in the amount of \$74,622.

### ***Walgreens Company***

In July, 2007, the Arizona Medicaid Fraud Control Unit joined the National Association of Medicaid Fraud Control Units in a global civil lawsuit against Walgreens Pharmacies. The lawsuit alleged that Walgreens switched dosage forms of certain medications prescribed to Medicaid patients, which resulted in higher payments under the automated reimbursement system. The actual switch of medications was from tablets to capsules and there were no associated physicians' orders or medical benefit to the patient. Walgreens operates

retail pharmacies in 48 states, including Arizona. The pharmacy chain agreed to a multi-state settlement and paid \$35 million total to resolve improper billing claims. Arizona's share of \$1,069,941 was put back into the state Medicaid Program.

### ***Operation Picture Perfect***

This investigation involved a Title III wiretap of a significant methamphetamine smuggling organization operating in the Kingman area. It was estimated that the organization supplied approximately 520 pounds of meth per year to the area. The targeted organization was operating in the rural areas of Mohave County. At the conclusion of the case, 18 arrest warrants were issued; 25 people were arrested; 18 search warrants were served; and money and other assets totaling approximately \$958,000 were seized.

### ***Cheryl Crabtree***

Dorothy Kret and Associates Industries is a company that assists in placement of developmentally disabled adults into employment opportunities. While working as a bookkeeper for DKA Industries, Cheryl Crabtree stole approximately \$800,000 from the business. As a result of Crabtree's theft, payroll taxes were not paid for the employees. Crabtree pleaded guilty and was sentenced to 12½ years in prison. A seizure warrant was executed on the assets of Crabtree, which netted approximately \$30,000 to be paid toward court-ordered restitution.

### ***Carroll Sanders Carson***

While incarcerated in state prison, Sanders conducted a fraud scheme involving the sale of non-existent cars to relatives of other inmates. He ran this

scheme with the protection of the Aryan Brotherhood prison gang. Sanders entered into a plea agreement, which will add 12½ years to his sentence.

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### **Office of Victim Services**

The Office of Victim Services' (OVS) mission is to promote and facilitate justice and healing for people affected by crime in Arizona. OVS continued to see an increase in the number of victims of fraud and identity theft. Advocates provided services to more than 11,377 new victims.

Our Victims' Rights Ombudsman received and investigated 267 complaints of violations of rights and audited 26 agencies. We supported 60 criminal justice agencies with grants from the Victims' Rights Program total-

ing \$2,795,000 and provided 65 trainings in victim's rights programs to more than 1,409 professionals statewide.

The Section's duties also provide enforcement of victims' rights laws and resolution of victims' complaints. In addition to these specific goals and objectives, the office participates in a wide range of collaborative efforts to provide leadership and increase awareness of the issues faced by crime victims.

One of the Section's biggest cases last year was *State v. Ryan Herndon*. In March 2008, Herndon was charged with theft with an economic loss totaling more than \$2 million. This case had 516 victims, many of whom are senior citizens. The defendant preyed upon elderly people by promising that they would receive a considerable return on their investment, but instead

used the money for his own personal gain. At the sentencing hearing, 20 victims appeared and gave impact statements explaining the devastating effect of this crime. Many required emotional support prior to and after speaking to the court. The advocate's actions were a great help to the victims. The defendant was sentenced to 3.5 years in prison and ordered to pay \$2,763,000 in restitution.





Chief Counsel Susan Segal

## Mission:

*To pursue those who prey upon the public and threaten the economic and environmental well-being of Arizonans.*

## Division Summary

*The Public Advocacy Division is made up of the Consumer Protection and Advocacy Section and the Environmental Enforcement Section.*

## Consumer and Public Advocacy (CPA) Section Highlights

### Agency Unit Cases

- **Arizona High Performance Realty, Russell Bosworth, and Donald E. Boyle** On October 26, 2007, the Arizona Department of Real Estate issued a Cease and Desist Order against Arizona High Performance Realty, LLC (“AHPR”), a property management firm, and its owner, Russell Bosworth (“Bosworth”). The order commanded AHPR and Bosworth to cease and desist from engaging in real estate activity and ordered Bosworth to pay \$365,186 in restitution to former clients. In

November 2007, the Arizona Department of Real Estate instituted disciplinary proceedings against Donald E. Boyle (“Boyle”), the designated broker of AHPR. The Arizona Department of Real Estate affirmed the revocation of Boyle’s license and directed Boyle to pay a \$50,000 civil penalty.

- **Freedom Financial & Mortgage Services Corporation** The case against this company arose from a routine examination of its business as well as a consumer complaint. The Department of Financial Institutions issued a Cease & Desist Order on

March 7, 2007. The evidence at an administrative hearing proved that Freedom Financial had submitted to lenders numerous mortgage loan applications containing misleading or inaccurate information regarding borrowers’ income and financial liabilities which affected the borrowers’ ability to repay the loans. The Superintendent ordered Freedom Financial’s mortgage broker license be revoked and imposed a \$25,000 civil penalty.

### Consumer Litigation Unit Cases

- **Virtual Realty Funding Co.** In May 2008, the Attorney General’s Office obtained summary judgment against Virtual Realty Funding Company (VRF) and its owner, Kenneth D. Perkins, based on their violations of the Arizona Consumer Fraud Act and

state banking laws. The court ordered the defendants to pay \$1.2 million in restitution and civil penalties.

The company advertised that it could help homeowners who were behind in their mortgage payments avoid losing their homes. 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 the company.

According to court documents, although neither VRF nor Perkins were licensed by the Department of Financial Institutions as mortgage brokers or bankers, VRF loaned money to more than 60 homeowners facing foreclosure or in need of money. VRF designed its loans, which it called reverse sales, to evade laws

protecting mortgage borrowers by structuring them as an outright sale of the property by the borrower, who then rented back the home with an option to repurchase it.

- **CaremarkRx, LLC.** The Office, along with 27 other states, filed a complaint and Consent Judgment with CaremarkRx, LLC in February 2008. The judgment concluded the second of three Pharmacy Benefit Manager (PBM) investigations; the first was the 2004 Medco settlement.

In addition to strong injunctive relief, mandating transparency in its drug switching program, and restitution for consumers taking cholesterol-lowering drugs, Caremark (CMK) made a payment of \$1 million to Arizona and \$659,341, which will go to

one or more qualified Arizona non-profit Community Health Centers for the purpose of providing prescription medications at a reduced cost or at no cost to benefit low income, disabled or elderly consumers of prescription medications.

Caremark is the largest PBM in the nation. CMK's clients are health insurers and employers. CMK processes benefit claims, administers drug benefit plans and provides mail-order pharmacy services. CMK negotiates cost-saving discounts and rebates with drug manufacturers to provide savings on the clients' behalf. CMK also solicits physicians to agree to substitute the prescription medication chosen by a physician for another branded

prescription medication chosen by CMK. Drug interchange or switch programs are driven by economic considerations that rarely, if ever, save money for the patient.

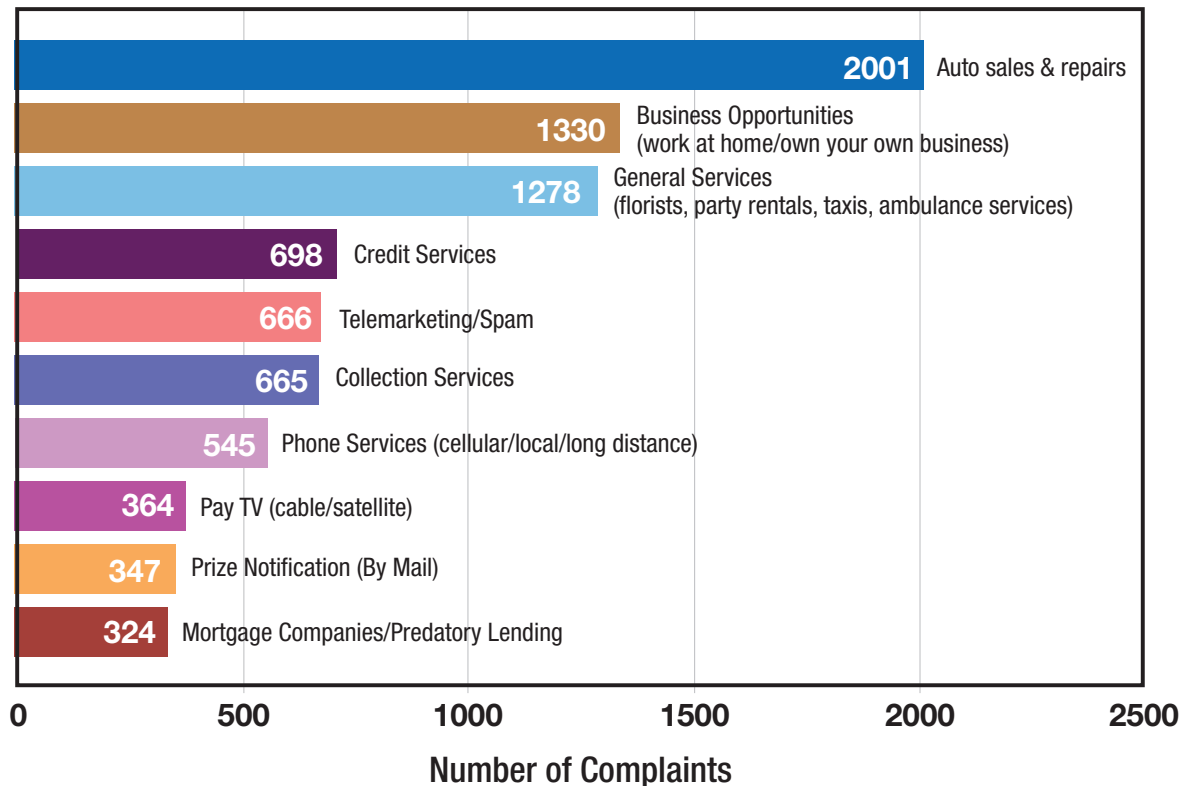
The Consent Judgment prohibits CMK from misleading

doctors or patients about the purpose of a proposed drug switch. CMK must disclose to doctors that it is soliciting the drug interchange; must explain the effect on a patient's co-payment; must state that CMK receives pay-

ments from manufacturers for drug interchanges, and must specify any side effects of the new drug.

- **In re Express Scripts, Inc.** The Office, along with 26 other States and the District of Columbia, filed an Assur-

**Top 10 Consumer Complaints & Inquiries FY2007**



ance of Discontinuance with regard to Express Scripts, Inc. (ESI) on June 6, 2008. In addition to injunctive relief, primarily dealing with transparency issues, ESI is to pay Arizona \$65,000 in costs and fees. ESI has already made a \$191,081 payment which, along with the Caremark payment, will go to one or more qualified Arizona non-profit Community Health Centers for the purpose of providing prescription medications at a reduced cost or at no cost to benefit low income, disabled or elderly consumers of prescription medications. ESI employed several tactics to increase the sales of branded drugs for which manufacturers provided large rebates. ESI's pharmacists

and local retail pharmacists made statements to persuade patients and their doctors to switch to drugs that would net larger rebates for ESI.

ESI also sent promotional materials to doctors and sent letters to patients and doctors promoting a switch of one branded drug to another.

The Assurance prohibits ESI from switching consumers to drugs which cost more than consumers' current drugs; switching consumers from drugs with generic competition to drugs without; switching consumers from drugs which are about to go off patent (and thus will soon have generic competitors); switching consumers if the consumers only realize trivial cost savings; and switching the same consumers twice in a two-year period for the same drug.

### Antitrust Unit Cases

- **State of California v. Infineon Technologies** The Attorney General continued representing state agencies, local governmental entities and school districts in this 2006 multi-state antitrust lawsuit against several international computer memory chip manufacturers who fixed the prices for dynamic random access memory chips (DRAM). The Antitrust Unit took charge of the multistate group's discovery efforts and worked with selected Arizona entities to provide information for the states' damages survey.
- **State of Colorado v. Warner Chilcott** This multistate antitrust case involved an illegal anticompetitive agreement between Barr Pharmaceuticals

and Warner Chilcott, which prevented a generic version of the prescription oral contraceptive Ovcon® from reaching the marketplace. The states settled their claims against Warner Chilcott and Barr for \$11.4 million. The Antitrust Unit recovered \$269,361 for Arizona.

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### Environmental Enforcement Section (EES) Highlights

#### Mission:

To provide the highest quality legal advice and representation to client agencies for the fair enforcement of civil environmental law and civil natural resources law.

#### Overview:

The Section provides advice, enforcement and representation activities related to state and federal environmental and

natural resources law.

The Section is divided into four components: The Civil Unit, the Tanks, Air and Game & Fish Unit, the Superfund Programs Unit and the Western States Project. The Civil Unit advises, represents and litigates on behalf of the Arizona Department of Agriculture, other state agencies and boards, and the Arizona Department of Environmental Quality (ADEQ) for various programs, including water quality, safe drinking water, hazardous waste and solid waste as well as waste management practices. The Tanks, Air and Game & Fish Unit advises, represents and litigates on behalf of ADEQ's air and Underground Storage Tank programs and the Arizona Game & Fish Department and Commission. The Superfund



Programs Unit advises, represents and litigates on behalf of ADEQ involving matters arising under state and federal Superfund laws. The Western States Project, a regional association established in 1987 with a grant from the U.S. Environmental Protection Agency, provides training, networking opportunities and informational support to environmental enforcement agencies throughout the western United States and Canada.

### Major Achievements:

- **Kiewit Western Co.** This case involved a compliance and enforcement action for Clean Water Act violations by an international construction contractor during realignment of five miles of state road on United States Forest Service land. The land was upstream of critical habitat of federally

protected fish species under the Endangered Species Act. A Kiewit subcontractor failed to adequately implement best management practices and discharged significant levels of silt during a storm in August 2002. The discharge impaired water quality in violation of water quality standards and may have impacted aquatic habitats. The case was resolved through settlement whereby Kiewit agreed to pay an \$80,000 penalty for the violations.

- **Bradley Investment Co.**

This case was a solid waste enforcement action for violations of Arizona's solid waste management statutes and aquifer protection statutes by Bradley at its closed 40th Street Bradley Landfill in

Phoenix. Bradley failed to continually monitor the closed landfill for potential pollutant contamination to groundwater, surface water, and methane emissions pursuant to an Aquifer Protection Permit (APP) issued by ADEQ. Bradley also failed to maintain safety at the site and failed to adequately cover the landfill. Bradley brought the landfill back into compliance with all APP and Solid Waste requirements and agreed to pay a \$90,000 penalty.

- **Red J. Environmental.** This case was an enforcement of the hazardous waste statutes against Red J. Environmental for failure to properly register as a hazardous waste handler and for failure to make hazardous waste determinations in handling waste. The case was resolved through

a settlement whereby Red J. Environmental agreed to pay a \$64,500 penalty.

- **Tarome, Inc.** This case was an enforcement of the hazardous waste statutes. In 2005, a fire resulted from an eruption when Calcium Oxide was improperly stored. Tarome agreed to pay a penalty of \$70,000.
- **Universal Propulsion Company (UPCO).** EES assisted ADEQ in this enforcement matter resolving hazardous waste and air quality violations at the Universal Propulsion Company's north Phoenix facility. UPCO, headquartered in North Carolina, paid \$165,000 to resolve 17 counts of violations of air quality and hazardous waste laws. The UPCO facility violated hazardous waste

requirements with its actions relating to an explosion at the facility in 2002. The State also alleged that UPCO failed to comply with hazardous waste management and storage requirements, obligations in its air quality permit and air quality open burning regulations between 2002 and 2006. UPCO paid a penalty of \$140,000 to the State and an additional \$25,000 that will fund the Air Quality Flag Program administered by Phoenix Children's Hospital. This program monitors and informs the public about daily air quality that may impact health.

- **ASARCO.** An agreement negotiated among ADEQ, ASARCO and the Environmental Protection Agency (EPA) regarding ASARCO's Hayden Plant site in Hayden, Arizona. ASARCO will undertake

removal actions at residential property where levels of arsenic, lead or copper are determined to exceed specific levels. ASARCO will spend up to \$13,500,000 on removal actions at the residential property. In addition, ASARCO will complete a remedial investigation/feasibility study for the site to identify releases of hazardous substances and assess options for addressing such releases.

- **United Metro Materials, Inc.**

A settlement was negotiated with United Metro Materials, Inc. and Tanner Companies in Yuma to resolve air quality violations at various asphalt and concrete batch plants. The violations included operation without an air quality permit, exceeding the opacity standard for dust emissions,

constructing and operating a crushing and screening plant without an approval to operate and operating an asphalt plant outside the permitted hours. The final settlement reached was for \$175,000. Defendants also agreed, as part of the settlement, to implement a corporate safety, health and environmental management system, costing between \$100,000 and \$200,000.

- **IMC Magnetics.**

This was an enforcement matter involving an aerospace manufacturing facility that was found to have illegally stored potentially explosive hazardous waste on-site. The waste was removed from the site by a robot and then detonated in a safe area by emergency response

personnel. IMC agreed to pay a \$130,000 civil penalty and was also required to adopt and maintain an environmental management system and to conduct two annual hazardous waste audits to confirm compliance with state law.

- **Safety Kleen.** This was an enforcement matter with Safety Kleen, which operated a permitted hazardous waste treatment, storage and disposal facility in Chandler. ADEQ conducted an inspection in April, 2006 which found a number of hazardous waste violations at the facility, including a failure to inspect tank systems on the required schedule, the failure to submit numerous manifests for wastes shipped off-site, and the failure to maintain

a proper contingency plan. Safety Kleen agreed to pay a civil penalty of \$80,000 and conduct a half-day hazardous waste training seminar for small quantity hazardous waste generators at a cost of \$15,000.

- **Jet Products.** EES assisted ADEQ in a matter with Jet Products, which is a facility that assembles paints and tests parts for the aerospace industry. A hazardous waste inspection conducted there in December, 2005 revealed a number of violations of state hazardous waste laws, including treatment, storage or disposal of hazardous waste without a permit, failure to perform hazardous waste determinations of waste

generated at the facility, failure to comply with personnel training requirements and a number of other violations. Jet Products agreed to pay a civil penalty of \$25,000, conduct three annual audits of its hazardous waste compliance and adopt and implement an Environmental Management System.

- **South Indian Bend Wash.**

This is a Superfund site where the parties are conducting remediation. Agreements were negotiated with eight of the responsible parties for reimbursement of costs incurred by ADEQ and the EPA. Under these agreements, ADEQ received \$645,000 in reimbursement to the Water Quality Assurance Revolving Fund (WQARF).

- **Record Number of Web**

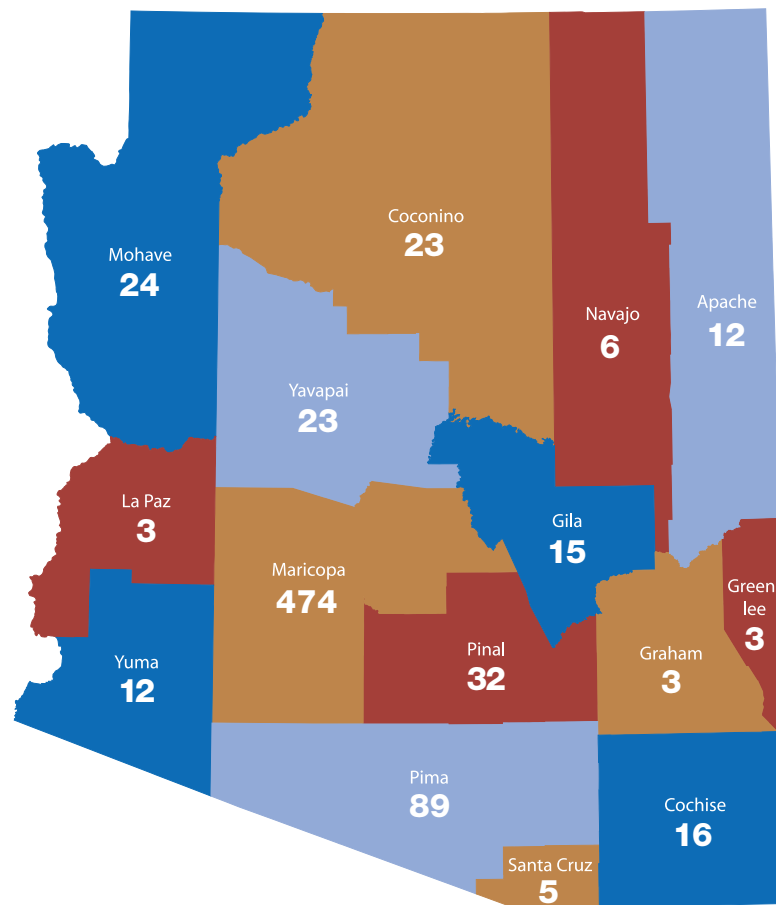
**Visitors:** The Attorney General's Office Web site ([www.azag.gov](http://www.azag.gov)) had 777,795 visits during the fiscal year, breaking the record set in the previous year by more than 140,000.

Improvements to the site have made it much easier to file a complaint with the Office. A new complaint button on the home page assists citizens in filing grievances in several categories.

Information on upcoming community events involving the Office – such as crime and fraud prevention forums, Internet safety presentations and shred-a-thons – can also be found more readily by clicking on the home page events button.

- **LifeSmarts** Arizona's entry in the LifeSmarts national competition, the Flagstaff Home Educators defeated the reigning national champions to win first place.

LifeSmarts is a nationally recognized consumer education program for high school students and is sponsored by the Arizona Attorney General's Office in partnership with the National Consumers League. The program encourages teens in grades 9-12 to learn about consumer and marketplace issues. The teens are tested in five areas: personal finance; consumer rights and responsibilities; health and safety; technology; and the environment. Students learn about these issues and participate in an online competition that opens in September and closes in January. The high-



est scoring team in Arizona is invited to attend the national competition. Nationwide, more than 20,000 high school students participated in the online competition dur-

ing the 2007-2008 season. The Flagstaff Home Educators represented Arizona at the national event held in Minneapolis April 12-15, competing against 28 other states.

- **Community Events.**

Attorney General Terry Goddard and staff conducted 740 community events and presentations across Arizona during the year. These included crime and fraud prevention forums and presentations on topics such as identity theft, methamphetamine prevention, Internet safety, civil rights, consumer scams, protecting Arizona seniors, victims rights and life care planning. This map (at left) shows the number of events in each county.





Chief Counsel Juliet Peters

## Mission:

*To provide the Department of Economic Security (DES) with high quality representation and timely legal advice which promotes the safety, well being and self-sufficiency of children, adults and families.*

## Division Summary

*The Child and Family Protection Division (CFP) provides comprehensive legal representation to the Arizona Department of Economic Security, with more than 360 employees in locations throughout Arizona. CFP has 3 sections:*

- *Protective Services (PSS)*
- *Child Support Enforcement (CSE)*
- *Civil & Criminal Litigation and Advice (CLA)*

## Protective Services Section (PSS)

The Protective Services Section of the Attorney General's Office provides comprehensive legal representation to the Child Protective Services (CPS) branch of DES. PSS shares the same goal as CPS: to protect children, preserve families and achieve permanency for Arizona's children.

**Trial Practice.** PSS attorneys litigate matters in every Arizona county within the juvenile division of the Arizona Superior Courts. Trial lawyers in PSS handle thousands of legal actions each year generally referred to as "dependency cases": actions brought to protect abused and neglected children, either by removing children and placing them in the legal custody of CPS, or by establishing protective measures while social services

are provided in the family's home. Should attempts to reunite families prove unsuccessful, PSS attorneys represent CPS in actions to achieve permanent placement of children through severance of parental rights, guardianship and adoption procedures.

## Appellate, Policy, and Training

**Activities.** Appellate lawyers in PSS appear before the Arizona Court of Appeals to defend successful trial court judgments. PSS lawyers also advise DES on legal issues arising from federal and state statutes, regulations and court decisions, and they provide training and support to CPS caseworkers, supervisors and members of the judiciary.

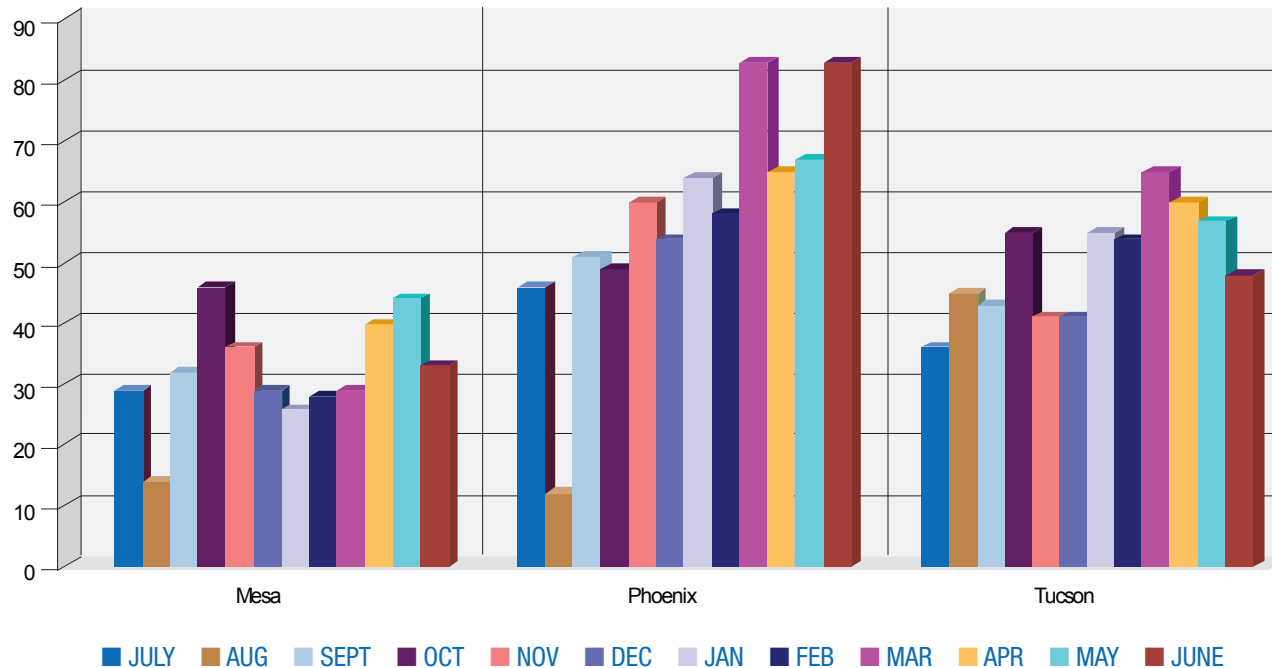
## Accomplishments

During FY08 PSS concentrated its resources on implementing and standardizing best practices across the state, developing and refining consistent statewide forms, training policies and procedures. PSS also streamlined its intake process for new dependency petitions. PSS also worked with DES to draft and implement new legislation which will allow the public release of more information in fatality and near fatality cases. Case permanency conferences and procedures were also implemented to ensure permanency for dependent children.

## In FY 2008 PSS attorneys and staff:

- Protected more than 10,556 children from abuse and neglect.
- Filed 2,193 new dependency petitions involving 3,884 children.
- Filed 1,304 severance motions and petitions.
- Filed 438 guardianship motions.
- Filed 139 adoption petitions.
- Helped place 5,189 children in permanent homes.
- Helped reunite 1,471 children with their parents.
- Placed 555 children with permanent guardians.
- Helped 1,760 children be adopted by relatives or foster parents.
- Represented DES in 206 appeals.
- Prevailed in 93% of all appeals resolved.

## Dependency Petitions in Three Major Offices FY08



*This chart demonstrates that PSS dependency filings steadily increased in the two largest counties (Pima and Maricopa) – a trend which is expected to continue. Historically, more children come into care during difficult economic periods.*

### Child Support Enforcement Section (CSE)

The Attorney General's Office seeks to ensure that children receive the financial support from their parents to which they are entitled. The Child Support Enforcement (CSE)

Section provides legal advice and representation to the DES Division of Child Support Enforcement (DCSE). CSE attorneys work to establish paternity and to establish, modify and enforce child support orders.

Because more than 40 percent of Arizona's children are born

to unwed parents, establishing paternity is a critical first step in the child support process. CSE attorneys then take legal action to pursue child support.

In FY08, CSE helped Arizona children by:

- Establishing paternity for 2,710 children.

- Establishing new child support orders for 5,890 families.

- Obtaining child support judgments of over \$42 million.

- Resolving 2,873 actions for modification of support.

- Representing the State in over 24,000 court appearances.
- Assisting DES in collecting more than \$350 million in support this year, \$14 million more than in FY07.
- Collecting \$464,242 in support in bankruptcy cases.
- Collecting \$71,329 in non-Family Court litigation relating to liens and foreclosures.

### **Civil & Criminal Litigation and Advice (CLA)**

CLA provides advice and representation for all DES programs<sup>1</sup> except CPS and CSE. CLA also advises and represents DES regarding its business operations, including hiring and disciplining of employees, compliance with laws governing workplace conduct and safety, contracts for service providers and facilities management.

The attorneys in CLA's Criminal Unit prosecute individuals and contractors who defraud the State of Arizona through DES programs, as well as parents who willfully fail to provide support for their children or who escape from the child support work furlough program.

### ***FY 2008 Accomplishments for CLA***

The CLA Civil & Criminal Unit:

- Obtained civil judgments totaling \$767,310.
- Opened, litigated or reviewed 637 administrative litigation, civil and appellate cases.
- Collected \$399,992 through wage and bank garnishments.
- Collected \$396,397 in restitution prior to sentencing.
- Responded to over 550 subpoenas and requests for public records.
- Reviewed approximately 200 DES contracts and leases.

### ***The CLA criminal unit:***

- Obtained restitution orders totaling \$695,691.
- Filed 275 criminal cases.
- Obtained 266 individual sentences.
- Obtained orders for fines totaling \$19,685.
- Successfully defended DES in superior court against claims by a former employee seeking over \$200,000 in back pay and damages. CLA attorneys convinced the court to reject the employee's claims (which had been approved by the State Personnel Board) for back pay and reinstatement of employment.
- Final disposition of two class action cases brought in federal court against

DES arising out of the administration of federal food stamp and temporary assistance for needy families programs.

<sup>1</sup> Some of these programs include: Adoption Subsidies, Developmental Disabilities, Unemployment Insurance and Tax, Vocational Rehabilitation Services, Food Stamps and Cash Assistance, Certification of Child Care and Foster Care Providers, AHCCCS Long Term Care Services, Adult Protective Services, Behavioral Health Services for dependent children, and collection of public benefit-related debts owed to DES.

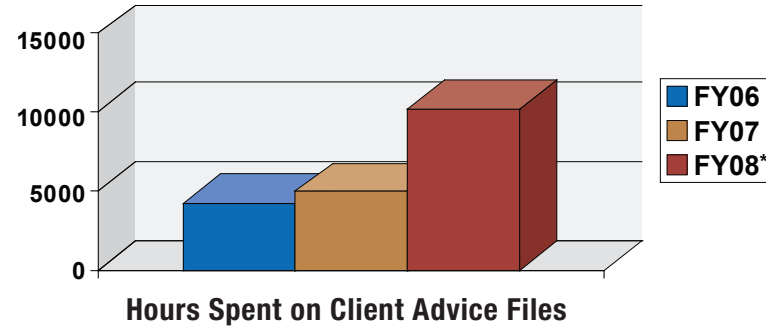
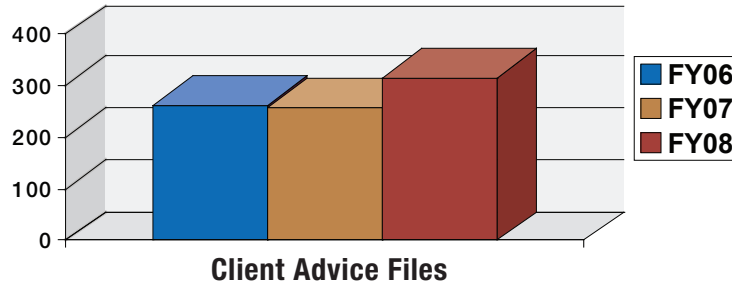
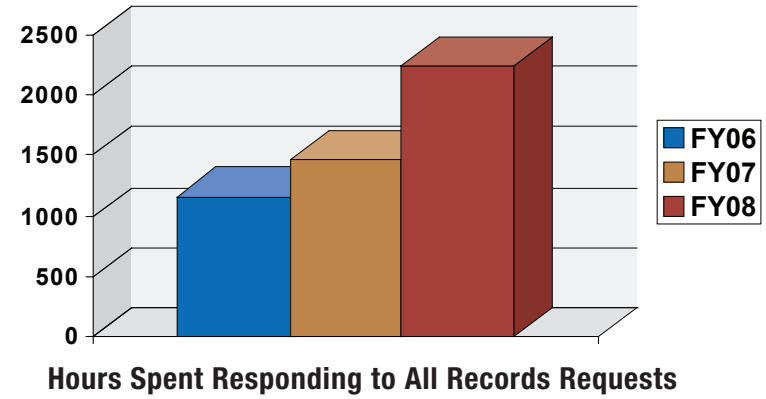
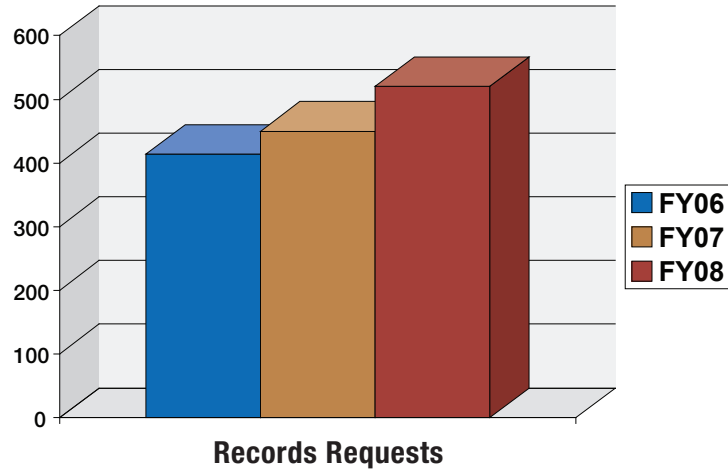


# Child and Family Protection Division *(continued)*

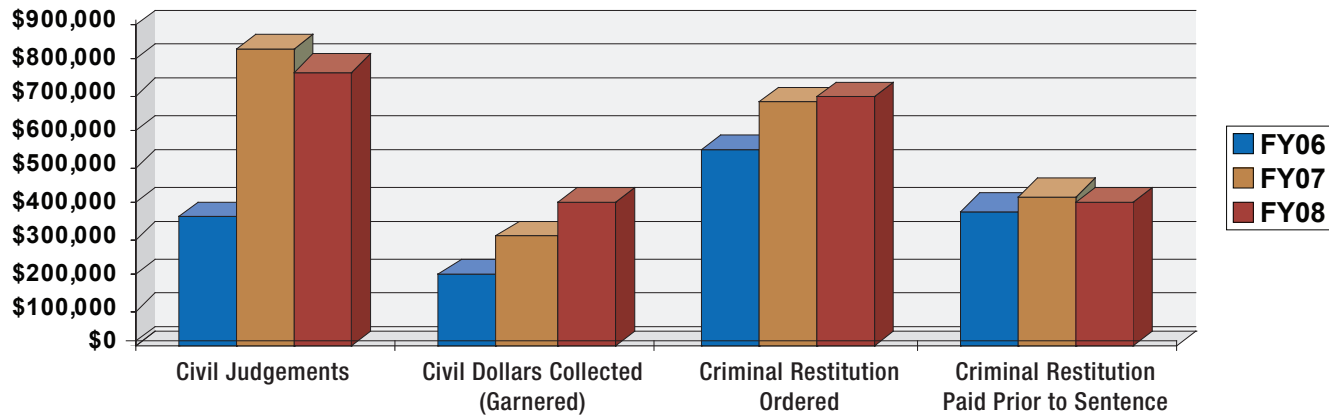
Administrative, Civil and Appellate Litigation Cases	
Program	Opened
Adoption Subsidy	8
Adult Protective Serv. (APS)	11
APS Review Central Registry	8
Business Enterprise Prgm (BEP)	8
Cash Assistance (Welfare)	1
Childcare Admin.	14
Civil & Crim Lit. Admin Files	4
Comp Med & Dental Prgm	3
CPS Central Registry	171
Div. of Benefits & Med. Elig.	1
Div. of Child., Youth & Fam.	4
Div. of Employee Serv. & Supp.	1
Div. of Dev. Disabilities	81
Equal Employment Opp.	30
Foster Care Lic.	6
Guardianship Subsidy	2
Intergovernmental Agreement (IGA)	188
Internal Affairs Investigations	61
Medical Assistance	1
Mental Health (CYF/CPS)	42
Office of Equal Opportunity (OEO)	1
Personnel	131
Subpoenas (APS)	162
Subpoenas (Non-APS)	358
Unemploy. Ins. Ben.	132
Unemploy. Ins. Contributions	18
Vocational Rehab & Blind Serv.	18
<b>TOTAL</b>	<b>1,465</b>

Criminal Prosecution Cases		
Program	Filed	Sentenced
Cash Assistant/Food Stamp Fraud	19	11
Child Care Recipient/ Provider Fraud	21	6
Child Support Escape	0	8
Employee Fraud	3	3
Forgery	0	0
Unemploy. Ins. Benefits	232	238
<b>Totals</b>	<b>275</b>	<b>266</b>

Civil Collection Cases		
Program	Filed	Judgments Entered
Cash Assistance	14	14
Any combination	9	8
Childcare Assistance	6	7
Div of Dev. Disabilities	4	3
Employee	0	1
Food Stamp	12	5
Fostercare	1	1
Parental Assessment	5	4
Unemploy. Ins. Benefit	231	296
Unemploy. Ins. Contrib.	3	0
<b>Totals</b>	<b>285</b>	<b>339</b>



\*The drastic change in this measure reflects a new method of measuring this goal by using "task" time versus the previous "manual" count



State Revenue Generated by CLA in FY 2008



Chief Counsel Pam Culwell

## Mission:

*A dynamic team of legal professionals representing Arizona in many areas of civil law with dedication, integrity and innovation.*

## Division Summary

*The Civil Division is comprised of seven sections that focus on specialty areas of civil law including natural resources; tax, bankruptcy and collections; liability management; employment; public health; public safety; transportation; contract review; procurement; licensing and enforcement; education, and complex case litigation.*

## Major Cases

- **Espinoza v. State of Arizona:** In a class-action lawsuit against the State of Arizona, the Arizona State Board of Education, Arizona Superintendent of Public Instruction and plaintiff public school students sought a declaration that Arizona's system of funding public education operations and programs violated various clauses of the Arizona and federal constitutions. The plaintiffs initially filed materials with the court indicating a belief that, absent addition

of over \$1 billion per year in additional finances, the state's educational system violated the constitutional rights of many students, particularly ethnic and racial minorities, economically disadvantaged students and English Language Learners. The plaintiffs also sought to enjoin the enforcement of the State of Arizona's general requirement that students achieve a passing score on all three sections (Reading, Writing and Mathematics) of the Arizona Instrument to Measure Standards ("AIMS") exam to obtain their high school diploma. The court granted the state defendants'

motion for summary judgment on all claims but one and conducted a trial in June, 2008, on the remaining claim that the school finance system violates the clause of the Arizona Constitution requiring establishment of a general and uniform public education system. After the trial, the court entered a verdict in favor of the state defendants.

- **State v. Mabery Ranch:** The Arizona Court of Appeals overturned a jury verdict in excess of \$2 million against the state. The underlying dispute involved an easement between the State Parks Board and an adjoining property owner and a related claim based on a document recorded by the Board. The Court also held the adjoining owner failed to state a claim for inverse condemnation.

- **Arizona Medical Board v. Peter Normann, M.D.:** The Division successfully prosecuted the Arizona Medical Board's decision to revoke Peter Normann's license to practice allopathic medicine following the deaths of three patients during office-based cosmetic surgery procedures. In a related case, Homeopathic Board of Medical Examiners v. Gary Page, H.M.D., both a summary suspension and a voluntary surrender of Dr. Page's license were successfully negotiated.

- **Low Cost Pharmacy v. Arizona State Board of Pharmacy:** The Arizona Court of Appeals upheld the Pharmacy Board's discipline of Low Cost Pharmacy for Low Cost's actions in filling prescriptions it knew had been prescribed by a physician who had not performed a physical examination of the patient.

- ***In the Matter of Luis Carlos Alvarado-Morales et al.***: In an administrative hearing, the Arizona Department of Racing took action against more than 100 racing licensees who were unable to show lawful presence in the United States. The matter arose because the licensees' H2B work visas expired and were not timely renewed.
- ***Peach Springs Unified School District***: A settlement agreement was negotiated between the Arizona Board of Education and the Peach Springs Unified School District to place the District in financial receivership under the purview of the Board.
- ***Smoke-Free Arizona***: The Division obtained two Superior Court injunctions against bars violating the Smoke-Free Arizona Act.
- ***State v. Carley***: The Court of Appeals upheld a jury verdict granting eminent domain damages of \$64,000. The property owner claimed \$1,059,900.
- ***City of Chandler v. ADOT***: The Court of Appeals confirmed that the Arizona Department of Transportation director's authority to pay for utility relocation damages is discretionary.
- ***Disciplinary Appeals***: The Division prosecuted 54 disciplinary appeals. In one case, the State Personnel Board upheld the dismissal of two state employees who used state property to operate a private unlicensed security guard agency. In another, the Board upheld the dismissal of a psychiatric nurse who failed to properly administer immunizations, failed to follow documentation procedures and failed to return to work on a timely basis after an approved leave.
- ***Hellman v. Arizona Court of Appeals***: The Division obtained summary judgment against a former court employee who sued for \$3,000,000 for retaliation under Title VII and violation of her First Amendment rights. The plaintiff took two confidential court memoranda and gave them to a former court employee. The plaintiff's action violated court policy. The plaintiff claimed that her actions were protected activity under Title VII and the First Amendment and that she was retaliated against by being disciplined, threatened with discipline and ostracized.
- ***Black Star Farms***: The Division successfully defended the Department of Liquor License and Control in a federal case challenging the constitutionality of state laws governing direct shipment of wine and domestic farm winery licenses.
- ***In the Matter of Fred Barlow and Preston Barlow***: The Division prevailed on behalf of the Arizona Peace Officers Standards and Training Board in its administrative prosecution of the Colorado City, Arizona, Marshal and the Deputy Marshal who sought direction on the operation of the Marshal's Office from Warren Jeffs, then a state and federal fugitive, and for failing to cooperate with the Arizona Attorney General's criminal investigation of Jeffs.





Chief Counsel Melanie Pate

## Mission:

*To enforce civil rights laws and eliminate discrimination statewide by increasing public awareness of civil rights issues. These goals are reached through investigation, enforcement, education and the provision of services to victims, including dispute resolution services. The Division continues to focus on outreach and education involving vulnerable populations.*

## Division Summary

*The Civil Rights Division (CRD) enforces the Arizona Civil Rights Act, which prohibits discrimination in employment, voting, public accommodations and housing, by investigating, mediating and litigating civil rights complaints.*

*The Division provides conflict resolution services and mediation programs statewide. It not only responds to complaints, but seeks to reduce discriminatory conduct through education and outreach in the community.*

*CRD is comprised of two sections: Compliance and Litigation. The Compliance Section screens and investigates complaints involving civil rights violations and provides education and outreach to the public.*

*The Litigation Section is responsible for litigation in state and federal courts involving civil rights violations and provides legal resources for drafting legislation, education and outreach.*

*The Conflict Resolution Program, a component of the Litigation Section, provides services statewide, including mediation, facilitation, conciliation and training. The mediation programs encompass civil rights, truancy and victim-offender issues.*

## Division Highlights

- The Compliance Section opened and investigated approximately 1,548 discrimination charges and resolved 975 cases, including 207 housing charges, 686 employment charges and 82 public accommodations charges.
- The Compliance Section also issued 24 determinations in cases where the Division found reasonable cause to believe that unlawful discrimination had occurred. Many of these cases were successfully conciliated before litigation became necessary.
- The Division's litigation attorneys facilitated 60 conciliation agreements and consent decrees both prior to and after the conclusion of the Division's administrative

investigations. Through these conciliation efforts, more than \$242,000 was obtained in relief for discrimination victims. The Division also obtained substantial non-monetary relief in the form of physical changes to public accommodations and apartment complexes to ensure greater accessibility for the disabled. These included ensuring the rights of disabled persons to use their service animals and requiring changes to Websites to provide accessibility for deaf and hard of hearing persons.

- The Litigation Section had a very busy year litigating 25 cases in state and federal courts alleging violations of the Arizona Civil Rights Act and Arizona Fair Housing Act. As a result of its litigation, conciliation and mediation efforts, the Litiga-

tion Section obtained more than \$1,348,000 in monetary relief for victims of discrimination.

- The Division's Conflict Resolution Program mediated 127 civil rights matters and achieved 54 mediation agreements. As a result of these mediations, charging parties received more than \$456,000 in monetary relief. The results obtained through mediation, however, go beyond mere monetary value and also encompass meaningful, practical solutions to resolve charges of discrimination. These solutions include, but are not limited to, reinstatement of employment or tenancy, policy changes and additional training for managers and staff.

In addition, the Division en-

gaged in extensive education and outreach efforts, including more than 72 events throughout metropolitan and rural Arizona. Thanks to a grant from HUD, the Division created a fair housing booklet and educational video that were produced in both English and Spanish. The Division estimates that it reached approximately 5,000 people through its various training events, forums, television and radio appearances and information booths.

### Case Highlights:

- ***State v. DHL Express, Inc.***: In February 2008, our Civil Rights Division successfully prosecuted a retaliation lawsuit against DHL Express, Inc. In the lawsuit, the State alleged that the global shipping company retaliated against plaintiff and former

DHL employee Jill Shumway in violation of the Arizona Civil Rights Act ("ACRA") because she complained of sex discrimination, alleging that she was paid less than two of her male counterparts. Shortly after Ms. Shumway complained about sex discrimination, DHL denied her a large commission she had earned.

After a four day trial, the jury found in favor of Shumway based upon her retaliation claim and awarded her \$350,000 in compensatory damages. United States District Court Judge Frederick J. Martone also ordered DHL Express (U.S.A.), Inc., to take measures to prevent retaliation against employees who may complain about an unlawful employment practice or an employee who participates in an investigation about an unlawful employment prac-

tice, including revisions of its retaliation policies and training for its managerial employees.

- ***State v. Ogorzaly, et al.***: In this fair housing case, the Division filed a lawsuit against a landlord and Keller Williams Realty alleging that the Defendants had discriminated against prospective renters because they are black. The case was resolved via a Consent Decree wherein the defendants paid the charging parties \$55,000. Defendant Keller Williams also agreed to create policies prohibiting discrimination and to guide agents in handling clients who are engaged in discriminatory acts. In addition, the Consent Decree required Keller Williams to provide training on its new policies

to its agents. The Consent Decree also resulted in a jointly sponsored Town Hall meeting at Glendale Community College that addressed the impact of housing discrimination, ways to change discriminatory attitudes and specific steps that real estate professionals can take to help eradicate housing discrimination.

- ***State v. Jesko L.L.C, et al.***: In this employment discrimination and retaliation case, the charging party alleged that she had been sexually harassed by the defendants' manager, Peter Tignini, and retaliated against after she refused his advances. The Division filed a lawsuit after issuing a Reasonable Cause Determination. After extensive litigation and the bankruptcy of the two corporate

defendants, the Division entered into a consent decree with defendant Climate Control and defendant Tignini in his official capacity with Climate Control. Under the Consent Decree, defendants Climate Control and Tignini agreed to injunctive relief in the form of policies prohibiting discrimination and training if Climate Control were to resume business. A separate monetary settlement was also reached between the charging party and the defendants.

• ***State v. Indo-American Cultural and Religious***

***Foundation:*** This public accommodations case involved allegations that the defendant discriminated against Hispanics in the rental of its reception hall. The Division filed a

lawsuit and resolved the case under a Consent Decree that required the defendant to pay the aggrieved couple \$7,500, create policies prohibiting discrimination and attend training.

- ***State v. Pima County Community College District:*** In this case, the Division filed a lawsuit alleging that a community college violated the Arizonans with Disabilities Act (“AzDA”) by failing to provide a qualified sign language interpreter for a deaf student and then retaliating against her after she complained about not having a qualified interpreter. The case was settled. Under the settlement terms, the College agreed to pay the aggrieved student \$25,000. In addition, the College agreed to substantial revisions of its policies and

procedures regarding the manner in which it would receive and process requests for reasonable accommodation from disabled students and to expand the number of qualified sign language interpreters the College utilizes.

- ***State v. Drexel Diesel, et al.:*** This sex discrimination case involved allegations that the defendant’s owner had sexually harassed two female employees and retaliated against them after they complained of the harassment. The parties settled the case shortly before trial via Consent Decree. Under the Decree, the defendant was required to create extensive policies prohibiting discrimination and assuring adequate reporting opportunities for victims of discrimination.

The two employees also filed their own lawsuit and entered into a confidential settlement agreement for an undisclosed amount of money.

- ***State v. Tucson Residential Foundation:*** In this employment discrimination case, the State filed a lawsuit alleging that the defendant had violated the Arizona Civil Rights Act when it denied an employee a promotion because she is deaf. The lawsuit was resolved via Consent Decree wherein the Division required substantial injunctive relief, including the creation of policies to ensure that disabled employees are properly afforded reasonable accommodations and to expand existing policies prohibiting discrimination. The Consent

Decree also requires the defendant to provide extensive training regarding the policies. The charging party, who was separately represented, entered into a confidential settlement agreement with the defendant for an undisclosed amount of money.

- ***State v. Big Dan’s Drive Thru/Vermillion Candy Shoppe:*** These companion cases involved allegations of religious discrimination in Colorado City, Arizona. The State filed two separate lawsuits alleging that former members of the FLDS church were being discriminated against by the two businesses because they were no longer FLDS members. The cases were settled in the form of a Consent Decree wherein the defendants were enjoined from discriminating against

customers on any protected bases. The defendants were also required to create policies and procedures prohibiting discrimination and to record instances in which they denied service to any customer. In addition, the Division provided training in Colorado City for business owners regarding civil rights laws involving public accommodations.

• ***State v. AL-LH DB, LP, et al:*** This fair housing lawsuit arose from allegations that the defendant had failed to provide a reasonable accommodation to disabled tenants in the form of parking spaces closer to their apartments. After the filing of the lawsuit, the parties entered into a Consent Decree under which defendants agreed to pay

\$15,000 to the charging parties and their representatives and pay the Division \$5,000 in monitoring fees to ensure compliance with the Consent Decree.

• ***Bush v. Anthem Community Council, et al:*** After issuing a Reasonable Cause Determination in a case involving allegations of familial status discrimination, the Division entered into a Conciliation Agreement with the Respondents prior to filing a lawsuit. Under the Agreement, the Respondents agreed to pay \$45,000 to the charging parties and to amend their policies regarding pool usage.

• ***Sabori v. Phelps Dodge, Inc.:*** This discrimination charge involved allegations of sex discrimination and retaliation. The Division issued a Reasonable Cause

Determination on the retaliation portion of the charge and resolved the matter via a Conciliation Agreement before filing a lawsuit. The Agreement required the Respondent to pay the charging party \$30,000 and provide extensive training for its supervisory and management employees regarding prohibitions against harassment and retaliation.

• ***Whittom v. Sun Western Contractors for Industry, Inc.:*** This charge involved allegations that the charging party was terminated after complaining of race discrimination. The Division issued a Reasonable Cause Determination that the employee had been retaliated against for reporting discrimination. Prior to filing a lawsuit, the

parties entered into a Conciliation Agreement under which the Respondent agreed to pay the charging party \$27,500, to create or modify policies prohibiting discrimination and to obtain training about laws prohibiting discrimination.

• ***Acosta/Pandhi v. Infant Swimming Resources:*** These two charges involved allegations that the respondent discriminated against two potential clients because of their alleged disabilities. After a Reasonable Cause Determination was issued, the parties entered into a Conciliation Agreement wherein the respondents agreed to pay the charging parties \$3,000, pay their attorneys' fees and create policies and protocols for assessing whether a client's disability constitutes a direct threat. Respondent also agreed to train its staff

on disability issues and its new policies.

• ***Blair v. Kindred Nursing Centers West:*** The charging party in this matter alleged that she had been discriminated against because of her sex when the respondent refused to place her in a light duty position when she needed such an assignment because of her pregnancy. The matter settled after the Division issued a Reasonable Cause Determination. Under the Conciliation Agreement, the charging party received \$10,324 and a neutral job reference.





Solicitor General  
Mary O'Grady

**Mission Statement:**  
*The Solicitor General's Office is committed to excellence, fairness and integrity. It provides leadership in appeals, election law, ethics, independent advice, legal opinions and continuing legal education.*

## Solicitor General's Office

*The Solicitor General is responsible for:*

- *Ensuring the quality of the Office's appellate practice;*
- *Overseeing the preparation of Attorney General Opinions;*
- *Representing the Clean Elections Commission and Secretary of State on election law issue and handling civil election law and campaign finance enforcements;*
- *Providing independent advice to State agencies and boards in administrative proceedings in which Assistant Attorneys General appear as advocates;*
- *Reviewing constitutional challenges to State laws;*
- *Providing advice to attorneys throughout the Office on ethics issues;*
- *Coordinating the Office's continuing legal education program;*
- *Coordinating the work of the Open Meeting Law Enforcement Team and the Public Records Task Force.*

## Major Accomplishments in Fiscal Year 2008

**Defending Arizona's Laws Disenfranchising Convicted Felons.**

**Coronado, et al. v. Napolitano, et al.** The Solicitor General's Office continued to defend the constitutionality of Arizona's laws pertaining to disenfranchisement of convicted felons. The defendants moved to dismiss the original complaint in fall 2007. The motion was granted in January 2008; the Court permitted the plaintiffs to amend their complaint, however. Defendants again moved to dismiss the action and briefing on the motion was completed in July 2008. A decision on the motion was pending.

## Open Meeting Law Enforcement:

The Office added new information concerning the Office's open meeting law enforcement efforts to its Web site to increase public access to this information. The Solicitor General's Office also centralized the process for initiating open meeting law investigations to improve the ability to monitor cases. The new process incorporates the Office's electronic case management system. Fifty-three new Open Meeting Law cases were opened in FY08.

## Attorney General's Opinions:

The Solicitor General's Office coordinated the production of Attorney General's Opinions, including opinions affirming that Arizona's Open Meeting Law does not prohibit a member of a public body from speaking to the media concerning matters that may come before the

public body and concerning the application of Arizona law to the development plans regarding ancillary military facilities.

### **Continuing Legal Education:**

The Office offered 28 continuing legal education (CLE) programs for a total of 54 hours. These programs are tailored to the needs of the State attorneys and included programs on trial practice skills as well as public records, open meeting law, legal ethics and other topics necessary for public lawyers. This program is important to the Office and cost-effective. To pay for Attorney General's Office attorneys to attend this type of continuing legal education program outside rather than offering them in-house, it would cost approximately \$111,300.

### **State Appellate Practice:**

The Solicitor General's Office continued its work preparing, reviewing and editing legal briefs for state and federal appellate courts and coordinating oral argument preparation. The Solicitor General's Office reviewed more than 373 briefs and coordinated 48 moot courts in FY2008.

### **Professor Catherine O'Grady's**

**Sabbatical:** In a unique and successful collaboration between the Arizona State University Sandra Day O'Connor College of Law and the Attorney General's Office, Professor Catherine O'Grady spent a sabbatical working at the Solicitor General's Office. Professor O'Grady assisted with significant litigation and appeals, which included working with lawyers from the Office's Education Unit to defend the con-

stitutionality of recent legislation concerning school districts, arguing a civil liability case before the Arizona Supreme Court, and assisting with the employer sanctions litigation. She also reviewed criminal briefs filed in the Arizona Supreme Court and provided educational programs for the Office.



Chief Counsel Mark Wilson

## Mission:

*The Finance Division supports the Attorney General's Office with a multidisciplinary team of financial and legal professionals. We provide legal advice, litigation, budgetary, contract, accounting and financial control services to the Office and to the Executive and Judicial Branches of State Government.*

## Division Summary

*The Finance Division is comprised of three Sections: the Administrative Law Section, the Financial Services Section and the Information Services Sections.*

### Administrative Law Section

**(ALS)** is comprised of lawyers and legal support teams. ALS represents approximately 60 State agencies in matters concerning public monies, procurement, finance, open meeting law, public records and general agency advice. Clients include: the judiciary (and its associate programs), Secretary of State, State Treasurer, Department of Administration, Department of Commerce, Department of Corrections, Department of Emergency and Military Affairs, Department of Homeland Security, Department of Housing,

Department of Gaming, Government Information and Technology Agency, Arizona Exposition and State Fair, State Retirement and the State Lottery, to name a few.

ALS' successes are measured by the time and expertise it uses to provide legal advice to State agencies. ALS' 60 plus client agencies are represented by approximately 15 Assistant Attorneys General. These lawyers are the State's experts on public monies, procurement, contracting and financial issues. ALS' responsibilities range from negotiating multi-million dollar contracts, assisting in State bonding issues, providing public monies and procurement advice and assisting agencies with their licensing and certification issues. ALS' successes are

measured in its partnerships with the agencies it represents and its assistance it provides the agencies it performing their statutory missions in a creative and cost-effective manner.

### Financial Services Section

**(FSS)** is comprised of CPAs, accountants, procurement officers and other financial services professionals. FSS is responsible for overseeing and running the financial operational services of the Attorney General's Office.

FSS has implemented a program of critically examining its work flow processes to assure that it operates in an efficient and effective manner. For example, it has examined its job classifications and has upgraded or downgraded positions and job duties, as appropriate, to assure work is being performed in a "private business" appro-

propriate model. During the last fiscal year, FSS has eliminated over 1,000 hours of repetitive data entry. Improving accuracy and freeing employees to do more demanding and productive work.

### Information Services Section

**(ISS)** is comprised of computer engineers, software professional, trainers and helpdesk professionals. ISS is responsible for overseeing and operating the information technology services of the Office.

ISS has been responsible for implementation of the Office's new case management system, which will provide better management and insight into the Office's criminal and civil case loads. ISS has been also responsible for the implemen-

tation, training and maintenance of the system. ISS has performed this function while continuing to maintain the Office's customary hardware and software systems.

The creation of the Finance Division is the first major organizational change in the Attorney General's Office in the last decade. In FY07, ALS and FSS were moved from other Divisions into the newly created Finance Division. In FY08, ISS was moved into the Finance Division. The intent in its creation was to bring the legal and business sides of the Office together to improve the work product of both. By working together in the Division, ALS is

better able to observe the effect and consequences of the legal advice it may give, thus helping the Section tailor its advice to better serve the business needs of the State.