

The image features the Arizona state flag as a background. The top half consists of a red field with a yellow sunburst pattern. The bottom half is a solid blue field. A large, brown, five-pointed star is centered over the sunburst and extends into the blue field. The text is located in the blue field on the right side.

**Arizona Attorney General
Terry Goddard
2004 Annual Report**

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Message from Attorney General Terry Goddard

I am proud to present the Arizona Attorney General's Office 2004 Annual Report. This report represents the scope and depth of the work of this Office and its talented staff during the fiscal year from July 1, 2003 through June 30, 2004.

As the State's chief legal officer, the Attorney General has many duties, but at the heart of my mission is an unwavering commitment to:

- promote justice;
- aggressively enforce the laws to protect all Arizonans; and
- safeguard Arizona's economy, environment and heritage for our children.

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

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



Terry Goddard

2004 Annual Report

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2003-2004 Highlights

Qwest to Cram No More: The Attorney General entered into a consent judgment with Qwest in July 2003 to stop the practice of cramming phone charges onto customer bills.

Cramming is the billing of consumers for products and/or services they did not order or authorize. The judgment addresses Qwest's failure to disclose charges and its failure to correct errors in billing. It also requires an independent audit of Qwest sales practices for the next five years.

Qwest has refunded consumers well over \$800,000 in restitution. The judgment also requires Qwest to pay the State \$3.75 million.

Attorney General Goddard Visits

Colorado City: Attorney General Goddard traveled to Colorado City in Fall 2003 where he toured the area and met with Colorado City and Hildale residents to hear concerns about their communities.

This trip solidified the partnership between the Utah Attorney General's Office and the Arizona Attorney General's Office to work on issues in and around the Colorado City/Hildale area.

Joint Drug Investigation Results in

More than 90 Indictments: This drug-related case in Yuma involved almost 100 individuals charged with various drug-related offenses resulting from an

investigation conducted by the Drug Enforcement Agency, U.S. Immigration and Customs Enforcement and the Federal Bureau of Investigation.

The initial indictment named 50 defendants, and 47 have been convicted, including Noel Haro who was convicted of 17 drug-related offenses. Haro was sentenced to 57 years in prison, with the first 25 years being flat time.

The State Grand Jury returned a second indictment, charging an additional 47 defendants arising out of this same investigation. Of the 47 individuals indicted, 22 defendants have pled guilty.

A third indictment stemming from this investigation was returned in Fall 2003. The indictments centered on methamphetamine and cocaine smuggling in the Yuma area. That indictment charged an additional eight defendants, two of whom have pled guilty.

Air Conditioning Predatory Lender

Fined: This joint enforcement action against Hispanic Air alleged violations of the Arizona Civil Rights and Consumer Fraud Acts. The case involved the sale and financing of air conditioners to more than 1,000 predominantly Spanish-speaking consumers. The Court ordered \$32 million in statutory penalties against Hispanic Air.

Predatory Lending - Stealing the American Dream: Predatory lending may occur when buying a home, refinancing a mortgage, making a home equity loan, or trying to save a home from foreclosure. Many Arizona homeowners are falling prey to these unscrupulous lenders. Citizens are ruining their credit and losing their homes because of predatory lending practices. The Consumer Protection Section and the Civil Rights Division partnered to create educational materials for the public.

Attorney General Goddard held educational forums in Phoenix and Tucson for consumers in an effort to inform Arizona consumers. These forums brought consumer advocates and industry executives together to discuss how to curb predatory lending practices. In addition to the forums, the Attorney General produced an educational video for consumers to reach the broadest audience possible.

We are Wired: The Consumer Information and Complaints Unit developed an on-line complaint form in February 2004, and made it available to Arizona consumers through the Attorney General Web site. For the first time, consumers were able to instantly file consumer fraud complaints with the Attorney General's Office. More than 1,900 complaints were filed online in the first five months after the Web site went live.

2003-2004 Highlights

Surfing Safely on the 'Net: In Fall 2003, Attorney General Goddard launched an Internet Safety Initiative to ensure that Arizona kids understand how to safely travel the Information Superhighway. The Office partnered with Netsmartz Workshop and the National Center for Missing and Exploited Children to develop the resources now available through the Attorney General's Web site.

The AG's Kids Page provides Internet Safety information for kids along with interactive games and activities.

As part of the Internet Safety Initiative, the Attorney General visited Boys and Girls Clubs throughout Arizona, providing kids with information regarding Internet Safety.



Attorney General Goddard helping kids at an Internet Safety Forum hosted by the Boys and Girls Club of Tucson.

Child Safety Comes First: In October 2003, the Governor and State Legislature adopted reforms in Child Protective Services. The legislation made several important changes to the dependency process by redefining CPS' mission: Safety of the child comes first, before family reunification.

The reform package included allowing a parent, guardian or custodian to request a parental rights termination hearing before a jury. Prior to the reforms being enacted, termination of parental rights hearings were heard by judges only.

By June 30, 2004, 80 jury trials were requested statewide. Of those requests, 12 cases went to trial in Fiscal Year 2004. The Attorney General's Office, through the Protective Services Section, prevailed on behalf of CPS in 11 of the 12 cases, obtaining a verdict in favor of severing parental rights, which allows the children to be adopted and placed in permanent homes.

Implementing jury trials required significant additional time and teamwork from the Attorney General's Office. Jury trials demand greater preparation time than bench trials. PSS formed a jury trial work group that devoted about 800 hours in training and preparation while continuing to cover existing caseloads.

2003-2004 Highlights



Attorney General Goddard recognizes Assistant Attorney General Rob Ellman during an office ceremony commemorating National Crime Victims' Rights Week.

An Honest Wage for an Honest Day's

Work: In February 2004, the Attorney General's Office prosecuted Labor Ready, a national day labor company, for cheating day laborers out of part of their wages. Labor Ready charged employees for using the company cash dispensing machines to cash their paychecks, which violated Arizona law. Labor Ready was required to pay \$150,000 in restitution.

The settlement returned the money illegally deducted from the workers' paychecks back to the workers.

Significant Change to an

Industry: In April 2004, the Attorney General's Office joined 19 states in a settlement that changed the way Medco, the nation's largest Pharmacy Benefit Manager, does business.

Medco's business practices allowed pharmacists to change the medication prescribed by doctors and led patients to believe that their doctor requested the change. In fact, Medco made the change in order to pocket additional profits. This practice cost both consumers and health plans.

Under this multi-state settlement, Arizona received \$604,755. As a result of this settlement, consumers and their health care providers will receive all the information they need to make informed decisions regarding their medication.

Fair Drug Prices: In May 2004, the Attorney General's Office joined 49 other states in a settlement with Warner Lambert for deceptive "off-label" marketing of its popular drug – Neurontin®. This drug is appropriately used to treat epilepsy but the company convinced physicians to prescribe it for bipolar disorder. There was no proof that the drug would be beneficial to treat bipolar disorder.

In total, Warner-Lambert will pay \$430 million. The States will receive \$28 million of the settlement directly and will use the money to fund a remediation program.

Illegal Threats: In June 2004, the Attorney General's Office pursued Check Agencies of Arizona, dba Check Center, which threatened customers with criminal prosecution, jail and other penalties if they failed to pay back a loan. The consumers who were threatened will have their loans forgiven as restitution for this illegal conduct.

Schriro v. Summerlin: Assistant Attorney General John Todd successfully argued this case before the U.S. Supreme Court. The Court ruled that *Ring v. Arizona* (requiring greater jury involvement in sentencing) would not be applied retroactively.

Eighty cases across the country would have been remanded for re-sentencing if the decision had been otherwise in *Summerlin*. Additionally, an adverse ruling would have called into question the viability of non-capital sentences imposed prior to the U.S. Supreme Court's decision in *Apprendi v. New Jersey*, the case on which *Ring* was based.

Public Advocacy Division

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



Cecilia Esquer, Chief Counsel

Positive Impact for the People of Arizona

Anticompetitive Conduct Delays Availability of Generic Drug: In March 2004, the Antitrust Unit participated in a multi-state settlement agreement which will return \$581,245 to Arizona consumers and \$1,422,957 to State agencies injured by anticompetitive conduct. The drug company defendant in this case prevented the generic equivalent of BuSpar from coming to market. That conduct victimized the most vulnerable - people who can only afford to purchase the less costly generic drug.

Youth Tobacco Project: The Tobacco Enforcement Unit's Youth Tobacco Program continued its efforts to reduce youth access to tobacco products. This program works with youth volunteers to conduct covert inspections of tobacco retailers to determine the rate tobacco products are illegally sold to minors. In Fiscal Year 2004, the Tobacco Program performed 1,296 inspections across Arizona, averaging 108 inspections per month.

Helping to Pay for Health Care: The Tobacco Enforcement Unit received \$92 million during Fiscal Year 2004 in payments from tobacco companies. These monies help fund AHCCCS - the program in Arizona that provides health care coverage to low-income Arizona residents. Without these funds, \$92 million would have to be redirected from the General Fund to AHCCCS to pay for this health care coverage.

Public Advocacy Division

Legal Representation: The Agency Unit assisted the Departments of Banking and Real Estate in a number of significant cases in the regulation of licensees:

- American Bantrust was placed in receivership to address approximately \$2 million in unaccounted for funds.
- Metro Title Inc. was assessed a civil penalty of \$150,000 for failing to account for and properly disburse property held in escrow.
- The real estate license of Harold Fields was summarily suspended for failing to account for more than \$1.4 million in client funds.
- The real estate license of Manual Alonso Perez was revoked for breaching his fiduciary duty and pocketing the earnest money payments he received from his clients. The civil penalty imposed was \$28,000.
- K.B. Homes entered into a consent order with the Department of Real Estate. K.B. agreed to pay a penalty of \$5,000 and agreed to contribute \$35,000 to the Education Fund. This fund is used to print a compilation of real estate laws and rules and other educational publications, as well as additional educational efforts for licensees and the public.

Educating Young Arizona Consumers: The Attorney General's Office sponsored the LifeSmarts competition for Arizona teenage consumers. LifeSmarts contestants are 9th - 12th grade students. The student teams compete online by answering questions about consumer rights, the environment, technology, personal finance and health and safety. The top scoring team participates in the national competition. This year 19 teams from four Arizona counties competed. Arizona's 2004 top team - the Cupcake Eating Pink Flamingos representing three East Valley high schools - went on to participate in the national LifeSmarts competition in Chicago, Illinois.

Educating Arizonans About the Costs of Prescription Medicines: The rising cost of prescription medication is an important issue for all Arizonans. The Antitrust Unit surveyed more than 800 Arizona pharmacies and published a prescription drug pricing report in April 2004 that provides consumers with practical shopping tips for lowering their prescription drug costs. The Antitrust Unit also created an on-line pharmacy locator and a mechanism for consumers to view the range of prices for 20 selected prescription drugs at pharmacies located in their areas.

Public Advocacy Division



Attorney General Goddard joins Tucson AGO Staff winners on Awards

Significant Issues

Waiting in Line for Gasoline: In August 2003, Arizona experienced a gas pipeline break. For the first time in 30 years, Arizonans waited in line to pump gasoline. The Antitrust Unit collected and analyzed gasoline pricing data and received more than 1,400 consumer gasoline price complaints. In May 2004, the unit published an extensive report explaining Arizona's gasoline market, analyzing the impact of recent events on gasoline prices and providing recommendations to ease the upward pressure on prices. The Antitrust Unit also participated in the Federal Trade Commission's Gasoline Price Monitoring Project and worked with the Governor's Gasoline Working Group, Essential Services Task Force and state and federal agencies to gather information and coordinate approaches to managing gasoline supply.

Consumer Protection & Advocacy Section - Significant Accomplishments

- Received more than **65,000** calls from consumers and opened more than **17,000** consumer complaint files.
- The Consumer Information and Complaints Unit employees recovered **\$540,107** in money and **\$990,251** in services or goods.
- Participated in **six** multistate cases that resulted in restitution to Arizona consumers.
- Recovered **\$10,748,098** for **136,132** Arizona consumers who were the victims of fraud or anticompetitive conduct.
- Disbursed **\$1,491,322** as restitution to consumers who were victimized by anticompetitive practices.
- Distributed **\$8,127,398** to consumers who were the victims of fraud.
- The Tucson Consumer Litigation Unit received a commendation from the Southwest Center for Economic Integrity for the work done on the case against Labor Ready.

Environmental Enforcement Section

The EES Section engages in a variety of 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 AGUA Unit, the Superfund Unit and the Western States Project. In addition, a member of EES chairs the Arizona Power Plant and Transmission Line Siting Committee as the Attorney General's designee.

Public Advocacy Division

Significant Accomplishments

- 861 civil advice and/or litigation files were opened.
- 378 cases were closed.
- 203 administrative hearings were set.
- 17 summary and/or trial judgments were obtained.
- Over \$400,000 in penalties collected for the General Fund.
- Over \$2 million collected for the ADEQ Water Quality Assurance Revolving Fund to conduct cleanup at several state superfund sites.
- 8,191 hours spent reviewing and/or providing advice to client agencies on matters not opened.

Significant Cases

Estes Landfill WQARF Site: EES assisted ADEQ in investigating the Estes Landfill and pursuing responsible parties. In 2003, this investigation resulted in five financial settlements in the Estes Landfill WQARF case as follows:

- Honeywell - \$1,125,000
- Waste Management - \$219,000
- GAC, Inc. (formerly Goettl Air Conditioning) - \$140,000
- Safety-Kleen - \$99,000
- Frazee Paints - \$90,000

Dome Rock: EES filed litigation on behalf of ADEQ and assisted in negotiating a settlement in this hazardous waste case for \$100,000 in penalties. Although the facility did not have a hazardous waste permit, Dome Rock stored and accepted hazardous waste, which was then sent to another unpermitted facility where it was burned as used oil.

Significant Issues

Underground Storage Tank (UST) Legislation: EES attorneys provided advice, reviewed legislation, and participated in legislative committee meetings. The Legislature adopted SB 1306, which will save Arizona taxpayers large sums of money by restricting who and how a UST owner, operator or volunteer can access the State Assurance Fund ("SAF").

Water Rights Settlement: EES assisted the Game and Fish Department in negotiating a water rights settlement agreement with the Gila River Indian Community, protecting Game and Fish water rights in the Gila River watershed against senior claims by the Tribe.



Arizona Attorney General Terry Goddard commends youth tobacco inspectors for volunteer hours they provide to the statewide inspections program, which determines if Arizona retailers are selling tobacco products to people under 18 years old.

Air Quality Rules: EES assisted ADEQ in developing and negotiating changes to air quality rules governing the opacity of emissions from specific sources of air pollution. These rules will decrease the opacity of emissions that may legally come from these sources and improve air quality.

Criminal Division

Criminal Division 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 of Arizona in capital and non-capital appeals filed by convicted felons.

To investigate and prosecute Medicaid fraud; fraud in the Medicaid program; and abuse, neglect and exploitation committed in Medicaid facilities or by Medicaid providers.



Don Conrad, Chief Counsel

Positive Impact for the People of Arizona

The Criminal Division of the State of Arizona prosecuted a multitude of cases involving mostly drug and fraud crimes. The Criminal Division is also committed to providing numerous services for the victims of these crimes.

Death Penalty Cases Opened	129
Drug Cases Opened	923
Drug Case Convictions	333
Number of years sentenced	1,161
Fraud Cases Opened	599
Fraud Case Convictions	469
Number of years sentenced	359
Restitution Ordered to Victims	\$79 million
Amount Forfeited to the State	\$3.2 million
Number of Crime Victims Served	8,154
Number of Victim Trainings and Presentations	39
Law Enforcement Assists	778
Law Enforcement Training Presentations	49

Criminal Division

Capital Litigation Section

The Capital Litigation Section handles all appellate and post-conviction proceedings concerning the more than 120 death-row inmates in Arizona. The proceedings include direct appeals to the Arizona Supreme Court and the U.S. Supreme Court following conviction and sentencing, and the appeals process afforded to those convicted.

The Section also assists trial lawyers with research and advice regarding death penalty issues, and has prepared briefs in a number of pending trial matters. This past year, Section members handled a number of post-conviction evidentiary hearings in state and federal court. This Section is also working with members of the Criminal Appeals Section to address issues resulting from the U.S. Supreme Court's recent decision in *Washington v. Blakely*.

Capital Litigation Section members organized and implemented a statewide DNA Task Force. The DNA Task Force has brought together state and local forensic lab directors, as well as prosecutors, judges, and defense attorneys, to address DNA issues and to facilitate greater cooperation among those involved in processing DNA evidence.

Capital Litigation Section members also

review cases in which there has been exoneration in an effort to learn what went wrong and make recommendations on how to improve the criminal justice system to avoid wrongful convictions.

Criminal Appeals Section

The Criminal Appeals Section represents the State of Arizona in the Arizona Court of Appeals, the Arizona Supreme Court, and the U.S. Supreme Court when criminal defendants appeal their non-capital felony convictions. In Fiscal Year 2004, the Criminal Appeals Section won 81 percent of its cases before the Arizona Court of Appeals.

The Section represents the State in the United States District Court and the Ninth Circuit Court of Appeals when defendants challenge their convictions and sentences in federal habeas corpus petitions. The Section also provides periodic legal advice to county attorneys throughout Arizona regarding criminal trial prosecutions.

The Section provides unique benefits by representing the State in all non-capital felony appeals, maintaining consistent and uniform positions regarding issues of criminal law.

The Criminal Appeals Section filed 637 briefs, habeas answers, petitions for review and responses to petitions for review.

Significant Cases

State v. Torre: Defendant Mark A. Torre was found guilty by a jury for negligent homicide for hitting an ASU student near the Tempe campus as the student crossed Apache Boulevard. Torre did not stop to render aid or alert the police.

The defendant claimed at trial and on appeal that the victim's own negligence (she had a BAC of 0.08 percent and had crossed against the pedestrian signal) was an intervening, superceding cause of the collision, and that he was entitled to an instruction on "but for" causation.

The Court of Appeals held that to establish liability for negligent homicide, the State was not required to show that the defendant's conduct was the sole cause of death. The defendant would be relieved of criminal liability only if the victim's own conduct was unforeseeable and abnormal or extraordinary, and neither condition was satisfied by the victim's conduct in this case.

Criminal Prosecutions Section

The Criminal Prosecutions Section consists of four units:

- Fraud and Public Corruption Unit
- Drug Unit
- Medicaid Fraud Control Unit
- Environmental Enforcement Unit

Criminal Division

Significant Cases

State v. Chung: The defendant was charged with selling a precursor chemical with knowledge that the recipient would use the chemical to manufacture a dangerous drug. This was the first trial using this new State statute.

Chung was convicted of selling the precursor drug ephedra used in the manufacture of methamphetamine. The case was made more difficult because each sale was under the legal limit, and the defendant claimed that he had no knowledge the people purchasing the drugs planned to manufacture illicit drugs with ephedra. The defendant was sentenced to five years probation.

Operation Auto Sales Shut Down: The State indicted 21 individuals on various counts of conspiracy, illegally conducting an enterprise, participating in a criminal syndicate, money laundering and fraud schemes, following a year-long investigation of illegal human smuggling. The defendants allegedly conducted an illegal enterprise through used car dealerships. The dealers would sell vehicles to the defendants and file fictitious liens on the vehicles. The vehicles would then be used to transport undocumented persons. The United States Attorney's Office is handling the related federal smuggling charges.

State v. Engelbert Parra Coronado: Parra Coronado shot and killed Ubaldo Contreras and Jose Robles-Estrada on a work site in Oro Valley, Arizona in 2000. Coronado was charged with two counts of First Degree Murder by the Pima County Attorney after he fled to Mexico. The Arizona Attorney General's Office assumed jurisdiction of the case and prepared the case for filing in the Mexican Federal Court under Article IV of the Mexican Penal Code, which allows Mexican nationals to be tried in Mexico for crimes committed outside of the country. The case has been filed by the Mexican Federal Attorney General based almost entirely on the filing from this office. Coronado faces up to 50 years of prison on each count.

State v. John Alden Adkisson: Adkisson sold fraudulent services which he never intended to deliver to more than 20 Mexican nationals promising help to secure citizenship for these individuals. Adkisson was charged and ultimately pled guilty to Attempted Fraud Schemes and was ordered to pay over \$60,000 in restitution to the individuals he defrauded.

Drug Endangered Children Program

Through collaboration with the National Drug Endangered Children Alliance, Arizona's program and protocol serve as a model for the development and implementation of DEC programs within

other states. Technical assistance is also being provided at the international level to countries developing programs and those addressing the prevalence of precursor chemicals.

Financial Remedies Section

The Financial Remedies Section (FRS) employs Arizona's civil racketeering remedies to combat the effects of organized criminal conduct on legitimate commerce. It focuses on money laundering in drug, fraud and other contexts. FRS supports statewide efforts to deprive drug traffickers and other on-going criminal enterprises of the profits. Attorneys in FRS also advise and provide training to law enforcement on a statewide basis in the areas of forfeiture, money laundering and racketeering.

Significant Cases

State v. Innovative Waste: Innovative Waste contracted to dispose of hazardous waste, including waste acquired as a result of law enforcement seizures related to the manufacture of methamphetamine. Multi-pound quantities of precursor chemicals, including iodine, red phosphorous, and pseudoephedrine, were sold on a regular basis by Innovative Waste employees. Management employees at Innovative Waste participated in and/or recklessly tolerated the diversion of chemicals,

Criminal Division

including fraudulently altering the records of Innovative Waste to conceal that chemicals and other inventory were diverted, lost or otherwise unaccounted for. The State has seized the assets of Innovative Waste. The State has also seized three residences, five vehicles and two investment accounts in connection with the marijuana trafficking activities of some of the employees.

Office of Victim Services

The Office of Victim Services (OVS) promotes and facilitates justice and healing for Arizona's crime victims. OVS provides services to victims in cases in which the State is represented by the Attorney General's Office. OVS also provides financial and technical support to state, county and municipal law enforcement, custodial, prosecutorial, correctional agencies, and courts, both adult and juvenile, having duties and responsibilities established by Arizona's victims' rights laws. Finally, the section's duties encompass enforcement of victims' rights laws and resolution of victims' complaints.

Victims' Rights Week Kickoff

The Office of Victim Services worked with the Governor's Office to co-chair the Victims' Rights Week Kickoff, a collaborative effort for criminal justice

agencies statewide.

The ceremony was held at the Wesley Bolin Memorial Plaza on Sunday, April 18, 2004.

Special Investigations Section

The Special Investigations Section provides investigative support to law enforcement sections of the Attorney General's Office, as well as to law enforcement agencies across Arizona. SIS agents are State-certified police officers and are assigned to one of six investigative units. SIS provides expertise in specialized areas of law under the Attorney General's jurisdiction, which is not usually available at other law enforcement agencies.

Significant Cases

Anti-Coyote Initiative: This investigation is aimed at the money transmitters operating in the drug and human smuggling corridor running through southern Arizona, who financially help smuggling organizations operating out of northern Mexico.

The AGO has removed in excess of \$5 million and has impeded this method of financing the volume of drug and immigration violations. The AGO has developed cutting edge analytical algorithms and is leading the nation in this type of investigation and prosecution.



Attorney General Goddard speaks at the Peace Officers Memorial Service in May 2004.

Child and Family Protection Division

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



Sharon Sergent, Chief Counsel

Positive Impact for the People of Arizona

In Fiscal Year 2004, the Child Support Section:

- Made 27,056 court appearances
- Established paternity for 3,984 children
- Established new child support orders in 6,610 cases, which brings the monthly total to \$1,620,825 in new court-ordered payments
- Obtained child support judgments of \$60,256,991
- Resolved 6,292 support enforcement matters in court
- Resolved 2,311 actions for modification of support in court
- Was instrumental in the passage of the newest version of the United Interstate Family Support Act designed to clarify existing law and improve interstate child support practice
- Collected \$273,471,295 in child support in Fiscal Year 2004. These collections occurred as a result of administrative collections, as well as through litigation handled by this Office

The Criminal Unit filed 309 cases involving welfare, unemployment insurance and program fraud. The Unit was successful in obtaining sentencing orders for \$737,369 in restitution. In addition, \$247,914 was received prior to sentencing.

In Fiscal Year 2004, the Protective Services Section:

- Protected more than 9,771 children from abuse and neglect
- Filed 3,102 total dependency petitions representing 4,450 children
- Filed 866 severance motions
- Filed 343 guardianship motions
- Placed 354 children with a permanent guardian
- Helped 705 children be adopted by relatives or foster parents

Child and Family Protection Division

Child Support Enforcement Section

Significant Cases

AGO Collects Support Buried in Yard:

Pima County law enforcement agencies, in conjunction with the AGO, conducted "Operation Child Support" to arrest persons with outstanding child support arrest warrants. One person arrested, who owed over \$50,000 in support, directed officers to a spot in his back yard where he dug up a bag containing \$5,000, which he paid toward his arrearage.

AGO Protects Right of Agency to Use Administrative Remedies to Collect Overdue Child Support:

In June 2004, the AGO prevailed in a case before the Arizona Court of Appeals by a father who owed child support. The court ruled in favor of the State that the three-year statute of limitations within which to get a written judgment by the court did not bar the State from using its administrative remedies. The court found both public policy and substantive law supported its decision. This decision will assist the State in continuing to collect thousands of dollars of unpaid child support.

AGO Collects Overdue Child Support From Non-Paying Father Who Flew To

Arkansas: The AGO sued a father of four who moved to Arkansas to avoid paying child support for over 10 years. The

mother had given up hope of ever seeing the money, which totaled over \$160,000, \$13,000 of which was assigned to the State for past welfare payments. The AGO tracked down the father's business interests and obtained a settlement of \$95,000. A \$50,000 lump sum has already been received, paying \$40,000 to the mother and \$10,000 to the State.

Civil & Criminal Litigation and Advice Section

The Civil & Criminal Litigation & Advice Section ("CLA") represents DES, which is the primary social service agency in Arizona with over 9,600 employees responsible for more than 100 social service programs.

Protective Services Section

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

Significant Cases

State v. Mary Lou C.: DES went to court to sever the parental rights of a mother whose parental rights had previously been severed for her eight children, four of whom were born substance exposed. The case involved her ninth child. The court granted the motion, finding that the mother had a history of chronic abuse of dangerous drugs, controlled substances and/or alcohol and that the previous terminations were for the same cause.

State v. Gilberto S.: DES sought to terminate a father's parental rights based on abandonment and length of time incarcerated. The trial court rejected DES' grounds but found that the father's rights could be terminated because he failed to register with the putative father's registry or establish paternity. The Court of Appeals vacated the trial court's decision, stating that while the father had not complied with the requirements of the putative father's registry, he had nonetheless acted as a father and therefore his rights could not be terminated on that basis.

The Arizona Supreme Court, on a petition for review, vacated the order of the Court of Appeals, and mandated that severance should be based on abandonment. On remand, the father did not appear for the severance hearing, and his rights were again terminated.

Administrative Operations Division

Administrative Operations Division Mission: To ensure that human and fiscal resources are allocated and utilized in a manner consistent with law, agency mission, and customer needs.



Constance Kohl, Chief Director

Positive Impact for the People of Arizona

- Redesigned and deployed the Attorney General's Office Child and Family Protection Division "KIDS" system to track Child Protective Services cases. The successful completion of this project has enabled CFPD to track vital case statistics about the length of time it takes to process a child through the CPS system, as well as the number of children who are being processed.
- Established an Internet based on-line Consumer Complaint capability so the public can submit consumer complaints electronically via the Attorney General Office's Web site.
- Provided both routine reports and ad hoc budget and expenditure information to divisions and sections to facilitate the most effective use of limited funds.
- Participated in and provided support for the Attorney General's Kids Web Page.

Administrative Operations Division

Significant Accomplishments

- Processed 38,600 separate financial transactions.
- Completed 316 legal research projects.
- Processed approximately 570 warrants totaling \$987,000 in restitution payments related to consumer protection matters.
- Conducted 81 computer training classes.
- Conducted 17 ethics orientation sessions for AGO staff.
- Responded to 2,349 requests for law-related information retrieval.
- Coordinated Web-based legal research training classes for 113 legal staff.
- Installed three new network firewalls and began using the newer 128-bit encryption algorithm to ensure that AGO data is protected.
- The Request for Quotation for the statutorily mandated gasoline survey saved over \$33,000 for the Anti-Trust Unit.
- Safety and security projects include upgrades to the surveillance system, adding cameras and completing the digital recording system for the Law Building, and improving emergency lighting.
- Installed several new high speed network switches ultimately increasing data through-put and reducing user response times.
- Streamlined the review and preparation of the West Group bill saving input time into AFIS (state accounting system) and reducing the number of copies.
- Participated in and provided support to track vital case statistics about the length of time it takes to process a child through the CPS system, as well as the number of children who are being processed.



Johnny Olmo helps Emma Lehner research legal issues in the Law Center Library. The Library and Research Section provides research and reference assistance to the Attorney General's Office.

Civil Division

Civil Division Mission: *The Civil Division is a dynamic team of legal professionals – representing Arizona with dedication, integrity and innovation. It has eight sections that focus on specialty areas of civil law, including public finance, procurement, client representation, tax, bankruptcy, collections, liability management, employment, licensing, transportation, public safety, education, health, rule review, contract approval and natural resources. The Civil Division provides comprehensive legal services to over 150 agencies, boards and commissions.*

The Division measures its success not only by the cases that it wins, but also by the problems it resolves and the litigation it helps the State avoid. The Civil Division is proud of its legal and financial contributions to Arizona.



Terri Skladany, Chief Counsel

Positive Impact for the People of Arizona

- *Facilitec, Inc. v. Hibbs:* Successfully defended the State before the Arizona Supreme Court and ended more than five years of litigation over a procurement contract. Facilitec had alleged claims in excess of \$12 million.
- *Crane Elementary School District et al v. State of Arizona:* Plaintiffs alleged that the State violated the Arizona Constitution by failing to provide extra funding for the education of “at risk” students, defined as students who qualified for participation in the free and reduced price lunch program. Through the efforts of Civil Division attorneys, the case was dismissed, saving the State millions of dollars.
- *Schaller-Anderson Bid Protest:* Successfully defended the State in a bid protest over the Arizona Department of Health Services’ award of the \$1 billion Maricopa County Regional Behavioral Health contract, the largest contract ever issued by the State.
- *Trust Revenues:* Provided legal advice to the State Land Department that was instrumental in helping the Department achieve a record year (over \$300 million in urban land sales). The income generated from those sales aids public schools.
- *Collections:* Collected \$12.84 million through bankruptcy and collection efforts.
- *Transportation Tax:* Resolved cases that resulted in \$682,141 in savings to the State.
- *Sales and Income Tax:* Closed cases that saved the State more than \$3.4 million.
- *Property Tax:* Successfully defended the State against seven administrative appeals that could have reduced the amount paid to the State by about \$2.6 million.
- *Cell Site Leases:* Assisted the Arizona Department of Transportation in issuing cell site leases within ADOT rights-of-way that generated \$7 million in revenue.

Civil Division

Significant Accomplishments

- **Crown Victoria Police Interceptor Vehicles:** Concluded negotiations to improve the safety of Crown Victoria police interceptor vehicles manufactured by Ford Motor Co. The Arizona Attorney General, taking the national lead, successfully convinced Ford to make changes to police cruisers to increase officer safety and reduce the incidence of vehicle fires in rear-end collisions.
- **Claude Winters v. State Board of Education:** Successfully advocated the Arizona Board of Education's establishment of a test to determine whether a teacher's off-campus conduct is immoral or unprofessional.
- **Lewis Prison Hostage Crisis:** Advised the Department of Corrections on numerous issues during, and in the aftermath of, the Lewis Prison hostage situation, the longest hostage standoff in Arizona's history.
- **Charter Schools:** Filed and represented the Arizona State Board for Charter Schools in six matters involving charter schools' violation of state or federal law or their charter contract.

Three of the matters resulted in the revocation of the charter contracts, one settled with the charter school's agreement to surrender its charter contract, and the remaining two were set for hearing.

- **Arizona Medical Board v. Dr. Kahane:** Aided the Medical Board in revoking the license of Dr. Kahane whose care of several patients had caused, hastened or contributed to their deaths.

- **Commission for Post-secondary Education:** Assisted the Commission for Post-secondary Education in the creation and passage of legislation that brought the Commission's Arizona Family College Savings Program into compliance with federal securities law.



Attorney General Goddard congratulates Peggy Dawson on her retirement after 30-plus years of service to the Attorney General's Office.

Solicitor General's Office

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



Mary O'Grady, Solicitor General

Positive Impact for the People of Arizona

Supreme Court Practice: The United States Supreme Court granted three petitions for certiorari from the State of Arizona during its 2003 term, an unusually high number of cases from a single state. The State briefed a Fourth Amendment Search and Seizure case for the court (*State v. Gant*), a death penalty case (*Schriro v. Summerlin*), and a federalism case (*Hibbs v. Winn*). The Solicitor General's Office assisted in preparation of the criminal cases and worked with the Attorney General on the civil law case.

Appellate Successes: The Solicitor General's Office handled several significant cases and assisted in the preparation of many other significant cases in Fiscal Year 2004.

- **Standhardt v. State:** Defended the constitutionality of Arizona's law defining marriage as a union between a man and a woman.
- **Roosevelt Elementary School District v. State:** Reversed a trial court judgment against the State regarding whether the State's funding for school capital construction violated the State Constitution.
- **Kerr v. Killian:** Concluded that the State's laws regarding taxation of retirement contributions did not violate the intergovernmental tax immunity doctrine.
- **Libertarian Party v. State:** Reversed summary judgment against the State in a case challenging the constitutionality of Arizona's open primary law.
- **Weatherford v. State:** Established important legal principles regarding the standards for determining the liability of child protective services caseworkers.
- **Lobbyist Enforcement:** Began enforcement against lobbyists who had not complied with state reporting requirements.

Solicitor General's Office

Solicitor General's Office Overview

Appeals: The Solicitor General's Office ensures consistency in the State's positions and high quality in the briefs and arguments presented in State and federal appellate courts. The Solicitor General's Office advises whether to pursue appeals; reviews and drafts appellate briefs, petitions for special actions, petitions for review and petitions for writs of certiorari; and helps attorneys prepare for oral argument.

Opinions: The Solicitor General's Office coordinates the preparation of Attorney General Opinions. In Fiscal Year 2004, the Arizona Attorney General provided guidance on a variety of issues regarding education, retirement, eligibility for service on state boards or commissions, and property tax and campaign finance law.

Independent Advice: Attorneys from the Solicitor General's Office provide independent advice to more than 100 state agencies and boards and to agency directors on administrative law issues.

Continuing Legal Education: The Solicitor General's Office coordinates continuing legal education programs that are tailored to the needs of the lawyers at the Attorney General's Office.

Ethics: The Solicitor General's Office provides advice to lawyers throughout the Attorney General's Office on ethics issues.

Election Law: The Solicitor General's Office represents the Secretary of State and the Clean Elections Commission and is responsible for enforcement of the campaign finance and lobbyist registration and reporting laws.

Public Records and Open Meeting Law: The Solicitor General's Office oversees open meeting law enforcement and works with lawyers throughout the Attorney General's Office to provide advice and training on public records and open meeting laws.

In Fiscal Year 2004, the SGO:

- Issued **16** formal Attorney General Opinions.
- Reviewed **350** appellate matters.
- Reviewed **126** Election Law and Lobbyist enforcements.
- Reviewed **1,862** independent advice matters.
- Reviewed **49** Open Meeting Law matters.
- Offered **73** hours of Continuing Legal Education.



An artist's illustration portrays Attorney General Goddard's argument before the U.S. Supreme Court in January 2004. Mr. Goddard argued *Hibbs v. Winn*, where the issue was whether Arizona courts have exclusive jurisdiction to resolve state tax issues.

Civil Rights Division

Civil Rights Division Mission: *To enforce civil rights laws and eliminate discrimination statewide, by increasing public awareness of civil rights and greater access to victims, and providing dispute resolution services for the people of Arizona.*

The Division will continue to focus on outreach to vulnerable populations (e.g., immigrants, the elderly, teens), particularly in the areas of sexual harassment and enforcing the rights of the disabled.



Virginia Gonzales, Chief Counsel

Positive Impact for the People of Arizona

- The Compliance Section investigated more than 1,450 charges and resolved 852 charges during Fiscal Year 2004.
- The Division made housing more accessible for persons with disabilities by identifying inaccessible multi-family housing and pursuing those cases. Every case settled has required retrofitting of apartments and a substantial civil penalty in the event that future violations occur.
- The Compliance Section reduced its aged case docket for housing cases from a high of 86 percent in February 2004 to a low of 44 percent in July 2004.
- The Division mediated 1,074, cases including housing discrimination, employment, public accommodation and disability cases.
- The Division recovered for victims of discrimination:
 - Pre-litigation \$708,699
 - Post-litigation \$256,650
 - Monies awarded to the State \$32,044,600*

**This includes \$32 million in statutory penalties for consumer fraud awarded in the Hispanic Air case. This amount cannot be recovered because the defendant went out of business.*

Civil Rights Division

Significant Accomplishments

During Fiscal Year 2004, the Litigation Section recovered a total of \$256,650 for victims of discrimination and was awarded \$32 million in monies for the State.

State v. Household International, Inc.:

In mid-2002, the Division commenced a joint civil rights and consumer protection investigation of predatory mortgage lending claims against Household Finance Corporation and Beneficial Finance Corporation, which resulted in a precedent-setting \$484 million nationwide settlement with Household International and state attorneys general and financial regulators from all 50 states and the District of Columbia.

In addition to the substantial national restitution - of which approximately \$7.2 million was allocated to 12,000 Arizona consumers/victims - the settlement included significant innovative injunctive relief designed to protect consumers and change Household's mortgage lending practices. Additionally, CRD conciliated 10 individual fair housing complaints against Household and obtained substantial relief for the complainant

families in the form of loan modifications and damages. The administrative work involved in this case continued throughout Fiscal Year 2004.

Predatory Lending Issues: CRD assisted in planning and conducting public forums on predatory lending issues for Phoenix and Tucson. In addition, the Division helped create an informational video on predatory lending practices, monitored predatory lending enforcement and legislative activities in other states and identified predatory lending cases for investigation.

Community Services Program

To provide greater service and access to the public and vulnerable populations, Attorney General Goddard created within the Civil Rights Division the Community Services Program ("CSP"). CSP is designed to promote program development in the areas of community outreach and education, conflict resolution, school safety and volunteer recruitment. It emphasizes civil rights and consumer fraud issues affecting the elderly, immigrants and other vulnerable populations.

Conflict Resolution Unit: The Conflict Resolution Unit (CRU), which has approximately 80 volunteer mediators, mediated 1,074 cases statewide resulting in agreements providing for payments totalling \$110,000. CRU also conducted six 40-hour basic mediation trainings in conjunction with the Administrative Office of the Arizona Supreme Court for approximately 146 participants across Arizona. Additionally, the CRU maintains a school hotline which provides an anonymous toll-free number for members of the general public to report incidents of school-related violent behavior. The school hotline received over 180 contacts in Fiscal Year 2004.

Elder Affairs: CSP staff assisted 1,525 seniors through its Elder Affairs Hot Line. The calls resulted in the filing of 500 written complaints to the Consumer Protection Section. CSP staff members also conducted 33 outreach/education initiatives regarding consumer protection and life care attended by 2,736 participants at senior centers.

Civil Rights Division

Consumer Assistance: CSP staff conducted 14 presentations targeted to the Spanish-speaking community, including participation at farm worker fairs in Queen Creek and San Luis. A total of 3,360 participants attended these events. The first satellite office integrating service delivery to Spanish speakers and seniors in the areas of consumer fraud and civil rights was opened at the Paradise Valley Unitarian Universalist Church. The office is staffed by volunteers and is open for intake on Tuesday evenings.



Attorney General Goddard presents a certificate of appreciation to volunteer mediator Steve Weckstein.

Compliance Section: The Compliance Section investigated more than 1,450 charges in the areas of employment, housing and public accommodations. The Section resolved 852 charges, for an average of 90 closings per investigator. The Section also obtained \$708,699 for individuals who had filed charges.

Education and Training: The Civil Rights Division reached more than 3,500 people through trainings and presentations to law enforcement groups, municipalities, community groups, private businesses, court services staff and volunteers on the subjects of civil rights laws, predatory lending and conflict resolution.

Significant Cases

State v. Aloha Shuttles of Arizona: Following a federal court trial in this public accommodations disability case, Judge Earl Carroll entered a Judgment for Plaintiff and Plaintiff Intervenor (CRD) and against Aloha Shuttles, which included a \$5,000 statutory penalty and \$15,000 in damages to Plaintiff. In addition, injunctive relief was ordered, requiring that in the future no individual with a disability who requests transportation will be left unserved or

subjected to an unreasonable delay in service.

Housing Discrimination: CRD negotiated significant consent decrees in housing discrimination cases, resulting in both monetary awards for the victims and significant injunctive relief. In one case, the decree provided for a complete retrofitting of 80 ground floor apartments to make them accessible to persons with disabilities. Consent decrees also provided for, in part, training, creation of anti-discrimination policies and civil penalties for violation of the Arizona Fair Housing Act.

Employment Discrimination: CRD settled a lawsuit involving employer abuse of employees:

- **State v. Regis:** The consent decree provided, among other things, for bilingual training for all management staff in each of 16 salons statewide.



**For more information about the Arizona Attorney General's Office,
please visit the Attorney General's Web site at:**

www.azag.gov