

OFFICE OF ATTORNEY GENERAL TOM HORNE

ANNUAL REPORT FY 2012

Executive Summary

*Editors Note: The following is a summary of the FY 2012 accomplishments of the Arizona Attorney General's Office. Full reports from divisions and sections are available in the attached appendices. Appendix references are contained in this summary under **Section and Unit headings in bold.***

The historic National Mortgage Settlement, aggressive drug enforcement actions and Arizona's role in several historic U.S. Supreme Court decisions are among the highlights of Fiscal Year 2012 in the Arizona Attorney General's Office (AGO).



Attorney General Tom Horne continued to pursue a robust agenda in FY 2012, and among the accomplishments was the prominent role played by the Arizona Attorney General's Office in the National Mortgage Settlement. Attorneys and other legal professionals from this office were instrumental in the overall development of the national settlement in recognition of the effects of the mortgage crisis in Arizona, as well as the expertise the AGO staff brought to the process.

Arizona received more than \$1.6 billion as its share of the landmark \$25 billion joint federal-state agreement with the nation's five largest mortgage servicers over foreclosure abuses and fraud, and unacceptable nationwide residential mortgage servicing practices.

Arizona's estimated total share of the settlement is \$1.6 billion:

- \$1.3 billion principally for principal reduction, but also including a menu of other relief to homeowners

- Arizona's borrowers who lost their home to foreclosure from January 1, 2008 through December 31, 2011 and suffered servicing abuse will be eligible for an estimated \$110.4 million in cash payments to borrowers, estimated at approximately \$2,000 per borrower
- The value of refinancing loans (reducing interest rates) to Arizona's current, underwater borrowers will be an estimated \$85.8 million.
- The state will receive a direct payment of approximately \$102.5 million.

The unprecedented joint state-federal settlement is the result of a massive civil law enforcement investigation and initiative that has included state attorneys general and state banking regulators across the country, and nearly a dozen federal agencies. The settlement holds banks accountable for past mortgage servicing and foreclosure fraud and abuses and provides relief to homeowners. With the backing of a federal court order and the oversight of an independent monitor, the settlement aims to stop future fraud and abuse.

Under the agreement, the five servicers have agreed to pay a total of \$25 billion under a joint state-national settlement structure.

The agreement includes settlement of Arizona's separate lawsuit against Bank of America and requires the bank to pay \$10 million to the Arizona Attorney General to be used to *1) avoid preventable foreclosure; 2) mitigate the effects of the mortgage and foreclosure crisis in Arizona; and 3) enhance law enforcement efforts to prevent and prosecute financial fraud or unfair or deceptive acts or practices, and/or provide compensation for harm resulting from conduct alleged in the lawsuit.*

The bank has also agreed to the following Arizona-specific provisions, which are not included in the multistate settlement:

- Retain an unaffiliated third party to maximize the response rate for loss mitigation programs
- Confirms that even borrowers who were previously denied for or defaulted on loss mitigation will not be prevented from applying again solely because of the previous denial or default
- Requires the bank to report Arizona-specific information about modifications and other assistance provided to Arizona borrowers

Horne noted that the agreement not only provides much needed relief to Arizona borrowers, but it also puts a stop to many of the bad behaviors that contributed to the devastating effect the mortgage crisis has had in Arizona and across the country.

The AGO has produced a video primer on the mortgage settlement. It may be viewed here: <http://vimeo.com/43611252>

For more information on the mortgage settlement, as well as detailed reports on the other activities of the Public Advocacy and Civil Rights Division, including the Task Force Against Senior Abuse, Consumer Information and Complaints Unit, Agency Unit, Tobacco Enforcement Unit, Antitrust Unit, Civil Rights Compliance and Civil Rights Litigation Sections, Environmental Enforcement Section, and the Agency Counsel Section, please refer to Appendix A.

The number of criminal drug prosecutions handled by AGO staff is also a recognition not only of the scope of that criminal activity in and around Arizona, but of the strong cooperative relationships between local and federal law enforcement agencies and the AGO.

The Arizona Attorney General's Office is the prosecuting agency of record in numerous high-profile drug cases pursued in FY 2012 that warrant attention in this report:

- In September of 2011 17 of 23 suspected members of a large-scale cocaine trafficking operation under the control of Mexican criminal drug trafficking organizations (DTOs) were arrested. Cocaine valued at an estimated \$25 million to \$33 million was taken off the street.
- Just one month later, "Operation Pipeline Express" dismantled a huge criminal DTO suspected of smuggling more than \$33 million worth of marijuana, cocaine and heroin a month across the Arizona desert.
- Arizona received an early Christmas present with the culmination of "Operation Crank Call" in late December, in which another criminal DTO was dismantled with multiple arrests and the seizure of an estimated \$12 million in illegal drugs and nearly \$8 million in cash.
- The calendar year 2012 was no less busy on this front with the January 27th announcement that 14 of 15 suspected members of a large-scale marijuana and cocaine trafficking operation had been arrested. This criminal enterprise had been active for more than 10 years smuggling drugs into the U.S. and then returning to Mexico with smuggled cash.
- Just days later on February 3rd, Horne announced that more than 30,000 pounds of marijuana and a small amount of cocaine had been seized from a Mexican criminal DTO operating in the Naco area. In addition, 12 of 26 suspects had been placed under arrest.
- On May 18th, multiple suspects operating a massive heroin-related drug ring in Chandler were arrested. Horne noted that this operation in particular demonstrates the pervasiveness of drug trafficking, which permeates every community and demands an aggressive response from prosecutors.

Additional details on the activities of the Criminal Division, including the Southwest Border Anti-Money Laundering Alliance, Border Crimes Enforcement Section, Drug & Racketeering Enforcement Section, Financial Remedies Section, Fraud & Special Prosecutions Section, Health Care Fraud and Abuse Section, Office of Victim's Services, and the Special Investigations Section will be found in Appendix B.

The vigorous posture taken against the drug trade extends into the AG's Office work to secure the international border with Mexico. Arizona's defense of S.B. 1070 in federal court climaxed with a late-FY 2012 U.S. Supreme Court ruling upholding the heart of the law that requires law enforcement to determine if suspected criminals are in the U.S. legally.

That was but one high-profile federal matter that garnered attention from the Attorney General's Office.

For example, Horne continued his commitment to personally arguing a number of cases in court, including the defense of the State against supporters of Tucson's so-called Ethnic Studies curriculum who filed suit in U.S. District Court to have Arizona's law outlawing race-based classes overturned. The Judge's ruling had not been announced as of the close of FY 2012.

The Attorney General's Office also defended nine lawsuits challenging the State's implementation and administration of the Arizona Medical Marijuana Act in an ongoing legal matter that extends past FY 2012.

Added information about the activities of the Attorney General's Civil Division, including the Education and Health Section, Employment Law Section, Liability Management Section, Licensing and Enforcement Section, Natural Resources Section and Transportation Section is found in Appendix C.

In other federal issues, Horne filed suit in federal district court against the federal government for an injunction and a declaratory judgment that the portion of the Voting Rights Act requiring Arizona to pre clear all voting changes with the Justice Department is unconstitutional.

Horne noted that the portions of the Voting Rights Act requiring preclearance of all voting changes are either archaic, not based in fact, or subject to completely subjective enforcement based on the whim of federal authorities.

Arizona has been subjected to enforcement actions for problems that were either corrected nearly 40 years ago and have not been repeated, or penalized for alleged violations that have no basis in the Constitution

A renewed filing in this action is anticipated in FY 2013.

Arizona officials also look forward to more FY 2012 activity extending into FY 2013 in the *Diaz v. Brewer* case. The State has asked for the U.S. Supreme Court to review a Ninth Circuit decision that holds that Arizona cannot extend health care coverage to a state employee's spouse without also doing so for a state employee's domestic partner.

More information regarding the work of the Solicitor General's Office, including Library and Research Services, Continuing Legal Education, Ethics Training, the Open Meeting Law Enforcement Team, may be found in Appendix D.

Horne achieved a significant victory in federal court with a December 2011 federal court ruling upholding Arizona's implementation of its execution protocol. This is affirmation that the State has followed the appropriate Constitutional protections for capital punishment.

In the ruling issued, U.S. District Court Judge Neil V. Wake denied a request for a permanent injunction that claimed the Arizona execution protocol was a violation of the Constitutional prohibition against cruel and unusual punishment, citing the lack of evidence.

Horne commented that the ruling "puts to rest yet another of the specious legal barricades that capital punishment opponents have thrown up in the past few decades to challenge the death penalty. Among those who have done this is the United States Department of Justice, which (in 2011) attempted to stop the execution of convicted child-killer Donald Beaty because of the dispute over the importation of the lethal chemicals necessary to lawfully execute condemned inmates. That the Department did so was bad enough. That it used its prosecutorial discretion to do so literally one day before the killer's scheduled execution was a slap in the face to the family of his victim. We should never forget that those who are condemned to die for their crimes have committed some of the most heinous crimes imaginable."

Greater detail on the accomplishments of the Criminal Appeals / Capital Litigation Division, is outlined in Appendix E.

The welfare of Arizona's families is of paramount importance and the Attorney General's Office is dedicated to its work for children and the family. Attorneys and other staff from the Child and Family Protection Division comprise the largest workforce within the office. Some of these personnel attended just over 64,000 court appearances in FY 2012, which is an increase of almost 10,000 such appearances; a testament to the growing workload in this critical mission.

*Further information on the efforts of the **Child and Family Protection Division**, including the work of the **Protective Services Section, Child Support Enforcement Section, Civil and the Criminal Litigation and Advice staff** will be found in **Appendix F**.*

In his ongoing effort to attract the best legal talent to serve Arizona in the AGO, Attorney General Horne re-invigorated efforts to recruit new attorneys from both the private sector, and from law schools nationwide. Among the tools promoted by the AGO is a recruitment video, to augment the more traditional HR advertising methods. Information on this outreach and the video are available here: <http://www.azag.gov/employment/>

While personnel recruitment is an ongoing task for the administration of the office, a human resources curveball was thrown at the Attorney General's office in FY 2012 when a water pipe burst in the Law Building, requiring the immediate evacuation of all building staff. Hundreds of Attorney General's Office employees had to be re-located to the Capital Center Building for approximately six weeks, presenting a great logistical challenge to the Administrative Services Division that its staff handled with great professionalism and success.

*Additional detail on the activities of the **Administrative Services Division**, including the **Facilities Management and Planning Section, Human Resources Section and Procurement** are available for review in **Appendix G**.*

The Attorney General's Office cannot function without proper fiscal planning and management. The personnel in this area have worked diligently in this era of fiscal austerity and uncertainty to keep operations running smoothly.

The Business and Finance Division not only oversees budget matters, but collects debts owed to state agencies and manages the day-to-day financial operations of the agency.

*For more detail on the operations of the **Business and Finance Division**, including the **Bankruptcy and Enforcement Section, Budget Section, Grants Management Section, and Financial Services Section**, please see **Appendix H**.*

Reaching the general public is a vital aspect of Attorney General Horne's vision. The Attorney General's Office is always mindful of the role it plays in the lives of all Arizonans and that this office exists to serve the public.

Attorney General Horne has made it a priority to ensure that every region of the state is visited by office personnel and volunteers. And FY 2012 saw the opening of a new Attorney General's satellite office in Prescott.

Among the community outreach priorities are protecting the rights of victims, educating children on Internet safety, working with other state agencies on children and family issues, and assistance to veterans.

*Further details on the work of the **Community Outreach and Education Division** are available for review in **Appendix I.***

**Thank you for your interest in the operations of the Arizona Attorney
General's Office.**

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www.azag.gov

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Significant Achievements: Appellate Practice, AG Opinions, AGO Library and Research Services, Continuing Legal Education, Ethics, National Attorneys General Training and Research Institute (NAGTRI), Agency Handbook, Open Meeting Law Enforcement Team (OMLET), Independent Advice

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OFFICE OF THE ARIZONA ATTORNEY GENERAL

TOM HORNE
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PUBLIC ADVOCACY AND CIVIL RIGHTS DIVISION

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ATTORNEY GENERAL FY2012 ANNUAL REPORT

APPENDIX A

Attorney General Horne's hallmark achievements in consumer protection during fiscal year 2012 include:

- The National Mortgage Settlement
- Promoting new laws to prohibit business opportunity fraud, together with filing consumer fraud lawsuits against those behind work at home schemes
- Focusing on seniors through the Task Force Against Senior Abuse
- Successful undercover operations at auto repair shops to keep businesses honest
- Obtaining restitution for consumers who file complaints with the Attorney General's Office
- Diligently enforcing the tobacco Master Settlement Agreement
- Keeping cigarettes away from kids, by aggressively enforcing existing laws and promoting a new law outlawing cigarette sales over the Internet
- Promoting competitive pricing practices for e-books.

I. CONSUMER LITIGATION UNIT

The National Mortgage Settlement Against the Nation's Five Biggest Banks

On February 9, 2012, an historic joint state-federal settlement was reached between Arizona and 48 other states, the federal government and the country's five largest residential mortgage loan servicers—Ally/GMAC/Residential, Bank of America, Citibank, JPMorgan Chase and Wells Fargo. The settlement will provide as much as \$25 billion in relief to distressed borrowers and direct payments to states and the federal government. It's the largest civil settlement reached by the Attorneys General since the tobacco settlement. Arizona's share is estimated at \$1.3 billion.

The agreement settled state and federal investigations finding that the country's five largest loan servicers engaged in unacceptable and sometimes fraudulent

mortgage servicing and foreclosure practices. These practices violated state and federal law. The settlement provides benefits to borrowers whose loans are owned by the settling banks as well as to many of the borrowers whose loans they service. The U.S. District Court for the District of Columbia signed and entered consent judgments reflecting the terms of the settlement on April 4, 2012.

Key Provisions of the National Mortgage Settlement

Aid to homeowners needing loan modifications, including first and second lien principal reduction. The servicers are required to work off up to \$17 billion in principal reduction and other forms of loan modification relief nationwide within 3 years of entry of the judgments.

State attorneys general anticipate the settlement's requirement for principal reduction will show other lenders that principal reduction is an effective tool in combating foreclosure and that it will not lead to widespread defaults by borrowers who really can afford to pay.

Aid to borrowers who are current, but underwater. Eligible borrowers will be able to refinance at today's historically low interest rates. Servicers will have to provide up to \$3 billion in refinancing relief nationwide.

Direct payments to borrowers who lost their homes to foreclosure. The settlement provides payments for foreclosed borrowers, but with no requirement to prove financial harm and without having to release private claims against the servicers or the right to participate in the Office of the Comptroller of the Currency review process. An estimated \$1.5 billion in benefits will be realized by some 750,000 borrowers nationwide under this program.

Payments to signing states to help fund consumer protection and state foreclosure protection efforts Arizona has received \$97.7 million pursuant to the National Mortgage Settlement. The Arizona Legislature appropriated \$50 million to compensate the state for costs resulting from alleged unlawful conduct of defendants and to be used in current state general fund efforts in areas covered by the National Mortgage Settlement. The remaining \$47.7 million will be used by the Office for state foreclosure prevention programs, Attorney General's Office costs and fees, and to remediate the effects of the foreclosure and housing crisis in Arizona.

First ever nationwide reforms to servicing standards; something that no other federal or state agency has been able to achieve. These servicing standards require the banks to establish a single point of contact for borrowers, adequate staffing levels and training, better communication with borrowers, appropriate standards for executing documents in foreclosure cases, ending improper fees, and ending dual-track foreclosures for many loans.

State AG oversight of national banks for the first time. The servicers, 4 of whom are national banks, are required to regularly report compliance with the settlement to an

independent, outside monitor who reports to state Attorneys General. Servicers will have to pay heavy penalties for non-compliance with the settlement, including missed deadlines. Arizona is one of 12 states appointed to serve on the national Monitoring Committee to oversee the banks' compliance with the settlement terms.

Separate Settlement with Bank of America

In addition, on February 9, 2012, the Attorney General announced a separate settlement with Bank of America, resolving a lawsuit filed by the Attorney General in December, 2010. This separate agreement requires the bank to pay \$10 million to the Arizona Attorney General to be used to: 1) avoid preventable foreclosure; 2) mitigate the effects of the mortgage and foreclosure crisis in Arizona; and 3) enhance law enforcement efforts to prevent and prosecute financial fraud or unfair or deceptive acts or practices, and/or provide compensation for harm resulting from conduct alleged in the lawsuit. The agreement also requires the bank to pay the Attorney General's costs and attorneys' fees incurred in the lawsuit. The bank has also agreed to the following Arizona-specific provisions, which are not included in the Multistate settlement. Bank of America is required:

- To retain an unaffiliated third party to maximize the response rate for loss mitigation programs;
- To confirm that even borrowers who were previously denied for or defaulted on loss mitigation will not be prevented from applying again solely because of the previous denial or default; and
- To report Arizona-specific information about modifications and other assistance provided to Arizona borrowers.

In the coming years, the Attorney General will work to ensure that Arizona consumers realize the maximum benefit from the mortgage settlements.

Protecting Consumers from Mortgage Fraud and Loan Modification Scams

Although the number of complaints about foreclosure rescue and loan modification companies declined in the last year, the Attorney General continued to pursue companies that deceived consumers and failed to comply with new laws banning "up front" fees for foreclosure services. Here are some examples:

State v. The Mortgage Law Group, LLP and Underwater Property Solutions, LLC- The Attorney General filed a complaint alleging that the defendants engaged in deceptive practices in the marketing and sale of mortgage loan modification services to consumers, including representing that the services would be performed by lawyers when, in fact, no actual substantive work was performed by lawyers and the services largely consisted simply of collecting information from consumers and forwarding it on to the consumers' lenders. A consent judgment with defendant, Underwater Properties Solutions, was negotiated and approved by the court in April, 2012. Litigation against The Mortgage Law Group, an Illinois based law firm, continues.

State of Arizona v. Mortgage Assistance Group-An undercover investigation confirmed that consumer complaints against Mortgage Assistance Group (“MAG”), a loan modification company, charged up-front fees to consumers in foreclosure, in violation of Arizona law. Because the company and its principal, Stan Allotey failed to comply with the Attorney General’s civil investigative demand, the state obtained a court order requiring him to provide the requested information and preventing him from advertising his mortgage assistance services until he did so. When Mr. Allotey failed to follow the order, the court found him in contempt, ordered jail time, and imposed civil penalties. A separate consumer fraud action was later filed, which is now in litigation.

State v. Mortgage Capital USA, Inc.-The Attorney General filed a consumer fraud lawsuit in Pima County Superior Court against Mortgage Capital USA, Inc., a loan modification company, and its Chief Executive Officer, Gustavo R. Anaya. The complaint alleged that defendants used deceptive means to lure distressed, primarily Spanish-speaking homeowners, to pay up-front fees on the promise that defendants would help them avoid foreclosure. Consumers complained that Mortgage Capital USA, Inc. instructed them to stop paying their mortgage while the company supposedly negotiated a mortgage loan modification. Some consumers then lost their homes in foreclosure, and most received little or none of the promised benefits. Litigation is ongoing.

Legislation and Enforcement Actions Targeting Business Opportunity Fraud

Business opportunity fraud results in hundreds of consumer complaints each year. To combat this continuing problem, the Attorney General backed legislation to regulate the sale of business opportunities in Arizona. Under the new law, any company or individual that sells business opportunities or any advertising or other services associated with business opportunities must:

- File an annual registration with the Arizona Secretary of State that identifies the principals of the business and provides their previous history in the industry;
- Maintain a \$100,000 bond with the Arizona State Treasurer, proceeds of which would be payable to consumers who are defrauded by the seller;
- Provide specific, written disclosures to potential purchasers before a business opportunity is sold;
- Give each consumer-purchaser a written contract; and
- Provide consumers with a ten day “cooling off” period after the contract is signed.

The new law (House Bill 2825) is effective as of August 2, 2012. The Attorney General will monitor compliance with the law, and has authority to sue violators for civil penalties and other types of relief.

The Consumer Litigation Unit also brought several cases against business opportunity companies under existing laws. Not only did the Attorney General obtain

refunds for consumers, but also these actions prevent the telemarketers from selling fraudulent business opportunity schemes in Arizona. A few examples include:

State v. Higher Impact, LLC-The court approved consent judgment found defendants Higher Impact, Inc., Adrien Pirtle and Stephanie N. Davis violated the Consumer Fraud Act by misrepresenting the effectiveness of their marketing services and falsely claiming that consumers would realize increased earnings through those services. The online advertising packages sold by the defendants ranged in price from \$1,000 to \$15,000. The settlement in this case provides restitution for victims in the amount of \$250,000, civil penalties and costs totaling \$332,460. The judgment prohibits defendants from selling business opportunities and from other types of deceptive conduct.

State v. Global Web Exchange, LLC-Here, defendants Global Web Exchange, LLC, Stacia Best and Danett Brown acknowledged in a consent judgment approved by the court that they called consumers to sell web-based businesses and advertising. The defendants misrepresented the amount of commissions that consumers would earn through their business. The cost of the defendants' advertising packages typically ranged from \$1,000 to \$10,000. Defendants also were found to have violated the Arizona Telephone Solicitation Statute by failing to comply with the registration and bonding requirements of the statute. The settlement provides restitution for victims who filed a complaint with the Attorney General, plus civil penalties and costs totaling \$21,500. The judgment prohibits defendants from selling business opportunities and engaging in other types of deceptive conduct.

State v. 3XP-In December, 2011, 3XP and its owners, Garrette Lamar Craig and Annabel Flores Craig, agreed to stop selling business opportunities or conduct any type of telemarketing business in Arizona. 3XP sold business opportunities via telemarketing, representing to consumers that they could earn substantial monies by purchasing a work-at-home business opportunity. Defendants claimed to establish "web-stores," through which the public could purchase "name brand" products. Consumers were charged \$199.95 to \$2,095.00 to purchase a web-store. Soon after purchasing the business opportunity, consumers were contacted a second time and persuaded to buy marketing services to promote their web-stores for an amount up to \$10,000. Few, if any, consumers were able to establish web-stores and none realized the high earnings guaranteed by defendants. The defendants agreed to pay \$30,000 in consumer restitution and \$1,500 in attorneys' fees and costs.

Telemarketing Scams and Do Not Call Violations

Work-at-home companies are not the only type of companies that violate telemarketing laws in Arizona. The Attorney General successfully brought these cases against telemarketers, with more to come.

State v. Abode Air, LLC-After receiving hundreds of consumer complaints, many from seniors, the Attorney General filed a lawsuit against Abode Air, LLC, alleging that this air conditioning and heating company engaged in deceptive telephone solicitation

practices. The Attorney General asked the court for an order temporarily stopping the company from telemarketing to consumers, many of whom had listed their numbers on the "Do Not Call" list. After a 2 day hearing at which dozens of consumers testified about the continuing phone calls they received from the company, the court granted the Attorney General's request. This case was eventually resolved in November, 2011 with a consent judgment that permanently enjoins Abode Air, LLC from engaging in any telephone solicitations to Arizona consumer or from Arizona and requires payment of \$15,000.00 in costs and fees.

State v. Green Alliance-In December, 2011, the Unit negotiated an assurance of discontinuance in which Green Alliance, a solar energy company, agreed to comply with all laws relevant to its telephone solicitations and to pay the state \$7,500 in costs. Green Alliance was soliciting consumers over the telephone despite the fact that the consumers' telephone numbers were on the federal "Do Not Call" list.

State v. Full Speed Funding/First Source Marketing-The Attorney General also obtained a default judgment and a consent judgment against Full Speed Funding/First Source Marketing. This is a business opportunity/telemarketing company that targeted elderly consumers, marketing "low-interest funding" to small businesses. The business failed to register as a telemarketer, did not provide the required cancellation notice and did not have a bond. Multiple misrepresentations were made to consumers during the sales pitch. The default judgment requires the corporate defendants and one individual defendant to pay \$820,830 in restitution, civil penalties of \$200,000 and attorneys' fees and costs. The second individual defendant, a manager of the business, signed a consent judgment which includes findings of fact and enjoins him from any and all involvement in the sale of business opportunities and telemarketing activities and requires him to pay \$30,000 in restitution, \$35,000 in civil penalties and \$1,500 in attorneys' fees and costs.

Auto Repair Cases – Undercover Operations and Judgment Enforcement

State v. Econo Lube N' Tune Inc.-Meineke Care Car Center #4179, located at 6829 N. 7th Street in Phoenix, was the subject of our first undercover auto operation this year. The operation showed the Meineke repair person replacing the air conditioning compressor in the state's bait vehicle – a costly repair - when the only defect was a blown fuse, which was comparatively minor. The case was resolved by consent judgment providing for a payment of civil penalties in the amount of \$30,000, along with \$10,494.63 in costs and attorney's fees. The parent company, Econo Lube N' Tune, has also agreed not to further employ Bragg and Gastelum, the two employees who performed the allegedly deceptive acts, and to institute an employee program to prevent deceptive practices.

State v. Sun Valley Towing-Based on the results of another undercover operation, the Attorney General filed a consumer fraud lawsuit against Sun Valley Towing, LLC, a towing and auto repair shop. According to the suit, the owner of Sun Valley Towing fraudulently claimed to have replaced the fuel pump in the state's undercover vehicle, charging \$340.00 to the state's undercover agent. The state's

expert has determined that no replacement was made. Furthermore, Sun Valley Towing has been the subject of numerous consumer complaints from failure to perform promised repairs to failure to return customer's vehicles or make promised refunds. Litigation is ongoing.

State v. Garo Enterprises dba Trans-plant Plus-The Attorney General also ensures that companies live up to their earlier agreements to settle consumer fraud allegations. When they do not, court action is taken. An example is a case filed in January, 2012, against the operators of Transplant Plus. The state filed a Contempt Petition against Garo Enterprises, Inc., a Tempe transmission shop run by Robert Brady, which conducts business under the name Transplant Transmissions. The state alleged that Transplant Plus violated a previously entered consent judgment against it by failing to register their trade name with the Arizona Secretary of State, claiming that Transplant Transmissions could elect whether to perform repairs or refunds when the judgment required full refunds, and claiming the right to repossess customer's vehicles if the payment did not go through or was reversed, among other violations. This matter was resolved with a court approved addendum to consent judgment including a suspended civil penalty of \$250,000, which is waived if the defendant goes out of business. Defendant also agreed to a permanent ban from owning or managing a transmission repair/rebuild business, plus pay consumer restitution and costs.

General Consumer Fraud Matters

State v. Government Careers, Inc.-In March, 2012, the Unit settled a lawsuit filed in federal court against the owners of Government Careers, Inc. ("GCI"), Richard and Rimona Friedberg. GCI was a bogus career center located in Tucson but advertising and selling their program nationwide. GCI guaranteed that it could find consumers federal government jobs. Consumers paid either \$114 for outdated material they could find online or \$965 for an advanced program which purportedly included counseling. The settlement puts the defendants out of business.

State v. Y.M.S.-This year the Unit also entered into a consent judgment permanently barring Y.M.S. Inc., its president Gaston Muhammad and his wife Ronna Muhammad from soliciting Arizona businesses or receiving any funds from Arizona consumers in response to a solicitation. YMS sent out mailers to companies registered as corporations or limited liability companies with the Arizona Corporation Commission. The envelope and form appear to be from a state agency and to require the payment of a \$125 fee for the filing of annual minutes. The consent judgment also contained an admission to violating Arizona's Consumer Fraud Statute. The state was awarded \$725,350.00 in civil penalties, costs, fees and restitution in the judgment.

State v. QuinStreet/GIBill.com-We filed an assurance of discontinuance on June 27, 2012 along with 19 other states against the operators of this web site that marketed for profit school programs to veterans. The assurance covers not only the web site, GIBill.com but QuinStreet's many other military-related education and other for-profit education web sites. The states alleged that QuinStreet, Inc. violated consumer protection laws with its GIBill.com and other military service member web sites which

gave the appearance that the U.S. government and/or military operated, owned or endorsed the sites and gave the misleading impression that the schools listed as “eligible GI Bill schools” were the only schools at which veterans could use their GI Bill benefits. In fact, the list only consisted of QuinStreet clients, almost all of whom are private, for-profit post secondary schools that pay to be included in QuinStreet’s military and other education web sites. Under the assurance, QuinStreet is required to relinquish ownership and control of GIBill.com to the Department of Veteran’s Affairs, post clear and conspicuous disclosures on military-related web sites adjacent to the web site logo and web site name that clarify the site is not owned or operated by the U.S. government, and disclose that the schools that appear during consumers’ searches are advertisers who pay to appear on the sites.

Task Force Against Senior Abuse

This year the Attorney General continued the Task Force Against Senior Abuse (“TASA”) to bring awareness to the issues surrounding the elderly in our state. The Taskforce includes attorneys from the Consumer Protection & Advocacy Section, the Medicaid Fraud and Abuse Unit and the Criminal Prosecutions Section to identify and prosecute cases. A designated telephone line was implemented in the Consumer Protection & Advocacy Section which provides an avenue through which the elderly, and those who work with them, can obtain information or report abuse/fraud. Members of the Attorney General Community Outreach Services Section offer educational opportunities around the state in which seniors can participate. TASA formed an Advisory Group, comprised of community, business and governmental leaders, to advise Attorney General Horne and the members of TASA on matters concerning senior citizens in Arizona. TASA has received hundreds of phone calls, e-mail and other inquiries and made numerous referrals to other agencies.

Examples of Consumer Protection Cases Involving Primarily Senior Victims Include:

State v. Arizona Residential Services (“ARS”)-The Tucson Consumer Litigation Unit filed a consumer fraud action against these air conditioning and repair companies in September, 2011. In Arizona, ARS specializes in HVAC and plumbing services and operates as American Residential Services; Goettl Air; ARS; ARS/Rescue Rooter; and Russett Services. The case was settled in April, 2012, with the company’s agreement to significantly change their business practices and to follow the federal three-day cooling off rule, which is stronger than the Arizona law. The settlement amount is \$395,000: \$240,000 for consumer restitution and \$155,000 for attorney’s fees.

State v. Solid Ad Solutions, LLC et al.-Solid Ad Solutions, LLC, E-Web Financial, LLC and their successor companies tele-marketed web-stores or “Webmalls” to 4,882 consumers from June, 2008 to June, 2011. The victims were frequently elderly, already

in troubled financial situations and often had no access to or knowledge of the Internet. No customer recouped their investment, which ranged between \$200 and \$33,400. Total business revenues were \$6,353,277. Our office received dozens of consumer complaints, most from elderly consumers. The businesses stopped operating in April, 2011. A complaint was filed against the owners, managers, and top salespeople in November, 2011. The pre-lawsuit investigation uncovered sales records in which company employees made notes about their customers such as “Old dude – no clue,” “Living on social security,” and “Has \$9k available on this card today” “BACK END CHA-CHING!!.” Litigation continues.

II. CONSUMER INFORMATION AND COMPLAINTS UNIT

The Attorney General’s Consumer Information and Complaint Unit (“CIC”) received 21,453 written consumer complaints last year and answered over 41,112 telephone calls during fiscal year 2012. Each written complaint was reviewed, most were sent to businesses for a response and many were referred to other agencies for handling. All told, we recovered \$1,732,105 for consumers last year. The major trends of consumer complaints last year are as follows:

Complaints/Inquiries

| | |
|---|------|
| Business Opportunities (General) | 1587 |
| Mortgage Companies | 1272 |
| Telemarketing Fraud | 1198 |
| Misc. Services (General) | 1036 |
| Motor Vehicle (Used Vehicle Sales) | 550 |
| Collection Services | 508 |
| Loan Modification (Mortgage Modification) | 392 |
| Motor Vehicle (Repairs) | 339 |
| Real Estate – Rentals | 277 |
| Phone Service (Cellular) | 255 |

A Few CIC Success Stories

A senior filed a consumer complaint against a Phoenix auto repair shop claiming poor quality of repairs for which he was charged \$1,527. As a result of CIC’s intervention, the auto repair shop refunded \$1,600 to the consumer within a few weeks.

In Tucson, a consumer complained that he paid a local transmission repair shop to upgrade the transmission in his truck, but the repair shop did not perform the services they promised. The local repair shop denied the consumer’s allegations. CIC staff and a longtime volunteer arranged for the local repair shop’s owner and his attorney as well as the consumer to come to the office to try to resolve the claim. The consumer’s wife explained her husband has served in the US Air Force for 21 years and is currently serving in Afghanistan. Not only were arrangements made for the husband to appear,

via Skype, from Afghanistan, but as a result of CIC's mediation, \$4,000.00 was recovered for the consumer.

III. AGENCY UNIT

The Agency Unit provides legal advice and representation to the Arizona Department of Financial Institutions, Real Estate, Insurance, Agriculture and the Arizona Department of Game and Fish. Because of the diversity of the client agencies represented, the Agency Units attorneys address a broad range of legal issues at the Office of Administrative Hearings as well as in state and federal court. A few of the significant cases handled by Agency Unit lawyers include the following:

Department of Insurance

PMI Group, Inc. ("PMI") is a mortgage guarantee insurance company that provides insurance to mortgage holders for situations where home purchasers default on their loans. PMI is a subsidiary of a large public holding company The PMI Group, Inc. ("TPG") that until recently traded on the New York Stock Exchange. PMI had been experiencing losses from its insurance operations since the beginning of the U.S. financial and housing crisis in 2007. In August, 2011 the Director of the Arizona Department of Insurance Department ("DOI") issued an administrative order placing PMI under supervision because it was in a hazardous financial condition.

During the supervision, the financial situation continued to deteriorate to the point that on October 20, 2011 DOI, represented by Agency Unit attorneys, petitioned and received a superior court order granting DOI immediate possession and control of the company. TPG challenged that order but the Judge affirmed the order after hearing and denied TPG's motion. Soon after that decision, TPG filed for bankruptcy. TPG ultimately consented to receivership, which was ordered in March, 2012.

Department of Financial Institutions

The Agency Unit represented the Department of Financial Institutions ("DFI") in cases against various type of financial institutions regulated by DFI including collection agencies, debt management companies, and automobile sales finance companies. During 2012, the Agency Unit handled a number of actions against private "hard money lenders" involving allegation of unlicensed mortgage banking activities. In one case, DFI issued a cease and desist order against Bella Funding, LLC for unlicensed mortgage banking activity. The matter was presented at hearing to the Office of Administrative Hearings ("OAH") on May 23, 2012. A Recommended Decision, issued by the Administrative Law Judge on June 12, 2012, upheld the cease and desist order as well as the assessment of a \$25,000 civil money penalty.

In an action against Coyote Capital, another private lending company allegedly engaging in unlicensed mortgage activities, the company claimed it only lent money to allow investors to buy property for commercial purposes, not for residential purposes. Nonetheless, DFI required the company to obtain appropriate mortgage banking and

loan origination licenses because they collected compensation from borrowers. The company ultimately agreed to obtain appropriate licenses and to pay \$35,000.00 civil monetary penalty in a consent order. And in a third case, a company's advertising practices as well as its unlicensed activities triggered DFI's administrative action. Active Funding Group, LLC, a hard money lender, advertised that it was not associated with any regulatory agency in any state and did not subscribe to any government policies of conventional lenders. Represented by the Agency Unit, DFI and the company settled the case with the company's agreement to change its business practices, and to pay a \$25,000 civil monetary penalty.

Arizona Department of Real Estate

The Agency Unit represented the Department of Real Estate ("DRE") in cases that reflected the state of the housing market in 2012. With the real estate crash, dozens of licensed real estate brokers and sales people failed to maintain continuing education requirements. Accordingly, DRE, represented by the Agency Unit, took appropriate steps to revoke the licenses of those who failed to comply with professional requirements.

In perhaps another sign of the times in 2012, more licensed realtors appeared to become involved in property management and DRE stepped up enforcement actions. In one case, DRE summarily suspended the real estate broker's license for Kevin Ross, designated broker for PRM, a property management company. After an audit DRE determined that PRM's trust accounts were short approximately \$800,000 and that Ross had misrepresented the status of these accounts during an electronic broker's audit. Ross initially appealed the decision but ultimately failed to appear at the hearing and the Administrative Law Judge upheld the summary suspension and assessed a civil penalty against Ross.

DRE initiated another administrative action against Donald Dempsey and 3D Management for property management violations, specifically trust account deficiencies. The company claimed that an employee had embezzled several thousand dollars from the company accounts. But this wasn't the first time this company had been in trouble. Back in July 2006, Dempsey and 3D Management had signed a consent order with DRE for trust account violations. DRE issued a notice of hearing and complaint based on the failure to comply with the consent order. After the administrative hearing at which DRE was represented by the Agency Unit, the Real Estate Commissioner revoked the licenses for Dempsey and 3D Management.

IV. TOBACCO ENFORCEMENT UNIT

Successfully Protecting Arizona's Share of Payments Received Pursuant to the Tobacco Master Settlement Agreement

In settlement of litigation initiated by the State of Arizona to recover health care costs resulting from the use of tobacco products by its citizens, Arizona entered into the Tobacco Master Settlement Agreement ("MSA") on November 23, 1998. This landmark

settlement agreement also resolved similar actions filed by 51 other jurisdictions against the major tobacco manufacturers. The MSA requires each tobacco manufacturer that joins the agreement (“participating manufacturers” or “PM”), to make significant annual payments to the settling states in perpetuity.

In 2012, Arizona received approximately \$101 million in total MSA payments. Since 1998, Arizona has received more than \$1.1 billion in settlement payments.

Under state law, all money received by the state from the MSA are dedicated entirely to the Arizona Health Care Cost Containment System (“AHCCCS”). The Tobacco Enforcement Unit (“TEU”) protects Arizona’s MSA payments by diligently enforcing Arizona’s qualifying statute (“Escrow Statute”), in order to protect Arizona’s share of the MSA payments. The Tobacco Enforcement Unit employed a multi-prong approach to enforce Arizona tobacco laws during 2012, including the following:

- TEU is defending Arizona against claims by the tobacco companies that they are entitled to receive back some of the money paid to Arizona in 2003 under the MSA. It is expected that tobacco companies will make claims for a return of some or all of the monies paid to Arizona in each of the years subsequent to 2003. Hundreds of millions of dollars are at stake. The 2003 matter is expected to resolve in the next year.
- TEU enforces laws applying to tobacco companies that elect not to participate in the MSA. Those nonparticipating manufacturers (“NPMs”) must place certain amounts of money into a qualified escrow fund for the benefit of Arizona based on the number of sales made in the state. Among other things, TEU (i) determines the identity of those NPMs, which had sales in Arizona during a given year; (ii) calculates the total volume of sales for each NPM; (iii) determines the escrow liability based on a set statutory rate; and (iv) demands the requisite funds be timely deposited into a “qualifying escrow fund”. If a NPM refuses to comply with the Escrow Statute, TEU initiates litigation to obtain compliance. TEU has again worked diligently to receive total compliance with the Escrow Statute.
- TEU also enforces the Directory Statute, pursuant to which the Attorney General’s Office publishes on its website a list of the PMs and NPMs allowed to sell cigarettes and in Arizona as well as the accompanying permitted brands. If a brand is not listed, it cannot be sold in Arizona. TEU reviews initial and annual certifications submitted by tobacco companies requesting to be listed in the Directory, and takes appropriate enforcement action against companies who fail to comply with the law.

Shutting Down Non-Compliant Tobacco Manufacturers

Attorney General Horne’s Tobacco Enforcement Unit, together with their counterparts in other states, brought two decades-long cases to successful resolution in 2012. First, after 11 years of various forms of litigation, the states shut down General Tobacco. General Tobacco is the successor corporation of Sun Tobacco, an entity sued twice by Arizona for failure to comply with the Escrow Statute, with subsequent

litigation resulting in a change of its business practices in an effort to be listed on the Arizona Cigarette Directory as well as the ultimate sale of its assets to General Tobacco. General then joined the MSA in 2004, agreeing to make back payments for Sun's sales but soon had problems complying with the MSA payment terms. Instead of honoring its MSA obligations, however, General turned around and sued the states, and later filed bankruptcy. As part of the bankruptcy proceeding, the states have been successful in shutting down General, thereby removing this problematic manufacturer from the market. A good portion of the proceeds of the liquidation expected to go to the states to cover outstanding MSA payment obligations.

After 10 years of various forms of litigation, TEU and other states have succeeded in shutting down a second company that failed to comply with Arizona's laws - Carolina Tobacco Company ("CTC"). Over the course of several years, this non-participating cigarette manufacturer allegedly helped another company hide sales in an effort to lower that other manufacturer's MSA payment and misled the state about its compliance with the escrow statute. TEU eventually succeeded in delisting CTC from the Arizona Cigarette Directory and removing CTC from the Arizona market. The states have now successfully negotiated a resolution requiring CTC to deposit all escrow owed to Arizona, as well as a 100% penalty. Further, CTC will be shut down, its brands cannot be transferred to any other manufacturer, and its owner, David Redmond, is permanently banned from any involvement in the cigarette business.

New Laws Prohibiting Internet Tobacco Sales and Strengthening the Escrow Statute

Attorney General successfully advocated for the passage of SB1280, which was signed by the Governor and effective as of August 2, 2012. The new law: 1) prohibits the sale in Arizona of tobacco products (except pipe tobacco and cigars) over the internet and through other non-face-to-face methods of sale, referred to as "delivery sales"; and 2) amends the Directory Statute to require that all NPMs listed in the Directory make quarterly escrow payments, instead of annual payments, which enhances enforcement of the Escrow Statute.

Under the new delivery sales ban, only Arizona licensed tobacco distributors or retailers ordering from an Arizona licensed tobacco distributor may purchase tobacco products through these methods of sale. A violation of this law is a felony offense and offenders will be subject to civil and criminal penalties including fines, injunctive relief, and fees and costs incurred by the state for prosecution. This new prohibition promotes the public health and MSA goals of the state by further limiting youth access to cigarettes and other tobacco products, and ensuring that all tobacco sales (with limited exceptions) go through licensed distributors that pay the state excise tax and report sales to the state, and enhances the state's enforcement of state tobacco laws and protection of future MSA payments.

Enforcement of the Public Health Provisions of the MSA

TEU has also been charged with enforcing the public health provisions of the MSA, especially when violations of those provisions have a direct impact on Arizona citizens. The public health provisions contained in the MSA place restrictions on the PM's marketing practices in an effort to protect public health.

Youth Tobacco Program

In the past year, TEU has overseen over 2,500 undercover inspections of tobacco retailers, including multiple inspections in each county of the state. With the assistance of local law enforcement agencies, approximately 200 citations were issued to clerks found to be in violation of Arizona's youth tobacco law. TEU continued its efforts to encourage participation in all jurisdictions in order to increase enforcement efforts of Arizona's youth access law statewide. TEU also worked to create a youth tobacco presence on the AGO website and began outreach with the tribal governments throughout Arizona to discuss youth tobacco prevention and cessation. TEU continues its recruitment efforts to maintain a steady pool of active youth volunteers.

V. ANTITRUST UNIT

E-Books Litigation

In April, 2012, Arizona and 15 other states filed an antitrust suit against Apple, Penguin, Simon & Schuster and Macmillan for conspiring to fix and raise the prices of electronic books ("e-books"). E-books are electronic versions of books that can be read on computers, cell phones and other devices. Seventeen more states later joined the lawsuit. As a result of the lawsuit and negotiations leading up to it, settlements have been reached with publishers Hachette, HarperCollins and Simon & Schuster. Subject to court approval, the settling publishers have agreed to pay the following amounts for consumer compensation nationwide:

- Hachette - \$32.25 million
- HarperCollins--\$19.93 million, and
- Simon & Schuster--\$18.1 million.

Consumers will have the option of receiving a check or a credit to be used toward the purchase of an e-book or a print book. The credits can be used to purchase books from publishers other than the settling defendants. Additionally, each settling defendant will pay the states collectively a total of over \$7.6 million to cover investigative, litigation and other related costs. Litigation against Apple, Penguin and Macmillan is on-going.

Ensuring Schools Comply with Public Finance Laws

The Antitrust Unit settled a case involving alleged tuition overcharges. The Antitrust Unit investigated allegations that Joy Christian School, a private school, defrauded parents by charging tuition for classes that were actually provided by the Sequoia Choice Arizona Distance Learning, a charter school. Charter schools are public schools under Arizona law and may not charge tuition. The matter was resolved by an assurance of discontinuance with the Joy Christian School requiring it to provide \$150,000 in scholarships, pay \$5,000 to the state and \$10,000 in restitution to families.

In another case involving a charter school, the Antitrust Unit worked with the Arizona Department of Education (“ADE”) to address the misuse of federal grant funds. After ADE found that the Old Pueblo Children’s Academy (“Old Pueblo”), a charter school, had misspent some of its federal grant monies, it issued an administrative order requiring Old Pueblo to return the funds. Old Pueblo, which had closed its school, failed to respond, so ADE requested that the Antitrust Unit prosecute. Accordingly, the Attorney General filed a complaint and obtained a default judgment against Old Pueblo for \$72,514.65, the amount of misspent funds.

VI. MONIES RECOVERED FOR THE STATE AND CITIZENS OF ARIZONA

National Mortgage Settlement – **\$1.3 Billion**

Diligent Enforcement of Tobacco MSA - **\$99.1 Million**

Penalties/Costs for Antitrust and Consumer Litigation - **\$6.3 Million**

Recovery for Consumers in response to complaints - **\$1.7 Million**

Recovery for Consumers as a result of consumer protection enforcement actions
(includes Bank of America settlement) - **\$12 Million**

Civil Rights Compliance and Civil Rights Litigation Sections

APPENDIX B

OVERVIEW

- The Arizona Civil Rights Division (“ACRD”), a component of the Public Advocacy and Civil Rights Division, enforces the Arizona Civil Rights Act (“ACRA”), which prohibits discrimination in employment, housing, public accommodations and voting by investigating, mediating and litigating civil rights complaints statewide. ACRD also provides conflict resolution services and mediation training programs throughout the state. It not only responds to complaints, but seeks to reduce discriminatory conduct through education and outreach in the community. ACRD is comprised of the Compliance Section, which screens and investigates complaints, and the Litigation Section, which litigates civil rights violations and provides legal advice and support to the Compliance Section.
- The Civil Rights Compliance Section (“CRC”) investigated 1,348 discrimination charges and resolved 901 cases in FY 2012, including 160 housing charges, 646 employment charges and 95 public accommodations charges. CRC also issued 26 determinations in cases where ACRD found reasonable cause to believe that unlawful discrimination had occurred. Many of these cases were successfully conciliated before litigation became necessary.
- The Civil Rights Litigation Section (“CRL”) resolved 105 charges of discrimination either through mediation, conciliation or litigation and performed work on hundreds of other charges filed with ACRD. As a result of these efforts, the Litigation Section obtained a total of \$1,248,623 in monetary relief for Charging Parties and for future monitoring and enforcement activities, along with a wide variety of injunctive relief to prevent future civil rights violations.

ACCOMPLISHMENTS

The Civil Rights Conflict Resolution Program (“CRCR”) mediated 127 civil rights matters and facilitated 71 agreements, which is a 56% settlement rate. As a result of these efforts, charging parties received a total of \$362,688 in monetary relief and also obtained significant injunctive relief to assist the parties in finding common ground to resolve charges of discrimination filed with ACRD.

- In an employment matter alleging retaliation, the employer agreed to pay the charging party \$33,000.
- Mediation resolved a complaint of housing discrimination based on national origin. The apartment complex and management company agreed to recertification of complainant’s Section 8 status with refund of rent, fixed all

apartment complex security cameras, cleaned off graffiti on the complex playground, fixed complainant's fan and locks, and abated mold in the complainant's apartment.

- Mediation resolved a public accommodations charge based on religion and disability. The college agreed to refund charging party's student loans worth \$16,000.
- After mediation of a disability-based public accommodations charge, the respondent agreed to pay charging party \$2,000 and waived \$20,410.85 in hospital medical bills.
- In an employment matter involving allegations of sex-based discrimination and retaliation, respondent agreed to pay charging party \$55,000.

In addition to their civil rights mediations, the CRCR trains mediators to serve as volunteer mediators in various superior court alternative dispute resolution programs and coordinates mediations for various courts in the State of Arizona.

CRL has also helped parties resolve 29 charges through conciliation agreements achieved prior to the conclusion of ACRD's administrative investigation or after a reasonable cause determination was issued but before a lawsuit was filed. Through these conciliation efforts, ACRD obtained a total of \$236,261 in monetary relief for the charging parties and for future monitoring and enforcement activities. The conciliation agreements also resulted in substantial non-monetary relief for disabled persons, such as providing for accessible parking spaces and restrooms, American Sign Language interpretation, and use of service animals, to ensure that disabled persons could access businesses and their services, and requiring policy revisions and training to prevent future civil rights violations in housing and employment.

For example, in one pre-finding housing conciliation involving allegations of disability discrimination and retaliation in connection with a financial institution's alleged failure to allow the disabled complainant to assume a mortgage and to cancel a foreclosure sale, the complainant and the bank entered into a loan assumption and modification agreement allowing the complainant to avoid foreclosure. Under the conciliation agreement, among other things, the complainant received a 40-year loan at a 1.75% interest rate, deferral of accrued interest and fees until the loan term, and financial compensation.

In seeking to enforce housing, employment and public accommodations discrimination laws throughout Arizona, CRL pursued 18 lawsuits in state and federal trial and appellate courts alleging violations of ACRA, which includes the Arizona Fair Housing Act and the Arizonans with Disabilities Act ("ADA"). Among the highlights of the cases litigated by the Litigation Section this past year:

State v. ASARCO, LLC-This employment discrimination case involved allegations that ASARCO has a history of ignoring complaints of workplace harassment

and failing to address employees' use of pornographic graffiti to humiliate, demean and ostracize co-workers. After an 8-day trial in April 2011, the jury returned a verdict against ASARCO on the state's and the charging party's sexual harassment claims and awarded the charging party \$1 in nominal damages and \$868,750 in punitive damages. This award exceeded the applicable compensatory damages cap under Title VII of the federal Civil Rights Act by hundreds of thousands of dollars. After post-trial briefing, the district court reduced the award to the statutory cap of \$300,000, ordered injunctive relief in the form of policy changes and training in state and federal employment discrimination law for ASARCO employees, and awarded the charging party all of her requested attorneys' fees. During FY12, the parties fully briefed ASARCO's appeal of the verdict and damages and attorneys' fees awards, which is now pending with the Ninth Circuit.

State v. Cinemark-This lawsuit was filed to obtain neckloop assistive listening devices in Cinemark's Arizona theaters that would accommodate customers who are hard of hearing or deaf and use cochlear implants and/or hearing aids with telecoil (t-coil) technology. Neckloops hang around the guest's neck and transmit sound magnetically into their cochlear implant or t-coil hearing aid. In this way, the technology uses the customer's own adjustments to provide a much higher quality of music, dialogue, and sound effects without producing feedback. During 2012, the CRL and Cinemark reached a settlement, which was approved by Pima County Superior Court on July 2, 2012, that includes providing Cinemark's six Arizona theaters with neckloops and receivers, tracking the demand for neckloops, staff training and marketing neckloop availability.

State v. City of Avondale-In this lawsuit on behalf of a group home provider for individuals with intellectual disabilities, CRL sought changes to Avondale's zoning ordinances that required individuals with disabilities (through their group home or foster care providers) to meet certain conditions, such as installation of cost prohibitive fire suppression systems, that were not required in other single family residence uses. After extensive negotiations, the parties agreed upon a consent decree that provided, among other things, for amending Avondale's zoning laws to remove restrictions on individuals with disabilities living in group living arrangements that do not apply to single family residences; approving the complainant to operate three group homes in Avondale; rescinding fines against the complainant; and paying the complainant \$49,999 in individual relief.

State v. City of Cottonwood & Cottonwood Police Department-This employment discrimination case involves allegations that the Cottonwood Police Department ("CPD") made passage of a physical fitness test known to have a disparate impact on women a requirement to promote to sergeant in order to prevent the only woman ever to have otherwise qualified to promote from attaining that position. In addition to disparate impact, CRL's case includes claims for disparate treatment discrimination and retaliation relating to defendants' implementation of the physical fitness test. In 2012, discovery was completed, CRL moved for partial summary judgment on the disparate impact claim, and Cottonwood moved for summary judgment on all claims. On July 20, 2012, the U.S. District Court in Phoenix denied Cottonwood's motion, granted CRL's motion,

and enjoined Cottonwood from requiring CPD officers to pass a physical fitness exam as a prerequisite for promotion unless the exam in question has been validated as job-related specifically to the job for which the applicant is applying. Trial on the remaining issues is likely during 2013.

State v. Dental Smile Spa, Inc. & Dr. Mickel Malek-This lawsuit, brought on behalf of four former Dental Smile Spa employees, alleged that its owner and only dentist, Mickel Malek, created a sexually hostile work environment for the charging parties and then retaliated against them for complaining of the harassment. After three of the four charging parties settled their own lawsuits, CRL negotiated a consent decree, which was entered by the Pima County Superior Court on April 23, 2012, that provided for implementation of equal employment opportunity, anti-harassment and anti-retaliation policies, including information about where to report alleged harassment; training in state and federal equal employment opportunity law for Dr. Malek and his staff and payment of \$1,500 to CRL to monitor the consent decree.

State v. Dupnik, et al.-CRL entered into a consent decree with Pima County on November 2, 2011 in U.S. District Court in Tucson to resolve this case of disability-based employment discrimination involving allegations that the Pima County Sheriff's Department refused to grant a 911 call taker's request to use her certified service dog at work as a reasonable accommodation for her mobility disability and retaliated against her for engaging in protected conduct. As part of the settlement, the former employee received a structured annuity, payment of attorneys' fees, and a comparable position with Pima County where she is using her certified service dog. CRL received \$15,000 for monitoring and enforcement of civil rights in Arizona. In accordance with the consent decree, Pima County modified its administrative procedures and forms relating to reasonable accommodation, conducted training for its ADA Coordinator, ADA Panel and all County supervisors regarding reasonable accommodation and the prohibitions on retaliation. Pima County is also reporting to CRL for two years regarding its handling of all requests for reasonable accommodation from disabled employees.

State v. The Geo Group, Inc.-The lawsuit alleges that a female correctional officer and a class of similarly situated women at two private prisons operated by defendant were subjected to a sexually hostile work environment by several male supervisory officers and retaliated against for opposing those practices. The lawsuit further alleges that the defendant did not take effective remedial action to put a stop to the harassment after it was reported. The U.S. Equal Employment Opportunity Commission adopted ACRD's findings after the CRC's administrative investigation and also filed a lawsuit. The lawsuits have been consolidated in U.S. District Court. After the Agencies defeated defendant's motion to dismiss the class and met the court's deadline for identifying all class members, defendant filed a motion for partial summary judgment to dismiss the class on the grounds that the state and federal statutory pre-suit requirements required an individualized investigation and conciliation of each class member. Relying on a 2012 Eighth Circuit opinion, the district court permitted the suit to proceed on behalf of the charging party and five other class members and dismissed the other 17 class members, concluding that the Agencies had not individually investigated the class members who were identified during litigation. CRL and the U.S.

Equal Employment Opportunity Commission (“EEOC”) have moved for certification of the issues surrounding the dismissal of the 17 class members for interlocutory appeal because the decision adversely impacts the Agencies’ ability to bring class actions. Pending the court’s decision, the parties are actively pursuing discovery.

State v. Harkins Administrative Services, Inc., et al.-The parties successfully negotiated the terms of a consent decree, which the district court approved on November 7, 2011. Under the consent decree’s terms, Harkins will offer closed captioning and video description on 50% of its Arizona theater screens by June 2012 and complete installation on the remaining 50% of its screens by December 2012. Additionally, the consent decree required expansion of Harkins’ existing employee training program to include instruction about assisting customers with the new technology, provision of information about captioned and described movies playing at its theaters and the placement of the equipment, creation of an accessible website for visually impaired customers, methods for obtaining feedback from customers about the new equipment, and specific outreach, promotion and marketing measures to increase awareness and use of the technology.

Cooke (State) v. Town of Colorado City, et al.-This case of housing discrimination pending in U.S. District Court in Phoenix alleges that the defendants discriminated against a Colorado City resident and his family by not providing them with water and other utility services because of the complainant’s religion and by not accommodating his disability. It also alleges that the defendants engaged in a pattern or practice of housing discrimination based on religion. The complainant is a former member of the Fundamentalist Church of Jesus Christ of Latter Day Saints (“FLDS”). His family has been hauling water to their home for four years due to the defendants’ refusal to provide municipal water service. After completing discovery in May 2012, the parties filed motions for summary judgment in June 2012. The U.S. Department of Justice filed a related lawsuit in U.S. District Court of Arizona against these same defendants in June. No date has been set for trial.

CIVIL RIGHTS OUTREACH ACTIVITIES

In addition to its investigation and enforcement activities, ACRD participates in and sponsors numerous education and outreach events to inform the community about civil rights laws and ACRD’s complaint and resolution process. ACRD staff participated in over 45 of these events during the past year. In addition, the ACRD obtained a grant from the United States Department of Housing and Urban Development to conduct an outreach campaign regarding fair housing issues in rural Arizona.

Environmental Enforcement Section

APPENDIX C

OVERVIEW

The Environmental Enforcement Section (“EES”) provides advice, enforcement and representation activities related to state and federal environmental and natural resources law. The Section is divided into two components: the Tanks and Air Unit and the Superfund Programs Unit. The Section advises, represents and litigates on behalf of the Arizona Department of Environmental Quality (“ADEQ”) in state and federal environmental matters and enforces the environmental statutes.

ACCOMPLISHMENTS

State v. Ashton et al.; State v. R.E. Darling-These two cases stem from the deposition of Joseph Blankinship in the Broadway Pantano landfill Water Quality Assurance Revolving Fund (“WQARF”) investigation. As a result of the deposition, ADEQ reached 19 settlements with 23 potentially responsible parties. These settlements were embodied in two actions in district court in Tucson. The total amount recovered in all these early settlements was \$540,000.00. Although the Ashton settlements were appealed by several intervenors to the 9th Circuit, ADEQ had already received approximately \$365,000.00 not affected by the appeal, which can be used for site investigation.

State v. Kenneth Nicholson-The Office of the Attorney General (“AGO”) pursued this case involving improper transporting and disposal of used oil. In addition, used oil was released from multiple 5 gallon pails at the site contaminating the soil. Nicholson admitted the violations and agreed to cease transporting and disposing of used oil. In addition, he remediated the soil contamination at the facility. Although ADEQ agreed that Nicholson was financially unable to pay a penalty, Nicholson eventually paid a civil penalty of \$5859.35.

Arizona Department of Environmental Quality v. ExxonMobil-Along with outside counsel, the AGO assisted in negotiating a settlement of \$11.5 million for claims by the ADEQ against ExxonMobil. ADEQ asserted that ExxonMobil improperly received payments from the Arizona State Assurance Fund (“SAF”), which provides monies for the cleanup of leaking underground storage tanks at gas stations and other facilities. ADEQ argued that ExxonMobil was ineligible for many of the payments it received and in some instances ExxonMobil received payments both from the SAF and its private insurance for the same work. The Parties completed, and ExxonMobil paid, the Settlement Agreement in November 2011.

State v. BTZ Inc.-AGO assisted in negotiating a settlement of \$110,000 for claims by ADEQ against a Yuma-based construction company, BTZ Inc., for violations of Arizona air pollution control laws. The company’s violations stemmed from its failure to conduct required inspections, maintain operating records, utilize pollution control

equipment, and maintain its equipment in a way to reduce air pollution. In addition, the company failed to obtain an air quality permit for operating its hot mix asphalt plant and conducted demolition activities to a building containing asbestos without the appropriate training or safeguards to reduce air pollution. In addition to the monetary penalties, the company agreed to implement an environmental management system to prevent future environmental violations.

State v. South Yuma County Landfill, LLC-AGO assisted in negotiating a settlement of \$70,000 for claims by ADEQ against South Yuma County Landfill, LLC, a private entity operating a solid waste landfill facility. The settlement resolved violations of the Arizona air pollution control laws for the company's failure to obtain an Air Quality permit for air pollution emissions from the landfill. The company also agreed to implement an environmental management system to prevent future environmental violations.

State v. Mineral Park Inc-AGO assisted in negotiating a settlement for \$1.3 million for claims by the ADEQ against Mineral Park Inc., a subsidiary of Mercator Minerals of Canada. The settlement resolved numerous air quality violations alleged by ADEQ to have occurred in Mohave County. ADEQ asserted that Mineral Park Inc. operated a large copper and molybdenum mine, including copper and molybdenum mills, crushing systems, and ore conveyor transport systems northwest of Kingman without the required air quality permits. After an investigation, ADEQ also asserted record-keeping violations, violations of hours of operation limitations, malfunctioning pollution controls, and excessive daily use of explosive materials. In addition to the penalty, Mineral Park Inc. agreed to implement an environmental management system to help prevent future violations.

State v. Felton King Company, Inc. and Felton King and Luwalia King-AGO successfully litigated a default judgment requiring defendants to clean up contamination at hazardous waste facility or pay \$250,000 into a trust that will be used to finance clean up of site with any remaining balance to the general fund as a civil penalty. Defendants abandoned their hazardous waste plating business in Phoenix after generating more than 40 drums of hazardous waste from its chromium, cadmium, black oxide, and nickel plating lines, which created a health and environmental risk in the community.

State v. Star Valley Veterinary Clinic-AGO negotiated a consent judgment and settlement between ADEQ and Star Valley Veterinary Clinic ("SVVC") for violations of the State's biohazardous medical rules. SVVC illegally stored and disposed of syringes and related biohazardous medical waste by placing the waste in unmarked improper containers and by discarding of the waste with trash in a dumpster for regular trash pickup. SVVC was found to be unable to pay a penalty based on financial hardship. SVVC signed consent judgment with a \$5,000 civil penalty and a supplemental environmental project valued at \$60,000 for veterinary services and biohazardous medical waste training to the Humane Society of Central Arizona.

State v. Dome Rock Industries, Inc.-AGO negotiated a consent judgment in settlement of a five year old case involving the illegal disposal of used oil and petroleum

contaminated soil. The defendant signed a consent judgment for payment of a \$25,000 penalty and injunctive relief requiring closure, including remediation, if necessary, of the site pursuant to applicable Aquifer Protection Permit Program requirements.

State v. The Carwasher, Inc.-AGO negotiated a consent judgment of the violations of Arizona's Under Ground Storage Tank ("UST") laws by The Carwasher, Inc. for failure to investigate releases, determine the full extent of contamination, and report to ADEQ. The Carwasher Inc. is now in compliance with Arizona's UST laws and agreed to pay a penalty of \$14,901.00.

Butler v. Brewer-AGO successfully moved to dismiss plaintiff's complaint, a lawsuit in which the plaintiff asked the court to impose a public trust on the atmosphere and require the governor and ADEQ to limit the carbon dioxide emissions. This action is part of a group of actions brought in all 50 states, and some countries.

State v. Parker Plate-AGO negotiated a consent judgment in which the responsible party agreed to pay \$51,000 for hazardous waste violations at a Parker plating facility.

State v. All Pro Industries, Inc.-AGO negotiated a consent judgment in which the responsible party agreed to pay \$40,000 and to perform a supplementary environmental project worth \$16,000, to resolve allegations regarding hazardous waste violations at a Tempe facility.

State v. Dynamic Machine and Fabrication-AGO negotiated a consent judgment for the responsible party to pay \$10,000 to settle allegations regarding used oil violations.

State v. AA Sydcot LLC-AGO negotiated a consent judgment in which a waste facility, agreed to pay \$30,000 to resolve allegations regarding hazardous and solid waste violations at its Yuma facility.

EES IMPACT INFORMATION FOR FY12

- EES collected/saved \$1,907,760 in penalties for the State of Arizona.
- EES obtained recoveries for and saved the State Assurance Fund approximately \$11,756,630.
- EES cost recovery for WQARF \$365,000.

Agency Counsel Section

APPENDIX D

OVERVIEW

The Agency Counsel Section (“ACS”) represents more state agencies, boards, commissions, elected officials and judicial officers on more legal issues than any other section of the Office of the Attorney General. ACS lawyers are the state’s and state agencies’ experts in several areas, including public monies, procurement, contracting and financial issues, probation, and inmate parole. ACS’ responsibilities include negotiating multi-million dollar contracts, assisting in state bonding issues, providing procurement advice, and assisting agencies with licensing and certification issues. Other tasks include prosecuting enforcement actions and defending claims or actions against the agencies. ACS’ successes are measured in its partnerships with the client agencies and the assistance it provides to them in performing their statutory missions in a creative and cost-effective manner, and its ability to effectively handle litigation matters when they arise. However, unlike many other sections of our Office, some of ACS’s greatest successes are invisible, such as the lawsuit that was never filed due to high quality legal advice provided by ACS, or the major contract dispute that never happened, due to the quality of the written agreement drafted by ACS.

ACCOMPLISHMENTS

During FY 2012, ACS attorneys successfully defended several superior court judges in an unusually large number of matters where litigants sought to compel judge testimony. In particular, ACS successfully defended judges who were subpoenaed to testify in attorney disciplinary proceedings, and helped them limit their involvement so as to comply with established legal principles limiting such testimony.

Wolfson v. Concannon-ACS defended the constitutionality of portions of the Arizona Code of Judicial Conduct. A former judicial candidate brought federal proceedings that challenged the constitutionality of political activity restrictions on sitting judges and judicial candidates in this case. On September 29, 2011, ACS obtained a judgment of dismissal of all Mr. Wolfson’s claims. The case is now fully briefed on appeal to the U.S. Court of Appeals for the Ninth Circuit.

Diaz v. Brewer-A major federal proceeding, ACS continued its defense of the Governor and officials of the Department of Administration in a case that challenged a new statutory definition of “dependent” for the purpose of state employee health benefits. The case is now pending before the U.S. Supreme Court on a petition for certiorari.

ACS advised and assisted the Superior Court in Pima County and the administrative offices of the court in responding to an investigation by the U.S. Department of Justice. This concerned the limited English proficiency program for the juvenile division of the Pima County Superior Court.

During 2011, the Arizona Legislature enacted several material changes to public retirement plans administered by the Arizona State Retirement System and the Public Safety Personnel Retirement System. This resulted in several cases challenging the constitutionality of the changes, including *Barnes v. Az. State Retirement System*, (concerning the split of the state employer-employee contribution to the state retirement fund) and *Fields v. Elected Officials Retirement Plan*, (concerning a change to the cost-of-living mechanism for retired judges). ACS attorneys stepped up to defend the constitutionality of the Arizona Legislature's changes.

Arizona Biomedical Research Commission v. State of Arizona et al-ACS successfully defended new legislation that effectively disbanded the *Arizona Biomedical Research Commission* ("ABRC") and assigned its functions to the Department of Health. Before the effective date of the legislation, the ABRC brought a special action in the superior court, seeking an injunction against enforcement of the statute on the theory that the ABRC and all its functions were voter-protected, and that the new statute violated the "single subject" rule of the Arizona Constitution. ACS prevailed in the superior court proceedings after a hearing on July 18, 2011, prevailed again in an expedited special action in the court of appeals, and assisted the Department of Health in assuming the ABRC's roles.

ACS advised and defended several state agencies in major procurement protest proceedings. These included the protest of the Department of Corrections' request for proposals to privatize the delivery of health services to inmates; the protest of the statewide telecommunications contract; the protest of a solicitation for 5000 private prison beds; and the protest of the Department of Corrections' commissary contract award.

ACS defended the Arizona State Retirement System in two cases concerning the calculation of statutorily-required additional contributions to cover the costs of early retirement incentive programs by public employers.

In our role as both adviser and advocate, ACS defended the Board of Executive Clemency against a number of litigation challenges by inmates to the Board's denial of a recommendation for parole.

Several ACS attorneys provided advice and litigation support for the Arizona Department of Housing in a wide range of matters, including protests of the Department of Housing's allocation of low income housing tax credits and the Department of Housing's joint action with Maricopa County to purchase a foreclosed multi-family residential property from the federal government and arrange for a nonprofit corporation to operate it.

ACS advised and defended the Arizona Commerce Authority in a number of disputes concerning the state's film tax credit program.

ACS attorneys handled a number of important intellectual property matters including filing several trademarks and trademark renewals for the Arizona Lottery. A

significant amount of time was also spent assisting the Arizona Lottery in implementing the wholesale restructuring of its entire operation including rule changes to comply with statutory direction.

In a series of cases involving the Arizona Supreme Court's Board of Legal Document Preparers, ACS lawyers successfully completed administrative and judicial proceedings that have an important impact on the protection of the public from unscrupulous or unqualified document preparers. For example, in *Carla Lief vs. Board of Legal Document Preparers*, the plaintiff challenged the Board's authority to discipline a licensed legal document preparer; ACS attorneys vindicated the Board's power to protect the public.

ACS also annually provides requested training for its agency clients. For example, ACS attorneys trained the members of the Commission of Indian Affairs concerning their statutory powers, compliance with the open meetings laws and the effects of the public records laws. We did training on the open meetings and public records laws for the Public Safety Personnel Retirement System Board. ACS also took the opportunity to provide conflict of interest training for procurement officers through teaching seminars for the local chapter of the National Institute of Government Purchasing.

One of the more colorful ACS clients is the Arizona Exposition and State Fair Board. One ACS attorney annually negotiates and documents the myriad contracts needed for the Fair, as well as facility leases and other agreements for the Coliseum's various special events throughout the year. If you enjoyed a show at the fair, you enjoyed the work of ACS.

The Department of Gaming is another high-profile ACS client. During the fiscal year, ACS attorneys assisted the Department of Gaming in a major arbitration with the Pasqua Yaqui tribe, as well as a number of administrative proceedings concerning the certification of vendors and others who wish to do business with the Indian gaming facilities or be employed by them.

ACS attorneys advised and defended the Arizona State Treasurer ("Treasurer") in several cases where plaintiffs sued to challenge Legislative actions in sweeping statutory funds or devoting them to different purposes. We successfully assisted the Treasurer in maintaining a nominal party status in such proceedings.

and Las Cruces), Dallas, and another in Los Angeles. They involve state, federal and local officers working in multi-disciplinary teams to create a chain of inter-related task forces concentrating on anti-money laundering enforcement at the highest levels. The Alliance also supports two bulk cash interdiction operations in Arizona to intercept drug money on the highways, and is working on another in New Mexico.

The Alliance also distributes money transmitter transaction data to law enforcement pursuant to memoranda of understanding (MOUs). The Alliance now has MOUs with over 70 federal, state, and local law enforcement agencies all over the country and in Mexico and over 1,000 users of its Internet data site. Money transmitter transaction data is provided to member agencies through a secure internet connection.

The Alliance unites law enforcement anti-money laundering efforts through training and annual conferences held throughout the Southwest and in Mexico. In FY 2012 it trained 3,592 students for a total of 17,503 hours in a total of 66 events, using 7,182 Alliance trainer hours.

V. Border Crimes Enforcement Section (BCS):

Kimberly Ortiz, Section Chief

Border Crimes Enforcement Section (BCS) fights border-related crime by focusing its efforts against the Mexican cartels and U.S.-based transportation cells involved in the smuggling of drugs, weapons, money and humans across Arizona's southern border. BCS also specializes in complex financial prosecutions, including mortgage fraud, securities fraud, and public corruption cases, along with identity theft, social security fraud, AHCCCS fraud, manufacturing of fraudulent credit cards, identity theft, and many other economic crimes. BCS also emphasizes prosecution of elder financial exploitation crimes.

i. Overview of Accomplishments:

BCS charged 317 criminal defendants with felony offenses including fraudulent schemes and artifices, illegal enterprise, participating in criminal syndicates, money laundering, violent crimes, and drug cases, many of which stemmed from wire interceptions. The section was involved in six wire interception investigations which resulted in ten indictments charging 208 defendants. The cases of fraudulent schemes involved losses to victims in the millions of dollars. The section assisted approximately 488 victims and obtained restitution of approximately \$3,168,031.36.

ii. Major Cases:

Operation Portera: The section supported a wire interception investigation into members of a criminal enterprise working on behalf of the Mexico-based Sinaloa Cartel which resulted in the indictment of 44 people on charges related to drug trafficking, human smuggling and money laundering. This group was responsible for coordinating importation of multi-ton quantities of marijuana and illegal aliens from Mexico into the United States through the San Miguel Gate area and the smuggling of bulk drug proceeds and assault weapons back into Mexico. Law enforcement intelligence linked over 150 drug seizures since May 2008 totaling approximately 28,000 pounds of marijuana to the enterprise. Since September, 2011, 27 defendants have been found guilty and 12 were sentenced to prison. On July 9, 2012, a lead defendant with no prior criminal record was sentenced to eight years in prison.

Operation Triple Threat: From January, 2011 to September, 2011, the section supported a DEA wire interception investigation into a drug trafficking organization responsible for smuggling approximately 1,300 kilograms of cocaine valued at \$30,000,000 into the U.S. through the Nogales Port of Entry. The organization used three separate vehicles with hidden compartments to smuggle approximately 35 kilograms of cocaine per day, three times per week, and used these same vehicles to smuggle large amounts of U.S. currency back into Mexico. Once in the United States, the cocaine was stored at various Phoenix area stash houses. On September 21, 2011, simultaneous search and arrest warrants were executed on suspected members of the drug trafficking organization and their stash houses. Police seized approximately 37 kilograms of cocaine and \$262,636.00 in U.S. currency. Of the 23 defendants indicted, 10 have thus far been found guilty. Prosecution is on-going.





State v. Carlos Antonio Arredondo-Rosas and Gabriel Lopez-Iriarte: On January 27, 2012, a Nogales Police Department officer patrolling I-19 in Santa Cruz County who had been trained by the Attorney General-funded Southern Border Alliance stopped a vehicle traveling southbound for a traffic window violation. Based on various factors requested written permission to search the vehicle from both occupants, which was granted. Inside the vehicle, police found three boxes of laundry detergent that had been opened and re-sealed with glue. The investigating officers found U.S. currency totaling \$399,785.00 inside the boxes. Both suspects admitted they were transporting “dirty money and being paid by individuals in Mexico to pick the money up in the United States and transport it back to Mexico. In June, 2012, both defendants were sentenced to three years in prison.

State v. Veronica Alegria Rodriguez: The defendant was arrested at the Nogales Port of Entry for transporting for sale over 12 kilograms of cocaine valued at \$250,000 in her vehicle after a Customs and Border Protection (CBP) drug detection dog alerted on her vehicle. CBP officers removed the front bumper and found metal boxes welded to the frame rails of defendant’s vehicle containing cocaine. A jury convicted the defendant of the charged offense. The defendant absconded and faces up to 12.5 years in prison upon her apprehension.



State v. Juan Aguayo: In January, 2012, the section obtained a conviction after a jury trial against Juan Aguayo for transporting 4,500 pounds of marijuana valued at \$2.2 million dollars concealed inside his cattle trailer. After substantial pretrial litigation, including disclosure motions and efforts to present a duress defense, the defendant was convicted at trial. He absconded and will face mandatory prison up to 12.5 years when he is arrested.

State v. Rascon-Ramirez et. al: The section supported a wire interception investigation resulting in the arrests of 21 of 28 suspected members of a marijuana trafficking organization responsible for smuggling over 30,000 pounds of marijuana with an estimated value between \$9 and \$15 million. This criminal enterprise used various smuggling methods, including backpackers and drive-thru vehicles, to transport illegal drugs. This coordinated take-down by law enforcement impacted the cartel plaza bosses in Naco, Mexico and dismantled an organized drug transportation cell in Southern Arizona. Prosecution is on-going with several defendants scheduled to enter changes of plea.



State v. Jose Antonio Morgan et al. In January, 2012, after a wire interception investigation supported by the section, police executed simultaneous search and arrest warrants on suspected members of the drug trafficking organization and their stash houses. This criminal enterprise smuggled large amounts of marijuana and cocaine into the U.S. through the Nogales Port of Entry using tractor trailer dump trucks with scrap metal as cover, vehicles with hidden compartments, and backpackers, then smuggled large amounts of U.S. currency back into Mexico. Once in the U.S., the marijuana and cocaine was stored at various stash houses in the Nogales, Rio Rico, Tucson, and Phoenix. The organization was responsible for smuggling over 19.1 kilograms of cocaine and 2,952 pounds of marijuana into the U.S. with a street value estimated to be over \$2.1 million. Of the 15 defendants indicted, 14 were arrested. Prosecution is on-going.

State v. Hector Fuentes et al AKA: Metal Management: Sims Metal Management (SMM) is a multi-national metals and electronics recycling company. SMM buys obsolete metal from customers who generate metal waste. SMM then processes ferrous metal for resale via a variety of methods. After numerous complaints against SMM, TPD conducted an undercover operation involving SMM, with an undercover officer delivering cars, each with more obvious indicia of being stolen. The sting culminated in the undercover agent delivering a car that the undercover agent outright told SMM employees was stolen. The investigation showed that SMM employees knowingly accepted and crushed each car delivered by the officer, despite the indicia of theft and stolen vehicle identification numbers (VINs). Tucson Police Department, Department of Public Safety, Arizona Department of Transportation and Phoenix Police Department executed a search warrant on August 23, 2011 at SMM and discovered an additional five stolen vehicles and seizing 50 boxes of titles and sales tickets. In total, 17 stolen vehicles were processed by SMM. In settlement of the criminal case, Sims provided \$150,000 to the Arizona Auto Theft Task Force to fund a two-year statewide program to implement training and accountable procedures to prevent receiving of stolen property by heavy metal crushers and recyclers.

State v. Gary Kent Allen: Allen operated "Christian Credit Consultants" which advertised in local community churches as a debt-management business promising to help "negotiate your debt and pay off your debt at substantially reduced values." The Defendant made no attempt either to pay the victims' debts or to negotiate debt on their behalf. Instead, he defrauded known victims of over \$267,000.00. At sentencing after guilty pleas, the State emphasized the Defendant's abuse of his religious affiliation and his manipulation of his victims' religious fellowship, and that many victims still were struggling with the devastating financial consequences resulting from the fraud. Despite the Defendant's efforts to mitigate his conduct, the trial court followed the State's recommendation and sentenced Allen to a total of 13.5 years: an aggravated 12.5 year term on the first Fraud count to be followed by a consecutive one-year jail sentence and probation on the second fraud count.

State v. Wendy Wren & Thomas Collier: The defendants used their "Arizona on EBay" business to defraud over 100 victims. They accepted merchandise from clients to post on EBay and subsequently refused to either return the items or remit payment to the clients for items sold. Collier pled guilty to Attempted Fraudulent Schemes and was sentenced to five years probation. Wren, who led and managed the fraudulent activity, pled guilty to Fraudulent Schemes and Theft. She was sentenced to three and a half years in prison, followed by seven years of probation. The defendants were ordered to pay nearly \$75,000.00 in restitution. In accordance with the terms of the plea agreement, Wren paid \$35,000.00 of that restitution prior to sentencing.

State v. Joseph J. Riley: Defendant Joseph H. Riley, Jr. perpetrated a scheme to defraud multiple beneficiaries of the estate of Mary A. Riley by using his position as personal representative of the estate to withdraw more than \$100,000 from multiple bank accounts of entities controlled by the estate. After a guilty plea, at sentencing the Defendant was ordered: to pay \$114,750.00 in restitution, to serve 104 days in jail as 52 consecutive weekends; disbarred from the practice of law; and revoked from membership in the national fraternity of Elks.

State v. Phillips et al: Four defendants operated a criminal enterprise organized specifically to victimize businesses in Pima, Pinal, and Maricopa Counties. The defendants stole merchandise including alcohol and cigarettes from various Circle K stores and then re-sold the stolen property on the black market. Knowing the Circle K non-confrontation policy, Defendants would walk into stores during normal business hours, go directly behind the counter or into the storage room, and

fill trashcans with cartons of cigarettes and other merchandise. Defendants would then take the merchandise to an apartment where a co-defendant Lee illegally operated a “grocery store.” The total amount stolen was approximately \$43,771.42. This case was prosecuted by the section because of its statewide jurisdiction authority and the nuisance these defendants presented to multiple counties. The Defendants entered guilty pleas and were each sentenced to 2.5 years in prison.

State v. Palafox et al: In April, 2012, DPS stopped a vehicle on I-10 with approximately 130 forged credit cards and fake identifications. The fake identifications had the defendants’ photos, but had false names matching the names on the forged credit cards. The defendants admitted using the cards in Arizona for purchasing items to take back to Mexico. All three defendants were charged with Conspiracy, Fraud, Money Laundering, Illegal Control of an Enterprise, Forgery of a Credit Card, Taking Identity of Another, and Unlawful Possession of a Scanning Devise. Each defendant was in the U.S. on a temporary visa. Prosecution is on-going.

State v. Kristella Brandenburg: The defendant was convicted in March, 2012 after a jury trial on charges related to financial exploitation of vulnerable adults. The victims were a vulnerable, elderly couple. At the time of the offense, the husband was 86 and suffered from dementia and the wife was 88. The State alleged that the Defendant, while ostensibly “assisting” her vulnerable elderly neighbors with some paperwork related to their long-term care insurance, instead paid two of her bills over the phone and purchased three lap tops with the victims’ credit card. Unfortunately, the wife passed away while the case was pending and the husband was unavailable as a witness as he had no recollection of the events. At trial, with no victims available to contradict her, the defendant testified that she had permission of the victims to use their credit card to pay her personal bills and that the three laptops were gifts from the victims. Despite the evidentiary obstacles, the jury returned a guilty verdict on Fraudulent Schemes and Artifices and the judge sentenced her to four years probation, 30 days in jail and 1,000 hours of community service. Her nursing license was revoked.

State v. Sergio Cordova: The Defendant was originally employed by a 95 year-old vulnerable adult at her residence as a landscaper. He insinuated himself into her good graces and began to walk her three dogs and run errands. Cordova then brought in “third-party unlicensed caregivers” to control the victim’s residence. Many of these “caretakers” were his relatives, including his own wife, to assist the victim with accounting and bill pay. He attempted to isolate the victim from her family and threatened professional certified caregivers. Cordova took advantage of the victim’s reduced mental capabilities and embezzled over \$100,000.00. Cordova had admitted receiving \$7,000 in “gifts,” in the form of \$5,000.00 and \$10,000.00 checks written to him from the victim between January, 2010 and December, 2010. The victim has been evaluated and determined to have dementia and a licensed fiduciary and guardian were appointed. The defendant pleaded guilty to Attempted Financial Exploitation of Vulnerable Adult and was sentenced to probation with 312 days of jail.

State v. Jodie Burch: Hospital staff at Tucson Medical Center Tucson contacted Tucson Police Department to report an incident of suspected child abuse. The child was admitted in an altered state resembling a coma and was unresponsive. Medical staff suspected that the child’s mother had forced the child to ingest a dangerous drug which would account for her presented symptoms. After lengthy proceedings to evaluating the defendant’s mental status, she entered two guilty pleas to child abuse. She was sentenced to 7 years in prison followed by a consecutive term of supervised probation.

VI. Drug & Racketeering Enforcement Section (DRG):

Paula Alleman, Section Chief

The DRG combats drug trafficking and money laundering organizations operating within Arizona. Additionally, the attorneys in this section provide legal advice and training on a statewide basis on issues involving search and seizure, research, Arizona’s drug laws, prosecuting cases involving children found at drug-related scenes, and courtroom testimony.

i. **Overview of Accomplishments:**

DRG charged 517 criminal defendants. DRG was involved in 12 wire interception investigations which resulted in 17 indictments, charging 166 defendants. DRG obtained restitution of approximately \$6,727.00 and fines in the amount of \$1,413,767.

ii. **Major Cases:**

State v. Alfonso Lopez: The section obtained a conviction after a jury trial against Alfonso Lopez on August 2, 2011 on the charges of Illegally Conducting an Enterprise and Transportation of Marijuana for Sale. The defendant transported 200 pounds of marijuana in a vehicle he was driving. He led Department of Public Safety officers on a high speed chase when they attempted to stop him. On October 14, 2011, the defendant was sentenced to 19 years in the Department of Corrections.

State v. Fernando Torres-Aguirre: The section obtained a conviction after a jury trial in Maricopa County against Fernando Torres-Aguirre on March 19, 2012, on the charges of Conspiracy to Possess and Transport Marijuana and Cocaine, Illegally Conducting an Enterprise and two counts of Use of a Communication Device during the Commission of a Drug Offense. The defendant was a broker for a Mexico-based drug trafficking organization. The organization was believed to be responsible for the importation of thousands of pounds of marijuana and hundreds of kilograms of cocaine. The case was investigated by the Phoenix Police Department. The defendant was sentenced on May 25, 2012 to 3.5 years in prison.

State v. Hilario Aguirre: Hilario Aguirre was convicted by a jury for his role as a stash house manager for a Mexico-based drug trafficking organization. The defendant owned property that was being utilized to store 5,044 pounds of marijuana. The defendant was convicted on March 29, 2012 of Conspiracy to Possess and Transport Marijuana, Illegally Conducting an Enterprise and Possession of Marijuana for Sale. Pinal County Narcotics Taskforce members determined that the organization with which the defendant worked was responsible for the importation of tens of thousands of pounds of marijuana, more than a hundred pounds of heroin and hundreds of pounds of cocaine. On April 26, 2012, the defendant was sentenced to twenty years in prison.



State v. Adrian Lerma Ayon, Cesar Lerma Quezada, Francisco Lerma Quezada, and Cecilio Lerma Ayon: The defendants were involved in a family-run drug trafficking organization operating in Scottsdale and Tempe. The organization almost exclusively sold heroin. Members of the family living in Mexico were the primary source of supply for the organization, although there were other individuals that they obtained heroin from as well. Cecilio Lerma Ayon, who was incarcerated in the Department of Corrections (DOC) at the time, contacted Adrian Lerma Ayon to obtain an ounce of heroin while in DOC. That heroin was successfully smuggled into the DOC. Adrian Lerma Ayon, Cesar Lerma Quezada and Francisco Lerma Quezada each pled guilty to three separate felonies for Possession of Narcotic Drugs for Sale. In May and June 2012, each defendant was sentenced to four years in the DOC, and each will be on supervised probation when they are released from DOC. Cecilio Lerma Ayon had several felony convictions for selling narcotic drugs. He entered a plea which requires him to serve six years in the DOC consecutive to the term he is currently serving. As a result of this plea, he will not be released from DOC until the year 2022.

State v. Manuel Velasquez-Alvarez: After a guilty plea, Manuel Velasquez-Alvarez was sentenced on June 19, 2012 to 3.5 years in the Department of Corrections for Attempted Transportation of a Narcotic Drug for Sale. The defendant was transporting 7.5 pounds of powder cocaine and almost 20 lbs of heroin in a hidden compartment in a van he was driving.

Operation Pipeline Express Investigation: The section assisted with Operation Pipeline Express, a wire interception investigation conducted by federal, state and local law enforcement agencies. The 17-month multi-agency investigation was responsible for dismantling a narcotics trafficking organization suspected of smuggling more than \$33 million dollars worth of drugs a month through Arizona's western desert. The ring used backpackers and vehicles to move loads of marijuana, cocaine and heroin from the Arizona-Mexico border to a network of stash houses in the Phoenix area. After arriving in Phoenix, the contraband was sold to distributors across the country. The probe that evolved into Operation Pipeline Express began in May 2010 and resulted in the seizure of more than 60,000 pounds of marijuana, in excess of 200 pounds of cocaine, approximately 160 pounds of heroin, more than \$750,000 in cash and nearly 110 weapons including multiple assault rifles. In October 2011, the investigation resulted in the indictment of 56 individuals ranging from organizational "bosses" to stash house guards to load drivers. Eighteen of the people indicted have pled guilty and been sentenced.



This photo shows a portion of approximately 6,000 lbs of marijuana seized in one case charged by DRG.

State v. Harold Stuart: Harold Stuart was convicted by a jury on April 30, 2012 for Illegally Conducting an Enterprise and Money Laundering. The defendant transported \$170,879.21 in US currency in the sleeper berth of his semi truck. The currency was wrapped in yellow tape inside of a duffle bag. A narcotics canine alerted to the money. On May 31, 2012, the defendant was sentenced to three years of supervised probation and thirty days in jail.

Operation Crank Call: The section assisted with Operation Crank Call, a joint wire interception investigation conducted by Tempe Police Department and the Drug Enforcement Administration. The investigation resulted in the dismantling of several drug trafficking organizations which trafficked methamphetamine and cocaine. The investigation resulted in the seizure of an estimated \$12 million dollars worth of illegal drugs and another \$7.8 million in cash. As a result of the investigation, 35 people were indicted most of which have already been convicted and have been sentenced. One significant participant in the organization, Alejandro Castro-Vega, pled guilty and was sentenced to the maximum of 10 years in prison.

This photo shows cash in the sum of \$800,000.00 which was seized in one of the cases charged by DRG.



This photo shows 34 lbs of methamphetamine which was seized in one of the cases charged by DRG.

VII. Financial Remedies Section (FRS):

Aaron Ludwig, Section Chief

FRS prosecuted lawsuits against 2,283 defendants (individuals, businesses, and property), charging them with racketeering offenses giving rise to the remedy of forfeiture. This was a 68% increase over the number of defendants in FY11. Through forfeiture, FRS obtained \$14,235,787.00 (52% more than in FY11) for the benefit of crime victims, law enforcement agencies, and the State of Arizona. FRS processed distributions to these beneficiaries and paid them a total of \$5,378,096.98. Also, FRS provided to law enforcement agents statewide not only advice and training on racketeering and forfeiture, but also invaluable assistance in obtaining 54 seizure warrants.

i. Overview of Accomplishments:

FRS prosecuted lawsuits against 2,283 defendants (individuals, businesses, and property), charging them with racketeering offenses giving rise to the remedy of forfeiture. This was a 68% increase over the number of defendants in FY11. Through forfeiture, FRS obtained \$17,171,120.99 (84% more than in FY11) for the benefit of crime victims, law enforcement agencies, and the State of Arizona. FRS processed distributions to these beneficiaries and paid them a total of \$5,378,096.98. Also, FRS provided to law enforcement agents statewide not only advice and training on racketeering and forfeiture, but also invaluable assistance in obtaining 54 seizure warrants.

ii. Major Cases:

De La Rosa - Déjà Vu: This was a multi-agency case that resulted in the seizure of over 1,600 pounds of marijuana, \$386,000 in US currency, 25 vehicles, and 12 weapons. A total of four undocumented aliens were turned over to ICE. The investigation resulted in the indictment of 21 subjects on 20 drug related charges. This case involves substitute assets valued at approximately \$2.2 million. An application for an order of forfeiture has been filed with the court and a distribution in the amount of \$391,837.53 has been completed. Task Force agents from SIS/FRU conducted and directed large portions of this investigation and were solely responsible for the subsequent asset forfeiture portion of the investigation.

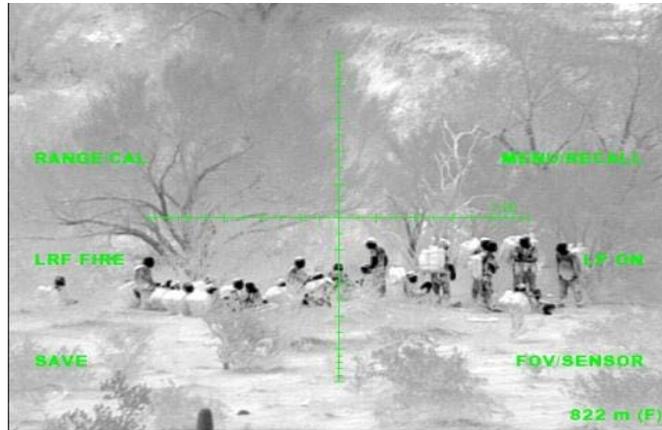


Duong: This Phoenix PD case involved the embezzlement of approximately \$960,000 from local retailer Razmataz. Upon application by FRS, the Court entered an order of forfeiture of all the seized property, which is now being handled by FRS Property Management. The out-of-state realty is being marketed for sale and some seized weapons will be sold through explicit ATF approval. A check in the amount of \$412,513.77 was mailed to counsel for victims.

State v. Lemke: Convicted felon Kimberly Lemke paid \$361,184.76 in restitution on April 30, 2012, which had been ordered by the Court in 2007 when she was convicted of two felony charges of theft for bilking three elderly victims out of \$370,949.30. Lemke's husband, Gerald Phillips, Jr., won \$5.7 million at Casino Arizona on April 13, 2012. On April 23, 2012, Lemke made a meager payment of \$4,824.00, causing the AGO to doubt that she would voluntarily pay the entire balance of \$361,184.76. FRS recorded a Racketeering-Restitution Lien with the Maricopa County Recorder and the Secretary of State then placed a lien on the casino winnings in the amount owed by Lemke. The lien was served upon Lemke on April 27, 2012. Shortly thereafter, Lemke paid the remaining restitution owed in full. This was an excellent example of our Criminal Sections working with each other to ensure the funds owed to the victims were secured.

Angulo: This is a Phoenix PD drug trafficking case in which approximately \$1.2 million in cash and bank accounts were seized. Also seized were a "Series 6" liquor license, jewelry, motor vehicles, and miscellaneous assets including weapons to be destroyed. An order of forfeiture was entered and the property sold. The liquor license was sold for \$90,000.00; the vehicles were sold for \$65,488.00; and, the sale of real property in Tonopah has been completed. A final distribution in the amount of \$1,358,025.47 is in process.

Howell: A commercial motor vehicle transporting cargo through Arizona was stopped by patrol officers for a civil traffic violation. During the course of the stop, officers were provided with a faulty invoice, fictitious shipping paper, and an inconsistent log book. Upon further examination of the semi-trailer and its cargo, officers came to discover several cardboard boxes packed full with bulk U.S. currency, to which a drug canine alerted, indicating trace amounts of narcotics. FRS obtained an order of forfeiture for both the commercial vehicle and the currency. The total proceeds for the case in the amount of \$1,746,709.38 have been distributed to the participating law enforcement agencies.



This photo was taken moments before the members of the HIDTA Meth Task Force, which includes SIS Special Agents, apprehended several drug smugglers from Mexico near Verkol Valley, Arizona. One smuggler was carrying a fully loaded AK-47. Approximately, 900 pounds of illegal drugs were seized and all subjects were arrested. SIS Special Agents are members of this Task Force and participated in this operation.

Hillyer: This is a Gang Task Force case involving gang members who dealt drugs and ran a check counterfeiting operation. \$27,000 in U.S. currency, 21 cars, a house (that was used as a base for gang activity, weapons, and drug storage), numerous weapons, and miscellaneous property was seized. FRS sold the house and netted \$36,045. The vehicles netted \$50,722 and the personal property netted \$11,241. A distribution in the amount of \$129,920.74 has been completed.

Ronaldo Turner: DPS stopped the commercial motor vehicle (tractor and trailer) driven by Turner for a civil traffic violation. Turner denied consent to search but agreed to allow an exterior sniff of the tractor and trailer by a drug canine that alerted to the passenger side door of the tractor. The ensuing probable cause search revealed a brown cardboard box to which the canine alerted, indicating traces of narcotics inside of it. The box contained \$500,181.00 in U.S. currency. An order of forfeiture was entered and a final distribution in the amount of \$523,009.42 has been completed.



Zazueta: Since February 2011, Phoenix DEA and Tempe PD had been investigating a drug trafficking organization involving the distribution of drugs, including marijuana. The investigation revealed that certain individuals residing in Phoenix were employed in the business of smuggling U.S. currency (proceeds from narcotic sales) to Mexico. On February 11, 2011, a court order was obtained authorizing the interceptions of wire communications of an individual known as Carlos Ruiz-Cabada. Pursuant to intercepted calls, agents learned that Ruiz-Cabada was involved in the distribution of multi-thousand pound quantities of marijuana in the Phoenix area. Ruiz-Cabada received hundreds of thousands of dollars in U.S. currency from the marijuana sales. The currency was then given to couriers for transportation into Mexico. One of the identified couriers was identified as Ismael Zazueta. On February 26, 2011, an order was issued allowing GPS tracking of Zazueta's cell phone. Based upon continued surveillance, officers and agents determined that Zazueta was working for Ruiz-Cabada, packaging and transporting large amounts of currency. On April 8, 2011, agents from U.S. DEA Police Strike Force Group II and detectives from Tempe Police Department executed a search warrant at Ismael Zazueta's residence. \$1,029,219.00 in US currency and multiple firearms were seized. An order of forfeiture was entered and a final distribution of the forfeited currency has been completed.

850 East 20th Street: On August 25, 2011, the Arizona Health Care Cost Containment System (AHCCCS) received a complaint from a former neighbor of Anay Adriana Garcia (nee Becerra) and Fernando Tomas Garcia. The complainant stated that the couple was engaged in fraudulent receipt of benefits. The Douglas Police Department, the Drug Enforcement Administration and the Attorney General's Special Investigation Section began a joint investigation which revealed that the Garcia's were living far beyond their reported income and had in fact made fraudulent application for public assistance benefits. They had purchased and extensively remodeled real property and were seen driving late model vehicles registered in their names without liens. Agents obtained search and arrest warrants. They received inculpatory statements from the Garcia' as to the fraud, inculpatory statements from Mrs. Garcia about the laundering of drug sale proceeds, and statements from an employee of Mr. Garcia about the laundering of money through the purchase and resale of vehicles. Agents made constructive seizure of two houses and actual seizure of nine vehicles.

Troy Anthony George: This is a DPS case involving a traffic stop of a rented vehicle for a traffic violation. Upon consensual search of the vehicle, the officer located money packaged in metal cans. After a canine alerted to the cans, more than \$200K was located in them. The driver made inconsistent statements regarding the ownership of the currency and later admitted to being unemployed for the previous three years. An order of forfeiture was entered and a final distribution in the amount of \$204,461.67 has been completed.

Madrid et al: The Pima County Sheriff's Office (PCSO) and Immigration Customs Enforcement (ICE) initiated an investigation into the Carlos Madrid Drug Trafficking Organization (Madrid DTO) in November 2010. Agents received a tip that, by using recreational vehicles (RV) equipped with hidden compartments; the Madrid DTO was receiving, packaging, and transporting hundreds of pounds of marijuana from Tucson to Fayetteville, North Carolina. In February 2011, DEA and PCSO detectives attempted to follow the RV back to North Carolina to identify the recipient of the marijuana. On November 13, 2011, agents learned that the Madrid DTO would be moving 500 pounds of marijuana to the warehouse for loading into a new RV and transporting to Fayetteville. Carlos Madrid and other members of his organization were observed loading 25 bales of marijuana into the hidden compartment of the RV. The RV was then driven from the warehouse by Rebecca Colmenares. A traffic stop was initiated by patrol units near Interstate 10 and Ajo Way, at which time Colmenares provided a false identification of Maria Camacho. Officers searched the RV and located 522 pounds of marijuana. Search warrants of Carlos Madrid's residence were subsequently obtained and agents located \$23,841.00 in US currency, an extensive amount of jewelry and watches, and 35 weapons and body armor.



These photos show approximately 7,000 pounds of marijuana seized by agents.

Gabriel Lopez-Iriarte: On January 27, 2012, Nogales Police Department officers initiated a stop on a 2004 Chevrolet Impala traveling south on Interstate 10 for a traffic violation. The driver, Gabriel Lopez-Iriarte, stated that he and his passenger Carlos Antonio Arredondo-Rosas were returning to Mexico from Tucson where they had been looking for a used car to buy. Both men exhibited extremely nervous behavior and provided conflicting stories regarding when they had crossed the border and the length of their stay in the U.S. Officers requested and received consent to search the vehicle. A canine was deployed and alerted to the back seat and the trunk of the vehicle. Inside the trunk, officers discovered \$398,425.00 in U.S. currency hidden inside detergent boxes. Lopez-Iriarte and Arredondo-Rosas were arrested for money laundering.

Alberto Gonzalez-Carrero: On February 19, 2012, Alberto Gonzalez-Carrero was driving his 2008 Nissan Versa across the border into Mexico when he was selected for an outbound inspection by U.S. Customs & Border Protection agents. During the inspection, agents located a hidden compartment containing six bundles of U.S. currency totaling \$39,790.00. Mr. Gonzalez-Carrero stated that he had no knowledge of the hidden compartment or the cash and that the currency was not his. He signed a Disclaimer of Ownership and was released.

Teresa Celaya-Duarte: On March 31, 2012, Teresa Celaya-Duarte was driving a 2003 Ford Focus southbound on Interstate 19, preparing to cross the border into Mexico. The vehicle was selected for inspection by Department of Homeland Security agents. Celaya-Duarte denied possession of guns, ammunition, or funds in excess of \$10,000.00. During the vehicle inspection, agents noted recent tampering of screws to the dashboard and bolts to the speedometer. A canine was summoned and alerted to the dashboard, where seven bundles of currency totaling \$300,000.00 were discovered. Celaya-Duarte stated that the vehicle does not belong to her, that she was unaware of the currency in the car, and that it seemed "logical" that the money was from an illegal source. She signed a Disclaimer of Ownership and was released.

VIII. Fraud & Special Prosecution's Section (FSP):

Michael Benchoff, Section Chief

FSP prosecutes white collar crime and fraud by individuals and organized criminal groups and organizations. The section typically prosecutes criminal fraud in areas such as securities, insurance, real estate, mortgage, banking, taxes, government, telemarketing, computers, welfare and other areas of financial activity. The section also focuses on gang related crimes, and handles conflict matters from other counties.

i. Overview of Accomplishments:

FSP opened 704 cases and resolved 208 cases. FSP charged 348 criminal defendants with felony offenses including fraudulent schemes and artifices, illegal enterprise, participating in criminal

syndicates, money laundering and numerous violent crimes. The cases of fraudulent schemes involved losses to victims in the millions of dollars. The section assisted over 207,819 victims and obtained restitution in excess of \$13,733,933. In addition, the section handled 31 foreign prosecutions, which are extraditions or prosecutions of Mexican citizens to be tried in Mexico for offenses committed in Arizona.

ii. **Major Cases:**

Operation Taxpayer Justice: Phoenix Police Department and United States Department of Agriculture-Office of Inspector General ran a successful undercover operation that found numerous individuals who were perpetrating a fraud against the Supplemental Nutrition Assistance Program (SNAP fka Food Stamps). Generally these were store owners and store clerks that were buying benefits at roughly .50 cents on the dollar which is a fraud against the program and unlawful use of food stamps. The most egregious of the Defendants were sentenced to jail, all were placed on probation and ordered to pay restitution of \$252,491.87 to the SNAP and assessed fines in the sum of \$8,922.00.

State v. Edward Purvis: This case involved an affinity fraud/ponzi scheme wherein the Defendant promised several victims a huge monthly return on their investment. Most of the victims were members of the two churches that the Defendant attended. On January 17, 2012, the defendant pled guilty to Fraudulent Schemes and Artifices and to Illegal Control of an Enterprise and was sentenced to five years prison, followed by seven years of supervised probation and ordered to pay restitution to the victims in the sum of \$3,818,923.00.

State v. Mohammad Reza-Amin: Mohammad Reza Amin-Sobhani (aka Robert Amini), a former board member of the Al-Mahdi Benevolent Islamic Foundation of Arizona (AMBIFA) utilized his standing in AMBIFA to convince other organization members to invest money into an entity he owned called Expert Development & Investment (EDI). Defendant allegedly promised low-risk investment opportunities with high interest returns, falsely portraying EDI to be a lucrative, multi-million dollar company involved in high-profit ventures like commercial real estate and luxury aircraft sales. Subsequent investigation, however, has revealed Defendant's claims of business success to be false. Amin-Sobhani provided his victims with apparently legitimate promissory notes pursuant to his schemes and to deflect victim concern about Amin-Sobhani's ability to follow through on his promised investment returns. The Defendant pled guilty to two counts of Fraudulent Schemes and Artifices and one count of Securities Fraud and was sentenced to 14.5 years in prison, followed by five years of supervised probation. Additionally, Amin-Sobhani was ordered to pay \$3,297,663.44 in restitution to the victims of his crimes.

State v. James Eugene Burnes: Burnes was a career military officer, having served thirty seven years in the Army National Guard. After retirement, he accepted a position with a state agency. While employed as the Resource Manager with the Arizona Department of Emergency and Military Affairs (DEMA), Burnes diverted for his personal use over \$2 million from accounts in the name of the Arizona National Guard Family Emergency Fund and the Arizona National Guard Emergency Relief Fund. At sentencing, he admitted to having a gambling addiction and all of the embezzled funds were spent gambling. The Arizona National Guard Emergency Relief Fund and Arizona National Guard Family Assistance Fund are the Arizona Army National Guard's emergency financial assistance organizations dedicated to "Helping the Arizona National Guard take care of its own." Both funds are private non-profit 501(c)(3) charitable organizations. These funds assist needy service members and the families with rent and mortgage payments; food and utilities; essential transportation and vehicle repair; emergency travel expenses; medical expenses; and personal needs as necessary. Funding for these two charities comes from corporate and individual donations.

On March 28, 2012, Burnes was sentenced to 3.5 years in prison for Theft, followed by seven years probation for Fraudulent Schemes and Artifices. He was also ordered to pay total restitution of \$2,095,324.92 to the DEMA/Cooperative Programs; the Arizona Emergency Relief Fund; and the Arizona National Guard Relief Fund.

State v. Scott Helmer: Scott Helmer, in his capacity as a licensed insurance broker, diverted commercial policy premiums for eleven companies. Scott Helmer was sentenced on September 1, 2011 to five years of probation for Fraudulent Schemes and Artifices, followed by three years probation for Theft. Helmer was also ordered to pay restitution of \$615,345.91 to ten victims and a fine of \$18,400.00.



State v. Michael Scott Swedo: Between November 2010 and April 2011, Swedo submitted hundreds of phony insurance claims for windshield replacements. Swedo obtained old glass repair work orders that contained the information necessary to file fraudulent windshield replacement claims by posing over the phone as both the insured and an employee of a Cipola Auto Glass, a fictitious company created by Swedo. Swedo stole over \$83,000.00 from 16 different insurance companies. On January 4, 2012, Swedo was sentenced to five years in prison for Fraudulent Schemes and Artifices and ordered to pay a \$9,200.00 fine and \$83,356.00 in restitution.

State v. Victor Paul Vasquez: Between September 8, 2011 and September 30, 2011 Vasquez represented himself as an attorney in order to negotiate with insurance companies on behalf of Mexican citizens involved in automobile accidents that occurred in the U.S. Vasquez is not an attorney. In August 2008 the Maricopa County Superior Court issued a Cease and Desist Order and Judgment ordered Vasquez to stop engaging in the unauthorized practice of law, specifically, negotiating legal rights for a specific person or advertising in any way that represents he is a provider of "legal services." Vasquez negotiated with State Farm Insurance Company in regard to an automobile accident involving Guadalupe Medrano. Vasquez sent State Farm an attorney fee agreement form signed by Medrano authorizing him to act as her attorney in regard to settling her insurance claim. In his correspondence with State Farm, Vasquez identified himself as "Victor Vasquez, Esq." State Farm issued a \$12,500 check payable to Medrano to settle her claim and mailed it to Vasquez. Vasquez cashed the check on behalf of Medrano; however, Medrano did not receive any of these funds. As a result of the accident Medrano incurred \$8,000 in medical expenses which were to be paid from the \$12,500 check and remain unpaid. Vasquez was sentenced to 3.5 years in prison for Forgery followed by five years probation for Theft. He was also ordered to pay \$18,215.04 in restitution to Medrano, her medical providers and to the Arizona Department of Insurance for investigative costs.



State v. Jeffery Ray Capshaw: Capshaw was indicted for Insurance Fraud, Theft and Forgery for collecting payments for insurance premiums after his insurance license had been revoked and providing forged certificates of insurance. Capshaw's insurance license was revoked by the Arizona Department of Insurance on March 8, 2011. Between April 10, 2011 and June 14, 2011, after Capshaw lost his license, he continued to collect premiums from small business owners but did not forward the funds to the insurance companies; therefore, no policies were ever issued. In one instance, when asked by the business owner for a copy of their policy, Capshaw created a forged Certificate of Insurance. Capshaw was sentenced to three years in prison for Forgery and ordered to pay total restitution of \$29,838.99 to his victims.

State v. Tom Sale: Sale was indicted by the AGO in 2002 for Fraud Schemes and Theft. Sale advertised coins for sale on E-Bay. Buyers across the U.S. sent Sale money for the coins, but Sale either sent coins which were not the coins advertised or sent no merchandise, and pocketed the buyers' money. Sale was sentenced to six months in jail, five years probation, and ordered to pay \$97,931.80 in restitution to 18 victims.

State v. Raymond Merolle: Merolle was indicted on March 17, 2009 for the crimes of Theft, Altering a Serial or Identification Number of a Motor Vehicle or a Major Component Part and Attempted Fraudulent Schemes and Artifices. Subsequently, the case was dismissed with prejudice by the court. The State appealed the court's dismissal which was overturned by the Court of Appeals and the case was remanded to the trial court. On March 13, 2012, Merolle was sentenced to 4.5 years in prison for Theft and ordered to pay \$6,001.50 in restitution to American Family Insurance.

State v. Lacy/Beresford: Lacy and Beresford were indicted on July 14, 2010, for the crimes of Theft, Forgery, Conspiracy, and Fraudulent Schemes and Artifices. The defendants were convicted by plea agreement of falsifying several student aid applications and defrauding federal student aid system. Lacy was sentenced to two months in jail and ordered to pay restitution of \$13,388.00. Beresford was sentenced to eighteen months probation.

State v. Hernandez/Veleta/Curtiss: Hernandez, Veleta and Curtiss were indicted on October 10, 2010, for the crimes of Forgery, Theft, Taking the Identity of Another, and Fraudulent Schemes and Artifices. The Defendants made false identification documents and gave them to individuals who went to Costco stores, opened lines of credit and then purchased expensive items. Each of the defendants were convicted by plea agreement of identity theft. Hernandez was sentenced to 3.5 years in prison and ordered to pay \$20,833.28 in restitution. Veleta was sentenced to three years of probation and ordered to pay \$7,394.71 in restitution joint and several with Frank Hernandez. Curtiss was sentenced to three years of probation and ordered to pay \$6,482.62 in restitution joint and several with Frank Hernandez.

State v. Lee/Curcio/Orlando: Harold Lee, a former Justice of the Peace, and his two associates were indicted on August 23, 2010 for the crimes of Conspiracy, Illegally Conducting an Enterprise, Promotion of Gambling, Benefiting from Gambling, and Betting and Wagering. Lee was convicted by a jury of setting up and operating an illegal poker room in Surprise, Arizona. This is believed to be the first illegal gambling jury trial conviction in the State since 2000. Lee was sentenced to one year probation for each of the three counts to be served concurrently and ordered to pay \$2,418.64 in restitution. Curcio was sentenced to six months probation and ordered to pay \$2,418.64 in restitution. Orlando was sentenced to 18 months probation and ordered to pay \$2,418.64 in restitution, joint and several, joint and several with the other defendants.

State v. Johnnie E. Sanders, III: Sanders was charged with Fraudulent Schemes and Artifices, Theft, Money Laundering, Taking the Identity of Another Person, and Forgery. This case involved Mortgage Fraud which was investigated by the FBI. By means of a sophisticated web of fraudulent loan documents, bank accounts, and forged documents, Sanders defrauded financial institutions out of \$650,000.00. From the loan, Sanders took cash in the sum of \$79,000.00. The supplemental presentence report prepared by the Adult Probation Supervisor recommended probation on both counts and a year in jail was recommended as a term of probation. Consequently, an aggravation hearing was requested and the judge was convinced, based upon our office's independent investigation, that several pivotal factual misrepresentations made by the Defendant were contained within the pre-sentence report. Sanders was sentenced to an aggravated term of 3.8 years in prison followed by three years of probation and ordered to pay \$273,847.00 in restitution.

IX. Health Care Fraud & Abuse Section (HCF):

Stephen Duplissis, Section Chief

The Health Care Fraud and Abuse Section investigates and prosecutes health care fraud crimes that impact the State's billion dollar Medicaid program known as AHCCCS. In addition, this section is charged with investigating allegations of abuse and neglect that take place within health care settings that are at least partially funded by the State's AHCCCS program. The Health Care Fraud and Abuse Section investigates and prosecutes cases involving the falsification of medical records and the filing of false or inflated Medicaid billing claims; thefts and embezzlements from AHCCCS clients and health care institutions; the illegal diversion of prescription drugs by health care providers; and the physical, sexual, and emotional abuse of residents being cared for in AHCCCS-funded facilities.

i. Overview of Accomplishments:

HCF received 164 allegations/complaints regarding fraud, misuse of funds and patient abuse in the AHCCCS program. Of this number, 130 new cases were opened for investigation, 117 fraud cases and 13 patient/financial exploitation cases. Presently there are 51 defendants that have accepted plea agreements. Throughout the year 86 cases were closed of which 47 were the result of disposition (conviction or civil settlement) and 39 were due to insufficient evidence, jurisdiction, or the matter was referred for prosecution elsewhere. In addition, HCFA participated in 70 outreach presentations to assist in the detection, investigation and prosecution of crimes committed in the

Medicaid program. The Medicaid Fraud Control Unit recovered \$1,887,479.00 in restitution for victims, including Arizona Healthcare Cost Containment System (AHCCCS).

ii. **Major Cases:**

State v. Julianne Mari Lane: On May 23, 2012, Tucson care giver, Julianne Mari Lane, was sentenced to 11 ¾ years in prison. Lane had been found guilty of the offenses Fraudulent Schemes and Artifices and Theft/Financial Exploitation of a Vulnerable Adult, following a February jury trial. The case had been investigated by AGO Special Agents assigned to the Tucson Office and the Tucson Police Department. The investigation revealed that Lane was a manipulator and thief who specialized in targeting elderly victims. Lane began her most recent crime activity just two weeks after being charged with similar offenses in Tucson. Lane will be on intensive probation for a period of five years following her release from DOC.



State v. Carol Curie: The Arizona Attorney General's Office investigated Carol L. Curie, the Chief Financial Officer for a company that provides in-home care giving services to incapacitated and vulnerable adults. The investigation determined that Curie embezzled over \$110,000.00 of the AHCCCS funded company's money. On September 16, 2011, Defendant Carol Curie entered a plea of guilty to Theft and she was taken into custody to await sentencing. On October 18, 2011, Curie was sentenced to 2.5 years in prison and ordered to pay restitution totaling \$121,407.86.



State v. NextCare, Inc. NextCare Inc., an Arizona-based company, has agreed to pay the State of Arizona \$1,035,555.60 to settle allegations that it submitted false claims to the government. NextCare is an owner of a chain of urgent care facilities in Arizona. The settlement resolves allegations that NextCare submitted false claims to Medicare, TRICARE, and the Federal Employees Health Benefits Program, as well as the Medicaid programs of Arizona, by billing for unnecessary allergy, H1N1 virus, and respiratory panel testing. The allegations also alleged that NextCare inflated billings for urgent care medical services in the years under review, a practice known as upcoding.

As a condition of the settlement, NextCare Inc. is also required to enter into a Corporate Integrity Agreement with HHS-OIG, under which the company will be monitored for a period of five years to ensure that in the future it complies with all federal healthcare program rules.

State v. Patrick Martin/Gil Carninong: A caller reported to the Task Force Against Senior Abuse (TASA) that just after a hospice patient died, a friend of the patient placed in the deceased woman's hand a pen and then moved the deceased woman's hand in order to affix the deceased woman's name to a will. The TASA staff member forwarded the complaint to the agents in the SIS/HCFA section because the victim was residing in a Medicaid funded facility and the owner was alleged to be involved in the incident as the witness. The allegations were investigated and on May 17, 2011, Patrick Martin and Gil Caminong were both indicted for the offenses of Attempted Fraudulent Schemes and Artifices, Attempted Theft over \$200,000 and Forgery.

On October 27, 2011, defendant Patrick Martin was sentenced following his guilty plea to the offense: Possession of a Forgery Device. On November 29, 2011, defendant Gil Caminong was sentenced following his guilty plea to the offense: Possession of a Forgery Device. In addition, the victim's bank account was frozen after the allegations were received. The victim's rightful heir has been located and the victim's estate has gone to her.

State v. Americo Da Costa: Americo Da Costa was the subject of a joint Peoria Police Department and Arizona Attorney General criminal investigation regarding alleged Medicaid fraud and drug diversion. Da Costa, who was employed by an AHCCCS health plan, had developed a scheme whereby he would repeatedly visit dental offices and complain of experiencing tooth pain in order to obtain a prescription for pain pills. In addition, Da Costa would pretend to be a dental office employee and then call in prescriptions for himself. Da Costa would frequently pay for the phony prescriptions using forged business checks that he created at home. The investigation revealed that he passed 346 prescriptions at 105 valley pharmacies for a total of 7,689 pills. The investigation revealed that during this period Da Costa visited 50 health care providers at a cost of \$2,136.00 to the AHCCCS health care program.



Da Costa was indicted on October 19, 2010 and charged with 29 criminal offenses, including Fraudulent Schemes and Artifices, Acquisition of a Narcotic Drug by Fraud, Theft and Forgery. Da Costa failed to appear at a December, 2011 hearing and a bond forfeiture hearing was set for January 24, 2012. On January 23, 2012, AGO Special Agents located and arrested Da Costa. At that time, they learned that his parents, who posted the \$23,000.00 bond, knew where he was living and knew there was a warrant for his arrest. This information was provided to the Judge at the hearing. The Judge ruled that the \$23,000 be forfeited. Da Costa pled guilty to Acquisition of a Narcotic Drug by Fraud and Forgery. On March 9, 2012, Da Costa was sentenced to prison for three years, followed by four years of probation.

State v. T.J. Michael Yalda: Pharmacy Technician T.J. Michael Yalda was the subject of a joint investigation conducted by the Peoria Police Department and the AGO Special Agents. On August 7, 2011, Yalda was found passed out behind the wheel of his vehicle. At that time, agents discovered two store type bottles that were labeled Promethazine/Codeine which did not have any patient prescription labeling on them. An investigation followed in which Yalda sold narcotic drugs to undercover officers on eight separate occasions, including three sales which were completed in the store where he worked. On November 7, 2011, Yalda was indicted on 13 drug related offenses. Yalda was arrested on November 9, 2011 at the store where he worked and had made three of the illegal drug sales. On April 26, 2012, Yalda pled guilty to Possession of Narcotic Drugs for Sale, Possession of Narcotic Drug and Solicitation to Commit Possession of Narcotic Drugs for Sale. On May 25, 2012, Yalda was sentenced to two years in prison followed by five years of probation. Yalda was also ordered to pay \$7,000.00 in fines and investigative costs.

State v. Ryan John Dobbs: AHCCCS Office of Inspector General referred a case in which it was alleged that a Medicaid funded in-home caregiver, Dobbs routinely submitted phony time sheets by falsely claiming to provide care to four disabled teens at times when he was not even in the State. Some of the claims were submitted for days when he was vacationing in Hawaii while the clients he was being paid to care for were in Arizona. The investigation also developed information that some of the hours for which he submitted time sheets for were for the same hours that he was known to be working for a different employer. Dobbs pled guilty to Theft and was sentenced to six months in jail, five years probation and ordered to pay \$78,000 in restitution to AHCCCS.

State v. Rosario Bravo: Rosario Bravo was employed by AZ Consumer Direct, an AHCCCS provider and in that capacity she worked for an elderly couple who were both medically and mentally vulnerable. An investigation developed evidence that Bravo stole more than \$63,000



from the elderly couple. Bravo told the investigators that she falsely told the victims that she had not been paid and then had the victims write out checks to her. During the investigation, it was also learned that Bravo had taken the victim's credit card without their permission. On October 7, 2011, Bravo was sentenced to nine months in jail and placed on probation for a period of five years. In addition, restitution to the victims in the amount of \$63,610 and investigative costs were assessed in the amount of \$2,000.



State v. Jeanette Gray: Gray was employed as a caregiver in a group home owned by the Tunland Corp., an AHCCCS provider. The victim in this case was a developmentally disabled resident of the home who had knocked over an entertainment center. As of result of this incident, Gray was alleged to have struck the victim with a belt. On April 18, 2012, Gray pled guilty to Vulnerable Adult Abuse and was sentenced to two years probation and ordered to pay \$1,000.00 towards the investigative costs of her case.

State v. Tracy Lyn Rieser, et al: On August 22, 2011, seven subjects were indicted and charged with a total of 107 criminal offenses relating to the diversion of prescription drugs. The investigation opened when the AGO received information alleging that medical assistant Rieser had forged prescriptions for Oxycodone and Soma at two different doctors' offices where she worked. The investigation eventually uncovered allegations against five other medical assistants, all of whom worked at the same doctor's office and each of whom were alleged to be generating phony prescriptions for themselves and/or each other. The prescriptions were primarily for Phentermine. All six medical assistants and one non-employee friend pled guilty and were sentenced. Rieser, the central figure in this drug diversion group, pled guilty to Acquisition of a Narcotic Drug by Fraud and Taking the Identity of Another Person and was sentenced to 90 days of jail, three years of probation and assessed \$3,000 in investigative costs. The other five medical assistants pled to charges ranging from Acquisition of a Dangerous Drug by Fraud to Possession of a Dangerous Drug. The seventh defendant, who was a friend of Rieser's, but did not work in the healthcare field, pled guilty to Forgery.

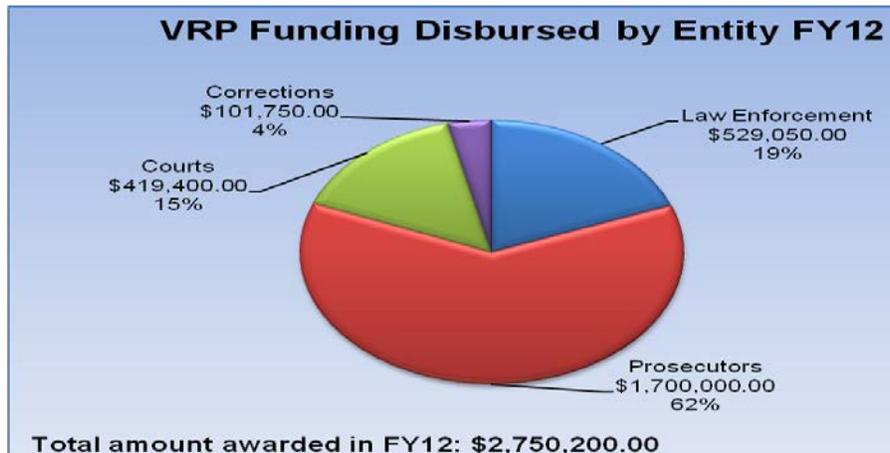
X. Office of Victim Services (OVS):

Kirstin Flores, Director

The mission of the Office of Victim Services (OVS) is to promote and facilitate justice and healing for people affected by crime in Arizona. OVS provides a variety of services to victims in cases in which the State is represented by the Attorney General's Office. In addition, OVS 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.

i. **Overview of Accomplishments:**

OVS continues to provide services to victims of fraud and identity theft. Advocates provided services to more than 6,246 new victims. Our Victims' Rights Ombudsman received and investigated 184 complaints of alleged violations of rights and audited 18 agencies. We supported 57 criminal justice agencies with grants from the Victims' Rights Program totaling \$2,750,200.00 and provided 74 training programs in victim's rights to more than 1121 professionals statewide.



The Office of Victim Services continues to participate and serve as a leader state-wide on victims issues. Included in such activities is the participation of staff in the National Victims' Rights Week celebration. For the 2012 event, the Attorney General's Office collaborated with the Department of Corrections, Department of Juvenile Corrections, Maricopa County Attorney's Office, Arizona Prosecuting Attorneys' Advisory Council (APAAC) and the Arizona Governor's Office to recognize individuals in Arizona who made significant contributions to victims' rights. The Attorney General personally recognized six outstanding professionals and agencies in the criminal justice field in front of approximately 350 attendees.

2012 Distinguished Service Award – Leadership

Attorney General Horne presents to the following awards to this year's recipients during National Victims' Rights Week.



Greta Mang
Past Victim Advocate
Arizona Department of Corrections



Keli Luther
Arizona Voice for Crime Victims
Arizona Crime Victims Legal Assistance Project

Beya Thayer

Northland Family Help Center: Coconino County Coordinated Community Response



2012 Distinguished Service Award - Innovative Practices



(L-R) Merri Tiseth and Elizabeth Ditlevson

Arizona Coalition Against Domestic Violence: Legal Advocacy Hotline

**2012 Distinguished Service Award
Service Coordination**



Victims Witness Services for Coconino County

**2012 Distinguished Service Award
Public Policy**



Jan Blaser-Upchurch
Arizona Department of Corrections

ii. **Major Cases:**

Many of the successfully prosecuted cases outlined previously by other sections in this report were also supported by advocates in OVS.

State v. Mohammad Amin-Sobhani: Mohammad Reza Amin-Sobhani, aka Robert Amini, was the owner of Expert Development & Investment LLC (EDI). The defendant told individuals at Al-Mahdi Benevolent Islamic Foundation of Arizona (AMBIFA), where he was a member, that EDI specialized in residential and commercial real estate development and sales, rentals, gold and other investment opportunities that provided large returns on investments.

Approximately 35 families were victimized by this defendant. Nearly every family lost their home and their credit destroyed as a result of this crime. Victim involvement in this case was challenging; many victims spoke broken English making communication more complicated; there was a lack of understanding of the justice system; and there was an initial fear of the FBI investigating the case and involvement with the government. Though it took quite a bit of time to gain their trust, by the end of this matter the victims were very appreciative and pleased with the outcome. One victim wrote, "She [case advocate] really made all of us feel safe with the process and she always assured us that the prosecutor is doing excellent job on this case."

The defendant was sentenced on June 8, 2012, to 14.5 years in prison followed by a five year probation term. The defendant was ordered to pay \$3,297,663.44 in restitution. Victim Impact statements were provided at sentencing, and lasted for three hours.

State v. Kimberly Lemke: On May 11, 2007, Kimberly Lemke was convicted of two counts of theft for bilking three elderly victims out of \$370,949.30. The defendant was sentenced to 3.75 years in prison and seven years probation. As of March 15, 2012 the defendant had paid back only \$3,584 to the victims. On April 13, 2012, Lemke's husband won \$5.7 million at Casino Arizona. On April 23, 2012, the defendant paid up her restitution arrears in the amount of \$4,824.

A victim's daughter phoned OVS and informed the advocate that her parents saw the defendant on television with the man who won identified as his wife. The daughter noted that Lemke was spending her new money while her parents could not afford food or adult diapers for her father and was appalled that she did not immediately pay the restitution. OVS and attorneys from the Financial Remedies Section worked to file and serve restitution liens against the defendant. On April 30, 2012, OVS confirmed that the defendant paid the balance in full. The victims were notified and were very grateful at the effort undertaken on what was essentially a closed prosecution case.

State v. Lea Marie Hughes: The victim was a 64-year-old woman, bed-ridden with multiple sclerosis, who was severely neglected by her caregiver, the defendant who moved into the home with her own family. The victim was moved out of her master bedroom into a den. Her food and water intake was limited resulting in severe weight loss and health complications; she weighed 80 lbs. when she was admitted to Tucson Medical Center. The victim developed a bed sore so severe that tissue and bone were visible. In addition to the physical neglect, several documents were discovered which indicated financial exploitation of the victim.

The victim was moved to a long-term care facility. The advocate visited her several times and arranged for a pastor to visit with the victim. The prosecutor assigned to the case arranged for the Preliminary Hearing to be held at the hospital because the victim was immobile and any sort of movement was painful. She was so distraught by the entire experience of having to testify, that she was almost incoherent and slowly faded away to an unresponsive state. This was unlike her previous interaction with the advocate, detectives and the prosecutor, which was clear and coherent.

The victim passed away in November 2011. The advocate, prosecutor and detectives attended funeral services. The victim's brother now receives victim services. The case against Hughes continues; the State has proffered a plea to the charge of Vulnerable Adult Abuse, Domestic Violence, but to date the Defendant has not agreed to accept any plea agreement.

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.

XI. Special Investigations Section (SIS):

Andrew Rubalcava, Section Chief

SIS provides investigative support to prosecutors in the Attorney General's Office as well as to law enforcement agencies throughout the State. SIS employs Special Agents who are state-certified peace officers as well as forensic auditors and analysts with specialized experience and training to conduct complex investigations. SIS conducts investigations relating to public corruption, financial fraud, consumer and mortgage fraud, Medicaid fraud and abuse, environmental crimes, drug and human smuggling and foreign prosecution and extradition in civil litigation and criminal prosecutions.

i. Overview of Accomplishments:

During FY 2011/2012, the SIS was able to replace vacancies created by retirements and expanded the section by four sworn positions. However, due to continuous personnel turnover, SIS remains challenged to maintain highly specialized investigative expertise to meet increasing investigative demands. SIS Major Fraud units devoted significant resources to advance priority sensitive public corruption cases. SIS Agents supporting the Fraud and Special Prosecutions Section, Financial Remedies Section, Health Care Fraud and Abuse Section, Consumer Fraud Section and Border Crimes Enforcement Section were extremely successful in meeting unprecedented investigative demands.

AGO initiatives continue to target the dismantling of the financial structures of drug trafficking organizations, and continue to result in record setting increases in asset forfeitures. Statistics also clearly indicate calls for assistance from the public (duty calls) and other law enforcement agencies remain at a high level.

- Law Enforcement Assists 1874
- Law Enforcement Training Presentations 55
- Duty Agent Contacts 1821

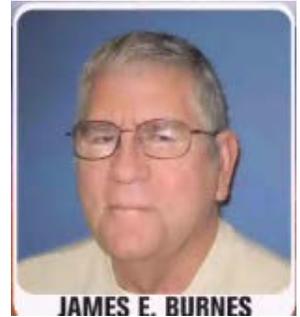
ii. Major Cases:

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



State v. Junker, et al: On February 21, 2012, Former Fiesta Bowl President John Junker, Fiesta Bowl Former Director of Business Operations Peggy Eyanson and Vice President of Marketing Jay Fields pled guilty to criminal charges after a very lengthy complex multi-agency investigation. Junker is awaiting sentencing and faces up to two and one-half years in state prison. Junker also paid \$62,500.00 in restitution to repay campaign contributions and inappropriate expenditures. Eyanson and Fields were both sentenced to one year each of supervised probation. On April 2, 2012, two additional defendants, Director of Community and Corporate Relations Anthony Aguilar and Vice President of Media Relations Shawn Schoeffler each plead guilty to making a prohibited campaign contribution. Aguilar and Schoeffler were both sentenced to one year of probation and ordered to pay a fine. Investigation continues on other aspects of the Fiesta Bowl matter.

State v. James Burnes: On March 28, 2012, former Arizona Department of Emergency Military Affairs (AZDEMA) employee James Burnes was sentenced to 3.5 years in AZ DOC and assigned restitution of \$1,444,598 for his embezzlement of funds intended for military personnel returning from active duty posts in location such as Iraq and Afghanistan. As the comptroller for the Arizona National Guard/Army Emergency Relief Fund (AERF), Burnes embezzled 2.3 million dollars from the AERF beginning in 2003 until reported to the AGO in 2012. This fund is specifically set up to assist deployed soldiers. Several requests from the soldiers were turned down due to the lack of funds in the system due to the embezzlement. This case was investigated, prosecuted, and sentenced in less than four months.



JAMES E. BURNES

State v. Matthew Williams (Franklin Charter School): On June 15, 2012, Matthew Lyle Williams, former employee of Life School College Prep; Franklin High School, pled guilty to Attempted Fraudulent Schemes and Artifices. The fraud schemes were committed during the period July 2005 and June 2006. Williams was sentenced to a term of probation and as a condition of that probation, defendant agreed to pay restitution to the State of Arizona in the amount of \$1,951,813.00. The case was prosecuted by the U.S. Department of Education and investigated in part by SIS Agents.

State v. Kathleen & Ronald Edwin: On February 16, 2012, defendants Kathleen Mary Edwin and Ronald J. Edwin were sentenced for their part in a mortgage fraud scheme. Ronald pled guilty to Theft and Mortgage Fraud and was sentenced to 3.5 years in prison. Kathleen pled to Criminal Possession of a Forgery Device and was sentenced to one year probation and ordered to pay \$10,000.00 restitution to the victim.

Multistate National Mortgage Settlement: On February 9, 2012, Arizona reached agreement to join a landmark \$24 billion joint federal-state agreement with the nation's five largest mortgage servicers (Bank of America, JPMorgan Chase, Wells Fargo, Citibank, & Ally/GMAC) over foreclosure abuses and fraud, and unacceptable nationwide residential mortgage servicing practices. Arizona's share of this national settlement is over \$1.6 billion. In addition, Arizona also settled its own separate consumer fraud lawsuit against Bank of America. Under this agreement, Bank of America agreed to pay \$10 million to the Arizona Attorney's General Office to be used to avoid preventable foreclosure; mitigate the effects of the mortgage and foreclosure crisis in Arizona; enhance law enforcement efforts to prevent and prosecute financial fraud or unfair/deceptive acts or practices, and/or provide compensation for harm resulting from the conduct alleged in the lawsuit. CPA agents provided extensive investigative assistance on this complex investigation, including interviewing dozens of borrowers.

AAA Auto Title Loans dba Cash 1: In April 2012, the State obtained a consent judgment against Cash 1, LLC after the State accused the company of making high-interest loans on gift card sales. Cash 1 was accused of using the sale of gift cards issued by large retailers such as Wal-Mart, Target and Fry's to make small dollar loans at annualized interest rates of approximately 360 percent. The consumer fraud lawsuit prompted Cash 1 to forgive approximately \$295,000 in interest and refund another \$77,000.00 to consumers who purchased the gift cards. Cash 1 also agreed to pay \$40,000 to the Arizona Attorney General's Office.

Full Speed Funding: In January 2012, the State obtained a court judgment in the amount of \$1,027,425 against a Phoenix-based business opportunity fraud scheme and one of its operators. The State also entered into a settlement agreement with a second operator, effectively shutting down the telemarketing scam. Full Speed Funding telemarketers called consumers, offering an opportunity to earn money working from home, arranging for the funding of small business loans and/or credit card processing services. Consumers were told that they would earn a commission each time one of their leads made a purchase. Defendants also called the consumers and persuaded them to purchase marketing services for their business. Although consumers were told they would receive substantial commissions, they always failed to earn any profit or income as

promised. Both judgments found that the defendants violated the Consumer Fraud Act by misrepresenting the effectiveness of the marketing services and falsely claiming that consumers would realize increased earning through those services. The online advertising packages sold by the defendants ranged in price from \$500.00 to \$40,000.00.

Obrzut: Between May 2003 and April 2011, Esther Obrzut fraudulently billed Cigna Insurance a total of \$684,545.01 for chiropractic visits at chiropractic offices in which she owned a half interest. The billings were for her family members and herself. An order of forfeiture was entered and approximately \$50,000.00 in proceeds were received from the sale of the forfeited property. A civil action for the balance of \$684,545.01 is pending. Agents from the SIS/FRU provided substantial assistance related to the forfeiture aspects of this investigation.

State v. Robert Arcieri: This was a case indicted on April 28, 1987 on 17 felony counts alleging Leading Organized Crime, Conducting an Illegal Enterprise, Conspiracy to Commit Murder, Conspiracy to Commit Burglary, Conspiracy to Commit Fraudulent Schemes, Armed Robbery, Conspiracy to Possess Narcotic Drugs for Sale, Conspiracy to Operate or Maintain a House of Prostitution, Solicitation to Commit Murder, Burglary and Theft. The charges arose out of home invasions and burglaries allegedly conducted by Arcieri and his criminal associates.



In the early evening of January 18, 1987, which was prior to the issuance of the Indictment, but at a time when Arcieri knew about the criminal investigation, he faked his death in a purported boating accident at Lee's Ferry, Arizona. Although his co-horts claimed that he drowned, his body was never found. Based upon his alleged death, Executive Life Insurance paid death benefits to Arcieri's beneficiaries in excess of \$200,000.00.

Arcieri in the 1980s before he "drowned"

In actuality, he had not drowned, but instead lived under false names for 24 years. He was discovered and apprehended in California in June 2011, where he was returned to Arizona to face the 1987 charges. Upon his return to Arizona, he remained incarcerated in jail.

By an interesting twist of fate, James Keppel, who had retired from the Superior Court Bench in 2010, was serving as the Chief Counsel of the Criminal Division of the Attorney General's Office. Because of his knowledge and involvement of the case when it was originally indicted in 1987, the Maricopa County Attorney's Office agreed to transfer the case to the Attorney General's Office, so that James Keppel could complete the prosecution he had initiated 24 years earlier. SIS/FRU agents conducted and directed this investigation which included coordination with other law enforcement partners out of state, including the execution of search warrants in California at the end of the criminal investigation.



After the case had been transferred to the Attorney General's Office, a criminal complaint was filed against Arcieri for Fraudulent Schemes and Artifices in regard to his insurance fraud. In the original 1987 case, Arcieri pled guilty to six felony counts, including conspiracy to commit burglary, solicitation to commit murder and armed robbery. He also pled guilty to the fraud schemes offense pertaining to the insurance fraud. On March 21, 2012, Arcieri was sentenced to ten years in prison in the 1987 case, which will be followed after his release from prison with five years on probation in the 2012 case. Arcieri is now serving his time in prison. Although justice was delayed, it was not denied to Robert Arcieri.

State v. Thomas/Rogers: FRU Agents conducted this investigation which started as an agency assist for the Arizona Department of Public Safety – Vehicle Theft Task Force. FRU Agents assumed the case and completed a detailed investigation, assembling key documents and records and assembled information which lead to successful criminal charges. On May 15, 2012 Thomas

was indicted on 11 felonies and a co-defendant Brittany Rogers was indicted on four felonies. Thomas has a lengthy criminal record and, if found guilty at trial in this matter, could face more than 100 years in jail based on this case and his prior convictions. While there is no forfeiture aspect to this case, it is a significant in that a repetitive fraud offender was identified and arrested.

Task Force Operations: Five SIS agents assigned to FRU are representing the Arizona Attorney General's Office as members of task force groups that conduct operations in various locations in and around Arizona. The investigations conducted by these agents are typically long term and sensitive in nature, often reaching the highest levels of criminal syndicates including the drug cartels in Mexico. For this reason, details of their activities will not be mentioned specifically in this public report. However, their contributions as part of the SIS are noteworthy and they play a significant role in some of the largest cases, both in criminal prosecutions and civil forfeitures by the AGO.

Sierra Vista Spice: Agents from BCS partnered with detectives from the Sierra Vista Police Department in a joint synthetic marijuana case involving the sale of illegal spice from two stores in Sierra Vista, Arizona. The investigation has led to the seizure of \$239,000.00 in proceeds that were generated by this operation via the sales of this illegal merchandise in the stores in Sierra Vista. The case resulted in a forfeiture of \$130,000.00 cash.

State v. Fernando & Anay Garcia: Agents from BCS partnered with detectives from the Douglas Police Department in a joint money laundering/AHCCCS fraud investigation. The investigation combined intelligence of marijuana trafficking and AHCCCS fraud by Fernando and Anay Garcia in the Douglas area. In summary neither individual had any means of reported income over a five year period that would support their lavish life style. The investigation led to the seizure of \$250,000.00 in assets, two houses, nine vehicles and the closure of two businesses. In addition \$68,000.00 in cash was seized. Both individuals plead guilty to 11 felony counts. Fernando was sentenced to three years of probation. Anay was sentenced to five years of probation. Each were ordered to pay joint and several restitution in the sum of \$11,492.31.



State v. Solomon Buckanan: Agents from BCS partnered with detectives from the Sierra Vista Police Department in a joint interstate marijuana shipping investigation. The investigation began with the arrest of Solomon Buckanan in Sierra Vista as he attempted to ship a quantity of marijuana. The investigation led agents in assisting Sierra Vista detectives in identifying bank accounts and in the preparation and execution of a search warrant. The investigation led to the seizure of \$9,000.00 which was identified as proceeds from the shipment of marijuana. Both suspects plead guilty to six felony counts and were sentenced to 3.5 years in prison.

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OFFICE OF THE ARIZONA ATTORNEY GENERAL
CIVIL DIVISION

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ATTORNEY GENERAL

PAMELA CULWELL
DIVISION CHIEF COUNSEL

ATTORNEY GENERAL FY2012 ANNUAL REPORT

APPENDIX C

I. Major Cases:

Defended the State's decision to deny benefits or terminate AHCCCS coverage to people eligible under Proposition 204. Plaintiffs filed for an emergency temporary restraining order and injunctive relief. The superior court denied a temporary restraining order, a preliminary injunction, and ultimately denied the special action. On appeal, the court denied relief, holding that a determination of the Legislature's compliance with Proposition 204 involves a political question which would not be appropriate for judicial review. The Arizona Supreme Court denied review. *Fogliano v. State of Arizona*

Defended nine lawsuits challenging the State's implementation and administration of the Arizona Medical Marijuana Act: *Compassion First, LLC v. State of Arizona*; *Elements Therapeutic Dispensary v. Humble*; *Serenity Arizona, Inc. v. Humble*; *Sobol v. State of Arizona*; *Samad v. State of Arizona*; *Hayes v. State of Arizona*; *JGW, Inc. v. Humble*; *Sobol v. Horne*; *White Mountain Health Center, Inc. v. County of Maricopa*

Successfully defended lawsuit alleging certain budget provisions violated both Proposition 301 inflation adjustment provisions and the Voter Protection Act. Savings to the State's General Fund were estimated at \$58,795,900 for fiscal year 2011. The superior court's decision is on appeal. *Cave Creek Unified School District v. Martin*

Successfully defended the Empowerment Scholarship Account Program against claims that it violated the Arizona Constitution's Aid Clause and Religion Clause. The superior court's decision is on appeal. *Niehaus v. Huppenthal*

Successfully petitioned the Arizona Supreme Court to review lower court decisions adverse to the state's decision to use trust money to support the Arizona State Land

Department's administration of the trust. Argument is scheduled in October 2012.
Rumery v. State

Defended an action brought by teachers and students in the Tucson Unified School District's Mexican American Studies Department against the Superintendent of Public Instruction and members of the Board of Education alleging the defendants violated their constitutional rights by enforcing A.R.S. §15-112, a law prohibiting courses that promote the overthrow of the United States government, promote resentment toward a race or class of people, are designed primarily for pupils of a particular ethnic group, or advocate ethnic solidarity instead of treatment of pupils as individuals. The court has not ruled on competing motions for summary judgment. *Acosta v. Huppenthal*

Moved to intervene in an ongoing school desegregation case in the United States District Court for the District of Arizona in Tucson. The State sought limited party status to provide input on the multi-ethnic curricula being developed by the parties and the Special Master in the proposed Unitary Status Plan ("USP"). The State argued that implementation of ethnic studies courses by Tucson Unified School District, pursuant to the proposed USP, would unconstitutionally usurp the State's right to administer its laws. The court ruled Arizona could not intervene and issued a scheduling order that provided an opportunity for the state to file an amicus brief and the ability to review and comment in development of the proposed curriculum. Subsequently, the court amended its order and imposed a confidentiality order that prohibits Arizona from participating in review and comment. We filed a motion to reconsider. Unless that motion is granted, the Special Master will file a draft USP on September 10, 2012 and the State will have a short time to file objections. *Fisher v. Tucson Unified School District*

Assisted the Arizona Department of Education by defending the scope of its audit of Tucson Unified School District ("TUSD") before the Office of Administrative Hearings. The audit found TUSD failed to provide minimum instructional hours to many middle school students as required by Arizona law. A settlement agreement allows the state to recoup \$1,065,000 in overpaid state aid.

Negotiated a settlement agreement with Payson Unified School District ("PUSD") which will allow the state to recoup \$210,000 in overpaid state aid. The agreement is based on an Arizona Department of Education audit finding PUSD failed to provide minimum instructional hours to many middle school students as required by Arizona law.

Represented the State in three cases concerning the proposed Tohono O’Odham Nation (“TON”) casino in Glendale:

A. *Gila River Indian Community, Arizona and Glendale v. The United States of America*

The Gila River Indian Community (“GRIC”), the State and the City of Glendale (“Glendale”) filed suit against the United States Department of the Interior (“Interior”) asking the District Court to invalidate Interior’s decision allowing TON to take the proposed casino land in Glendale into trust. The District Court granted judgment for Interior and stayed the matter pending appeal. Oral argument occurred before the Ninth Circuit Court of Appeals on April 16, 2010. The decision is pending.

B. *Arizona, GRIC, and Salt River Indian Community v. TON*

The State, GRIC, and Salt River Indian Community sued TON alleging breach of the 2002 Indian Gaming Compact and misrepresentation during Compact negotiations. Extensive discovery is ongoing with expert disclosure due soon. No trial date has been set.

C. *TON v. Arizona and Glendale:*

This matter involves TON’s challenge of a state statute allowing Glendale to annex the land TON wants for a casino. The District Court declared this annexation statute unconstitutional. The case is now on appeal to the Ninth Circuit.

Represented the State and state officials in United States District Court in three cases related to SB1070.

A. *United States of America v. State of Arizona*

Numerous lawsuits attacked the validity of SB1070. The primary action, brought by the Department of Justice against the State and Governor Brewer, sought to enjoin enforcement of SB1070. The District Court ruled the challenged sections unconstitutional, granted relief, and dismissed the State’s counterclaim. The State appealed this ruling, except the decision on the counterclaim. The Ninth Circuit affirmed the District Court. The United States Supreme Court affirmed as to three of the challenged sections and reversed as to Section 2(B). The case will be returned to the District Court.

B. *Friendly House v. Whiting*

This matter challenged several aspects of SB1070 but initially focused on a First Amendment challenge to employment solicitation provisions. The District Court's injunction is on appeal to the Ninth Circuit Court of Appeals. Oral argument is set in October 2012. Following the United States Supreme Court decision in *United States of America v. State of Arizona*, the plaintiffs requested a temporary restraining order and preliminary injunction to stay enforcement of Section 2(B). The lead plaintiff is now Valley del Sol. The District Court recently certified a class.

C. *LULAC v. Brewer*

A motion to consolidate this case with Friendly House has been filed.

II. Major Accomplishments:

Following a two week bench trial before the Tax Court, secured a ruling that the original cost of an electric generating facility had been under reported by approximately \$300,000,000. The state, primarily Maricopa County, will be entitled to approximately \$2,700,000 in additional revenue. *New Harquahala Generating Co. v. ADOR*

Collected or negotiated payment agreements totaling \$1,101,254.00 related to fuel and aircraft license fees.

Obtained judgments in the amount of the State's appraisal in three condemnation cases: *State v. Barrios Lopez; State v. Charles Anthony; and, State v. Saenz*

Pursued revocation of an allopathic physician's license in a contested hearing before the Office of Administrative Hearings. The doctor had inappropriately touched multiple female patients during routine office visits. The Arizona Medical Board adopted the administrative law judge's decision and revoked the license. *In Re: Ogbonnaya*

Sought revocation of an allopathic physician's license in a hearing before the Office of Administrative Hearings. The doctor had inappropriately prescribed narcotics to young adults, one patient died. The Arizona Medical Board accepted the administrative law judge's recommendation and revoked the license. *In Re: Mohr*

Assisted the Arizona Board of Nursing in reducing its caseload to fewer than 100 matters.

Represented the Arizona State Land Department in negotiating, drafting, and auctioning two ground leases for solar generating facilities with intended capacities of an average of 35 megawatts per hour and 24 megawatts per hour.

Defended the Cosmetology Board statutes and rules against claims of unconstitutionality in two suits brought by the Goldwater Institute. *La Vie Nails v. Arizona State Board of Cosmetology*; *Angels on Earth Home Beauty v. Arizona State Board of Cosmetology*

Represented the Appraisal Board which, upon receiving 24 complaints of failure to timely pay appraisers, filed a Complaint and Notice of Hearing against Appraisal Loft, a registered Appraisal Management Company. Following a formal hearing, the Board found Appraisal Loft had committed 171 statutory violations and assessed \$855,000 in civil penalties.

Our workers compensation team of two lawyers, one paralegal, and one legal secretary handled all workers compensation cases, opening 127 new cases and closing 83 cases, without referring any matters to outside counsel. Of particular significance was a case involving an employee's claim of exposure to substances in the air at his workplace which resulted in pulmonary injury. After an initial finding of compensability and subsequent benefit payments, the state terminated benefits and defended the employee's appeal. After numerous hearings, involving expert medical testimony, years of medical records, numerous diagnostic tests, and surveillance results, the administrative law judge found no causal link between any current symptoms and the date of injury exposure.

Represented the State Board for Charter Schools in an administrative action involving the Board's decision to deny renewal of a school's charter. The school withdrew its appeal and closed its doors as of June 30, 2012. *In the Matter of EQ Scholars, Inc.*

Secured a superior court decision affirming the Arizona Board of Osteopathic Examiners' revocation of a doctor's license. The doctor had illegally prescribed human growth hormone to at least ten patients. In 2008, the doctor pled guilty to a Class D felony. *Pirie v. Arizona Board of Osteopathic Examiners*

Successfully defended eight construction contract bid protests before the State Transportation Board.

Obtained summary judgment in a lawsuit alleging gender discrimination and retaliation brought by an employee who had been reassigned from a multi-governmental task force to a duty sergeant position. The result is a significant victory for agencies that have to make personnel decisions based on budget constraints. *Lincoln v. Department of Public Safety*

Conducted 163 Civil Commitment and Forensic hearings, on behalf of the Arizona State Hospital, before the superior court and the Psychiatric Security Review Board.

Conducted ten evidentiary hearings before the superior court, and filed numerous motions and responses, on behalf of the Arizona Community Protection and Treatment Center regarding the continuing commitment of sexually violent persons. Conducted three evidentiary hearings on revocations of conditional release to less restrictive alternative for sexually violent persons. Successfully defended two appeals brought by sexually violent persons before the Arizona Court of Appeals. Reviewed and filed 75 annual reports with the superior court regarding sexually violent persons.

Advised the Early Childhood Development and Health Board regarding grants, contracts, MOUs and tribal agreements totaling approximately \$155,000,000 awarded or renewed in FY12.

Assisted the Arizona Department of Education in responding to two ongoing Office of Civil Rights investigations filed by the U.S. Department of Education and the U.S. Department of Justice.

Defended a suit claiming the Board of Education and the State violated the plaintiff's first amendment rights because a community college teacher allegedly taught an introduction to philosophy class from a Christian perspective. In June 2012, the federal court heard oral argument on the Board and the State's motion to dismiss based on Eleventh Amendment immunity. *Smith v. State of Arizona*

III. Civil Division - Dollars Generated or Saved: FY12

A. Restitution:

| | |
|--------------------------------|-------------------|
| Dental Board..... | \$2,190.00 |
| TOTAL RESTITUTION | \$2,190.00 |

B. Civil Penalties/Fines:

| | |
|--|-----------------------|
| Accountancy Board..... | \$19,450.00 |
| Appraisal Board | \$855,000.00 |
| Chiropractic Board | \$5,047.00 |
| Cosmetology Board | \$19,085.00 |
| Liquor Department | \$20,000.00 |
| Medical Board..... | \$16,370.00 |
| Pharmacy Board | \$16,000.00 |
| Racing Department..... | \$4,850.00 |
| Registrar of Contractors..... | \$1,500.00 |
| Technical Registration Board..... | \$19,021.00 |
| Weights and Measures Department | \$15,650.00 |
| Department of Health Services..... | \$85,000.00 |
| TOTAL CIVIL PENALTIES/FINES | \$1,076,973.00 |

C. Reimbursement of Costs Incurred in the Course of Investigations and Formal Hearings:

| | |
|---------------------------|--------------|
| Accountancy Board..... | \$48,069.08 |
| Cosmetology Board | \$37,610.00 |
| | |
| Medical Board..... | \$26,653.76 |
| TOTAL REIMBURSEMENT | \$112,332.84 |

D. Other Savings to State Agencies:

| | |
|--------------------------------|--------------|
| Registrar of Contractors..... | \$100,547.00 |
| Motor Carrier Violations | \$8,000.00 |
| TOTAL OTHER SAVINGS..... | \$108,547.00 |

E. Condemnation:

Arizona Department of Transportation... \$29,334,005.00
Measured by the difference between the amount demanded as just compensation or damages and the amount of ultimate settlements or verdicts paid.)

F. Risk Management Representation:

For FY12, the average hourly rate paid by the State for AGO counsel in tort and civil rights lawsuits (excluding employment lawsuits) was \$118.00. The average hourly rate for outside counsel in tort and civil rights lawsuits (excluding employment lawsuits) was \$175.00 For employment lawsuits, the average hourly rate paid by the State for AGO counsel was \$115.00. No non-conflict employment or workers compensation matters were sent to outside counsel in FY12.

In FY12, our Liability Management Section tried five cases to jury verdict. The aggregate amount demanded by the plaintiffs to settle the cases before trial totaled \$4,790,000.00. We obtained

defense verdicts on three cases; one plaintiff was awarded \$87,500.00, and one was awarded \$109,967.23 which was reduced to \$16,495.09. *Smith v. University Physicians Healthcare; San Joaquin Investments, LLC v. Arizona Board of Regents; Marion v. Maricopa County Adult Probation; Hankens v. State of Arizona; Hoffman v. State of Arizona.*



TOM HORNE
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
SOLICITOR GENERAL OFFICE

DAVE COLE
SOLICITOR GENERAL

ATTORNEY GENERAL FY2012 ANNUAL REPORT

APPENDIX D

Mission Statement:

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

The Solicitor General's Office is responsible for:

- Ensuring the quality of appellate practice within the Attorney General's Office;
- Overseeing the preparation and publication of official Attorney General Opinions;
- Representing the Clean Elections Commission and the Secretary of State on election law issues and handling civil election law and campaign finance enforcements;
- Providing independent advice to state governmental agencies and boards in connection with administrative proceedings in which assistant attorneys general serve as advocates;
- Reviewing constitutional challenges to Arizona state laws;
- Coordinating the Attorney General's office-wide continuing legal education program;
- Providing advice to all attorneys employed by the Attorney General with respect to ethics and professionalism issues;
- Coordinating the work of the Open Meeting Law Enforcement Team and the Public Records Task Force.

I. Major Accomplishments in Fiscal Year 2012

A Significant Year for Arizona in the Appellate Courts:

United States Supreme Court Practice

Arizona officials have requested the Supreme Court to review the Ninth Circuit Court of Appeals' decision in *Diaz v. Brewer*. At issue is whether the Ninth Circuit erred in holding that Arizona could not constitutionally extend healthcare coverage to a state employee's spouse without also extending healthcare benefits to a state employee's domestic partner. Arizona contends that the Ninth Circuit's decision is contrary to Supreme Court precedent and conflicts with other federal and state decisions. Arizona has also requested the Supreme Court to review the Ninth Circuit's en banc decision in *Gonzalez v. Arizona*. At issue is whether the Ninth Circuit erred in holding that Arizona could not require prospective voters to provide proof of citizenship in order to register to vote. Arizona will argue that the Ninth Circuit applied an incorrect preemption test and, as a result, erroneously determined that the National Voting Rights Act preempted Arizona's law requiring proof of citizenship.

Ninth Circuit Court of Appeals Practice

The Solicitor General's Office filed briefs in *Wolfson v. Brammer* in the Ninth Circuit Court of Appeals urging the court to affirm the district court's decision upholding certain provisions of the Arizona Code of Judicial Conduct. The plaintiffs-appellees argued that certain provisions of the Code violate the First Amendment. The challenged provisions are those that prohibit judicial candidates from making speeches on behalf of political candidates, from issuing public endorsements of political candidates, from soliciting campaign contributions for a judicial candidate's own campaign or for another candidate or political organization, and from actively taking part in another candidate's campaign. Federal courts disagree concerning the validity of similar provisions of judicial codes in other states. The parties have completed the briefing but the Ninth Circuit has not scheduled oral argument.

Arizona Appellate Court Practice¹

The Arizona Supreme Court accepted review of the Arizona State Land Department's request for interlocutory review in the water adjudication case, *In re Gila River*, to determine if the federal government granted the State an implied reserved water right for state trust lands. Oral argument was heard in June 2012. The Supreme Court also granted the Arizona State Land Department's petition to review the court of appeals' decision in *Rumery v. Baier*, which held that a state law concerning funding the management of the state land trust violates the Arizona Constitution. The statute permits the Legislature to fund a portion of the management of state trust lands from proceeds of state trust lands.

At the request of the Arizona Supreme Court, the Attorney General filed an amicus curiae ("friend of the court") brief in the Arizona Supreme Court in *CNL Hotels*,

¹ The cases summarized do not constitute all appellate matters in which Solicitor General's Office lawyers had substantial involvement during the past year. Our purpose is not to provide an exhaustive list of such cases, but to illustrate the breadth and depth of our involvement in the appellate arena by highlighting several representative cases.

Inc. v. Maricopa County. At issue was whether the taxpayer was entitled to a reduced ad valorem tax rate under a statute that allowed that reduced rate if the property on state land became the State's property when the lease terminated. Also at issue was whether the court of appeals correctly interpreted the rules of appellate procedure. The court ruled in favor of the taxpayer on the tax issue but reversed the court of appeals' determination on the procedural question.

In *Fogliano v. Brain*, the petitioners sued the State and the Arizona Health Care Cost Containment System ("AHCCCS") based on statutory provisions that the voters had enacted by initiative. Those provisions expanded AHCCCS eligibility, prohibited the executive and legislative branches from capping AHCCCS eligibility, and required the Legislature to appropriate sufficient supplemental funding from "any other available sources" to provide all eligible persons with AHCCCS coverage. In the midst of the budget crisis, the Legislature stated that it had appropriated supplemental AHCCCS funding from all available sources. However, because that funding was not sufficient to provide coverage for all eligible persons, the Legislature authorized AHCCCS to enact rules implementing coverage within the available funding. Petitioners claimed that the resulting AHCCCS rule freezing the enrollment of childless adults in AHCCCS violated both the voter-enacted statutory provisions and the Arizona Constitution's Voter Protection Act ("VPA") provisions, which prohibit the Legislature from eliminating voter-enacted measures and from altering them except as the VPA allows. Petitioners sought declaratory and injunctive relief.

Division One of the Arizona Court of Appeals noted that the statutory provisions at issue required the Legislature to appropriate supplemental funding to provide AHCCCS coverage for all eligible persons. The court ultimately held, however, that whether the Legislature had in fact provided supplemental funding from "any other available sources" as it said that it had was a nonjusticiable political question that the court lacked jurisdiction to address. The Arizona Supreme Court subsequently denied review.

In *In re MH 2010-002348*, Division One of the Arizona Court of Appeals issued a published decision that consolidated and rejected arguments that had been made in numerous cases challenging the Arizona State Hospital's procedures for involuntary medicating guilty except insane ("GEI") patients in nonemergency situations. In doing so, the court harmonized (1) the statutes in Title 13 of the Arizona Revised Statutes that govern adjudicating persons guilty except insane, placing them under the Psychiatric Security Review Board ("PSRB")'s jurisdiction, and committing them to the Arizona State Hospital for treatment and (2) the Title 36 statutes that govern involuntarily treating persons through means that can include civil commitment to mental health facilities.

Arizona courts normally require strict compliance with the Title 36 statutes concerning involuntary treatment. No statute specifically addresses the Hospital's treatment of GEI patients, and the Hospital's governing regulations require it to obtain a court order to involuntarily treat any patient absent an emergency situation. Pursuant to the governing Title 36 statute, these court orders authorize involuntary treatment only for

a limited time period. The plaintiffs argued that, before filing a petition to obtain an initial or a subsequent court order to involuntarily medicate a GEI patient in nonemergency circumstances, the Hospital had to strictly comply with all of the statutory prerequisites for filing a petition for involuntary treatment under Title 36. These prerequisites include having a person undergo a mental health screening and a mental health evaluation before the petition is filed.

Division One of the Arizona Court of Appeals held that the Hospital could seek a court order to involuntarily medicate a GEI patient under the Title 36 statutes, but that, in doing so, it need not strictly comply with the provisions concerning screening and evaluation. The court explained that the Title 13 procedures that govern adjudicating a person GEI, placing him under the PSRB's jurisdiction, and committing him to the Hospital for treatment obviate the need for the Title 36 screening and evaluation procedures that are prerequisites to filing a petition for civil commitment because both Title 13 and Title 36 are intended to protect the same due process interests. The court also held that the procedures for obtaining a court order to involuntarily treat a person under Title 36 satisfy the due process requirements for involuntarily medicating GEI patients. The Arizona Supreme Court subsequently denied review.

In *Arizona Department of Revenue v. South Point Energy Center, LLC*, an electricity generation facility failed for two years to comply with A.R.S. § 42-14152's requirement that it file an annual report under oath. The purpose of the report is to provide the Department of Revenue the information it needs to value, for property tax assessment purposes, all of the facility's property that was used to generate electricity. (The facility maintained that it was not subject to the tax because it was located on land that was leased from an Indian tribe, a claim that was subsequently rejected in separate litigation.) Section 42-14152 required the Department to estimate the facility's value based on a percentage of the previous year's full cash value or on any other information that was available to it if the facility did not provide it with the statutorily required valuation information. The Department estimated the facility's value for the tax years at issue and based its property tax assessments on those estimates. The facility subsequently challenged the assessments under A.R.S. § 42-16251, a statute that permits the State Board of Equalization to correct errors that tax officials have made in assessing or collecting property taxes in the current tax year or in the three preceding tax years. The facility argued that the property's estimated value, as calculated by the Department, was a "mistake" within the meaning of the error-correction statute because it differed from the value that the Department would have reached if the facility had submitted the required reports for the years in question and the Department had applied the statutory valuation formula to the reported information.

Division One of the Arizona Court of Appeals rejected the facility's argument. It held that the Department had not made a "mistake" within the meaning of the error-correction statute in estimating the facility's value because A.R.S. § 42-14152 required the Department to do precisely what it did if the facility failed to provide the Department with the statutorily required valuation information. The court noted that the facility did not contend that the Department made any calculation errors in estimating the property's

value. The court also noted that, under A.R.S. § 42-14152(D), a facility that did not file the required report by May 20 of the valuation year forfeited its right to appeal the Department's valuation determination. The court concluded that allowing a facility that failed to file a report to challenge the Department's estimated valuation under the error-correction statute would render A.R.S. § 42-14152(D) meaningless. The court further noted that facilities that timely file their annual reports have only two years to appeal the Department's valuations. It concluded that the Legislature could not have intended to allow facilities that did not file an annual report to have up to four years to challenge the Department's estimated valuations under the error-correction statute. The Arizona Supreme Court subsequently denied review.

In *Cave Creek Unified School District v. Ducey*, which is currently pending before Division One of the Arizona Court of Appeals, the plaintiffs sued the State and the State Treasurer. They claimed that A.R.S. § 15-901.01, which the voters had enacted by referendum, required the Legislature to appropriate funds to adjust school equalization assistance funding for inflation by increasing both the base level and the transportation components of the revenue control limit each fiscal year by a statutorily defined growth rate. The plaintiffs asserted that the Legislature's 2010-2011 K-12 education budget reconciliation bill violated A.R.S. § 15-901.01 because it increased only the transportation component of the revenue control limit. They further asserted that because the voters had enacted A.R.S. § 15-901.01 by referendum, the bill also violated the Arizona Constitution's Voter Protection Act ("VPA") provisions, which prohibit the Legislature from eliminating voter-enacted measures and from altering them except as the VPA allows. Plaintiffs sought a declaratory judgment stating that A.R.S. § 15-901.01 required the Legislature to adjust all components of the revenue control limit for inflation each year. Second, they asked the court to enjoin the Treasurer from disbursing any funds under any education budget measure that did not include such an adjustment. Finally, they asked that the Treasurer be ordered to disburse to the school districts the funds that they would have received if the budget bill at issue had included such an adjustment. Alternatively, they argued that by approving A.R.S. § 15-901.01, the voters had enacted a self-executing appropriation that required no further action by the Legislature to make it effective. They therefore asked the court to issue a mandamus order requiring the Treasurer to disburse to the school districts the funds that they would have received if the budget bill at issue had adjusted the base level as well as the transportation component. The Speaker of the House of Representatives and the President of the Senate appeared and opposed the plaintiffs' application for declaratory and injunctive relief pursuant to A.R.S. § 12-1841, which allows them to be heard in declaratory judgment actions seeking to have a state statute declared unconstitutional.

The trial court denied the plaintiffs' application for declaratory judgment and injunctive relief and granted the State's motion to dismiss the amended complaint for failure to state a claim upon which relief could be granted. The court held that A.R.S. § 15-901.01 was not a self-executing appropriation and that the voters could not order the Legislature by statute to appropriate funds. The court concluded that the Legislature's failure to make the appropriation that plaintiffs contended were mandated by A.R.S. § 15-901 did not violate either the statute or the Constitution's VPA provisions. Plaintiffs

appealed, reasserting the arguments they made below and also arguing that the trial court had erred in holding that the voters could not order the Legislature, by statute, to appropriate funds. The State responded that the trial court had correctly decided that issue and had also correctly determined that A.R.S. § 15-901.01 was not an appropriation and that the Legislature had not violated the Constitution's VPA provisions by passing the budget bill at issue. The Speaker of the House of Representatives and the President of the Senate argued that the court of appeals should affirm the trial court's decision because A.R.S. § 15-901.01 was not an appropriation; the voters could not, in effect, bind a subsequent Legislature by ordering the Legislature to enact legislation in the future; the Constitution's VPA provisions did not apply to A.R.S. § 15-901.01 because it had not been enacted by initiative or referendum; and A.R.S. § 15-901.01's plain language permitted the Legislature to choose to increase only one of the revenue control limit's components.

Ensuring Fair Elections and an Informed Public

In fiscal year 2012, attorneys from the Solicitor General's Office continued to represent the State in ensuring that Arizonans' right to vote and participate in fair elections remained secure.

Identification at the Polls and Proof of Citizenship

In fiscal year 2008, the State successfully defended the requirements regarding identification at the polls and proof of citizenship when registering to vote. These requirements were part of the Proposition 200 citizens' initiative approved in 2004. In fiscal year 2010, following an adverse opinion from the Ninth Circuit Court of Appeals reversing the district court's decision in part, attorneys successfully petitioned the court for en banc review. Attorney General Horne argued the case in June of fiscal year 2011. The Ninth Circuit issued a divided opinion in fiscal year 2012, affirming the district court's judgment against the Plaintiffs in most respects. The Attorney General's Office was pursuing relief at the Supreme Court at the close of the fiscal year.

Voting Rights Act

Attorneys from the Solicitor General's Office continued to manage the preclearance process on behalf of state agencies such as the Secretary of State's office and the Citizens Clean Elections Commission. The State submitted twenty-five legislative measures, policies, and procedural changes to the Department of Justice for preclearance under Section 5 of the Voting Rights Act.

Campaign Finance Enforcement

This fiscal year the Solicitor General's Office opened 44 compliance matters for political committees' failure to file January 31st Campaign Finance Reports. Nineteen of those committees have already been brought into compliance. Another 51 committees were brought into compliance from the 2010 election cycle.

Lobbying Enforcement

In fiscal year 2012, the office responded to 42 reasonable cause notices from the Secretary of State for failure to file required reports. Of the 42 entities in question, 39 were brought into compliance, including many whose reports had lagged from 2006.

Arizona's Clean Elections Act

Attorneys from the Solicitor General's Office continued to advise the Citizens Clean Elections Commission and successfully defended the Commission's long-standing voter education program in Maricopa County Superior Court.

Defending Arizona's Statutes

Attorneys from the Solicitor General's Office continued to represent the State in lawsuits challenging the constitutionality of Arizona's election laws. For example, in fiscal year 2012, attorneys defended a challenge to Arizona's laws requiring disclosure of campaign finance activity to influence the results of ballot measure elections to ensure that the public continues to receive information. Attorneys also defended a challenge to the state voter registration form based on the legislature's formula for determining what party names appear on the form.

Nominating Petitions Litigation

In fiscal year 2012, the office represented the Secretary of State in 17 nominating petition challenges for the 2012 election. The office also successfully defended a challenge to Arizona's recall petition process.

Special Election Congressional District 8

Attorneys with the office provided advice and assured compliance with applicable laws to aid a successful special election in Congressional District 8.

II. Significant Achievements

Appellate Practice

The Solicitor General's Office continued its work preparing, reviewing, and editing briefs for state and federal appellate courts and coordinating oral argument preparation. In fiscal year 2012, the Solicitor General's Office reviewed 380 briefs² and coordinated moot court sessions in connection with approximately 32 cases in which

² This figure includes opening, answering, reply, and *amicus* briefs filed in various appellate courts as well as petitions (and responses to petitions) for review and petitions (and responses to petitions) for special action.

AGO attorneys presented oral argument. In addition, attorneys in the Solicitor General's Office participated as judges in numerous moot court sessions. One attorney sat as a judge in 27 moot court sessions.³

Attorney General Opinions

The Solicitor General's Office coordinates the production of Attorney General opinions. In fiscal year 2012, the Attorney General received 26 opinion requests and issued 6 formal opinions. Those opinions addressed topics including the administration of photo enforcement, community college tuition for students not lawfully present in the United States, donations to campaign legal defense funds, taxation issues related to medical marijuana sales, and the application of Arizona's election code to recall elections.

AGO Library and Research Services (LRS)

In fiscal year 2009, the Solicitor General's Office assumed management responsibility for the Attorney General's Office's law library. Since then, the library has streamlined procedures for ordering books, increased legal research training opportunities for attorneys and paralegals, and placed an increased emphasis on electronic research tools.

Fiscal year 2012 saw a great deal of activity in LRS. For further information, please see Attachment 1 (Annual Report submitted by the LRS Director Joan Dalton on June 30, 2012).

Continuing Legal Education

The Solicitor General's Office, together with the Office's Continuing Legal Education Committee, offers continuing legal education programs to ensure that lawyers have relevant educational opportunities that will fulfill the State Bar's continuing legal education requirement. In fiscal year 2012, we offered 31 continuing legal education programs for a total of 68 CLE hours. The programs covered a wide range of issues, including legal ethics, various aspects of advocacy, electronic filing, and Arizona's attorney discipline system. For additional information, see Attachment 2.

Ethics

Special Counsel for Ethics and Training lists the following accomplishments for Fiscal Year 2012:

- Updated and revised AGO Ethics Manual.

³ In the future, we will keep track of the number of cases for which all attorneys served as moot court judges.

- Provided office-wide assistance and advice on wide variety of ethical questions.
- Served as Chairperson of AGO Ethics Committee.
- Provided ethics trainings for new attorneys in Protective Services Section.
- Served as a panelist for Legal Ethics Now and Then at the 2012 Arizona State Bar Convention.
- Served as a presenter for the Arizona State Bar Association's CLE program Ethical Issues Confronting Public Lawyers.
- Served on the Advisory Board for the National Attorneys General Training and Research Institute (**NAGTRI**).

NAGTRI Involvement

- Coordinated nominations for Arizona's Assistant Attorneys General to attend NAGTRI training which resulted in 29 AAGs attending 21 NAGTRI programs in 2011-12
- Served on planning committee and as faculty for two programs:
 - Current Ethics Issues Facing Attorneys General Offices
 - Career Course
- Served as a presenter for the six NAGTRI ethics programs

Agency Handbook

In fiscal year 2012, SGO personnel, with assistance from other divisions within AGO, completed the revisions to the Agency Handbook. Such revisions, which are required every ten years, necessitate painstaking review of legislative enactments that have taken effect since the most recent revision.

OMLET

The Solicitor General's Office oversees the AGO's Open Meeting Law Enforcement Team (OMLET). Half of SGO's personnel are members of OMLET. OMLET consists of attorneys from every division in the AGO and focuses on investigating and enforcing Arizona's open meeting laws. Currently, the team consists of

26 members. In fiscal year 2012, the team opened investigations of 99 public bodies. Often, those public bodies have more than one formal complaint filed against them. For example, more than 50 complaints were filed against the Town of Quartzsite. In the last fiscal year, the team resolved matters involving 76 public bodies. Presently, there are investigations open against 78 public bodies. Team members investigate complaints of open meeting law violations from members of the public and work with public bodies to bring them into compliance with the law. The investigative process involves corresponding with attorneys and members of the public body and, when necessary, conducting depositions of witnesses. In some cases, the team must commence enforcement actions in superior court to bring a public body into compliance with the law.

Independent Advice

The Solicitor General's Office provides independent legal advice to state agencies, boards, and commissions as they conduct formal administrative hearings. The independent advisor provides advice on procedural and evidentiary issues during the hearing and assists the agency in preparing any necessary orders resulting from the hearing. This process protects the independence of the agency decision maker by ensuring that legal advice is available from a neutral attorney when needed. Independent advice is available to any state agency upon request when its regularly assigned assistant attorney general appears before it in a formal administrative hearing. Currently, the independent advisor appears at fifteen to twenty board meetings per month and advises numerous other agencies as requested. Clients include the Arizona Medical Board, the Arizona Board of Nursing, and the Arizona Board of Accountancy.

During the past year, in addition to responding to requests from agency heads for independent advice, SGO attorneys provided independent advice to various state agencies during the course of 151 Board meetings.

ATTACHMENT 1

AGO Library & Research Services:

AGO library patrons (AGO attorneys and paralegals) visited, emailed, or telephoned the AGO library more than 1400 times between July 1, 2011 and June 30, 2012.⁴ Of these interactions, 42 percent were in-person visits to the library; 24 percent of the time library patrons accessed the library by telephone; and 34 percent of the time library patrons accessed the library by email. Assistance was requested from the AGO librarian 76 percent of the time that an interaction occurred. The requests were diverse but primarily consisted of troubleshooting requests, research guidance, Inter-library loan requests, and complex research requests.

These figures project patron library usage by to be approximately 5.5 interactions per day with approximately 4 of those daily interactions comprising requests for assistance. Requests come from employees all over the state. The goal is same-day resolution of requests for assistance, and, with the exception of intricate research projects, this goal was attained in most cases.

In addition to troubleshooting and research assistance, the AGO Library is responsible for preparing procurement requests for AGO Library print materials, renewing subscriptions within budget, and keeping library materials updated. The Library Director also participates in negotiations with electronic research database vendors. This year the AGO was able to substantially reduce its expenditures for electronic research databases while avoiding a significant increase in the amount of money spent on print materials. Thus, through a careful analysis conducted by the Library Director and successful negotiations with vendors, coverage was maintained and money was saved.

The AGO library coordinates monthly, statewide Westlaw training events for AGO employees by announcing the events, securing a training room if needed, registering training participants, and keeping records of the trainings provided. Additionally, the AGO librarian developed and presented training events during FY12. The AGO librarian travelled to Tucson in June to deliver Arizona On-Line Legislative History CLE to attorneys and paralegals in the Tucson office. The AGO librarian also gave presentations to Office interns, paralegals, and specific sections about the resources that are available via the AGO library. Similarly, the AGO Librarian kept AGO attorneys and paralegals informed of important research information via email.

⁴ This metric was calculated based on AGO library patronage data that was collected for 170 of a possible 260 days (or 65% of the days available for collection). This captured data does not include requests to activate/deactivate access to electronic research databases. Data was not collected when the AGO librarian was not in the Office, or on days when the sheer volume of library work did not allow for the collection of data.

The AGO Library must also perform some accounting functions such as activating and deactivating electronic research database passwords and accounting for library inventory that has and has not been checked out. Since January 2011, a part-time LRS employee has performed these functions and has also ensured timely updating of resource materials. This employee also manages the library in the librarian's absence and carries out general maintenance projects.

At the suggestion of the Solicitor General, the Library Director presented a policy recommendation to the State Surplus Office concerning law books that are discarded by state agencies. The policy recommendation was to make these books available for public auction rather than destroy them. The State Surplus Office is now posting law books on its public auction website.

During FY12, the AGO librarian, with the assistance of a library science intern, drafted a grant proposal that, had it been awarded, would have allowed the Office to procure PC Tablets and, thereby, extend the library's reach to the offsite work locations. On July 26, 2012, we learned that we did not receive the grant. Should a similar opportunity present itself in the future, we will certainly consider applying for it. Finally, the AGO Librarian drafted or assisted with drafting several grant proposals for other sections within the Office.

ATTACHMENT 2

| No. | Date | Title of Presentation | Ethics | CLE Hrs | Attendees Phoenix | Attendees Tucson | Total Attendees | Total CLE Hours | Value |
|------------|-------------|---|---------------|----------------|--------------------------|-------------------------|------------------------|------------------------|--------------|
| 1 | 09/30/11 | Vanishing Acts - CLE Book Club | | 1 | 8 | 0 | 8 | 8 | \$ 312.00 |
| 2 | 10/04/11 | Creating Balance in Life & law | 1 | 1 | 24 | 3 | 27 | 27 | \$ 1,053.00 |
| 3 | 11/01/11 | Ethics Training (PSS Attorneys) | 2.5 | 2.5 | 9 | 0 | 9 | 22.5 | \$ 877.50 |
| 4 | 11/18/11 | The New Arizona Rules of Evidence | | 2 | 81 | 10 | 91 | 182 | \$ 7,098.00 |
| 5 | 11/30/11 | Hiding Tracks on the Web (NAGTRI Webinar) | | 1 | 31 | 3 | 34 | 34 | \$ 1,326.00 |
| 6 | 12/02/11 | The Inverted Forest - CLE Book Club | | 1 | 21 | 0 | 21 | 21 | \$ 819.00 |
| 7 | 01/24/12 | Jurisdiction In Indian Country | | 1.5 | 30 | 3 | 33 | 49.5 | \$ 1,930.50 |
| 8 | 01/27/12 | Legal Writing Tips: A Judge's Perspective | | 1.5 | 70 | 11 | 81 | 121.5 | \$ 4,738.50 |
| 9 | 02/01/12 | Interactive Devices (NAGTRI Webinar) | | 1 | 14 | 3 | 17 | 17 | \$ 663.00 |
| 10 | 02/06/12 | Ethics Training (PSS Attorneys) | 2 | 2 | 5 | 0 | 5 | 10 | \$ 390.00 |
| 11 | 02/10/12 | Computer & Internet Safety – Tucson | | 1 | 0 | 18 | 18 | 18 | \$ 702.00 |
| 12 | 02/22/12 | Computer & Internet Safety – Phoenix | | 1 | 56 | 0 | 56 | 56 | \$ 2,184.00 |
| 13 | 02/29/12 | Indian Law & Current Native American Issues | | 2 | 58 | 8 | 66 | 132 | \$ 5,148.00 |
| 14 | 02/29/12 | Mobile Devices (NAGTRI Webinar) | | 1 | 5 | 2 | 7 | 7 | \$ 273.00 |
| 15 | 03/19/12 | Ethics Training (PSS Attorneys) | 2 | 2 | 4 | 0 | 4 | 8 | \$ 312.00 |

ATTACHMENT 2

| No. | Date | Title of Presentation | Ethics | CLE Hrs | Attendees Phoenix | Attendees Tucson | Total Attendees | Total CLE Hours | Value |
|--------------------|-------------|---|---------------|----------------|--------------------------|-------------------------|------------------------|------------------------|---------------------|
| 16 | 03/27/12 | Peer-to-Peer Technologies (NAGTRI Webinar) | | 1.5 | 10 | 1 | 11 | 16.5 | \$ 643.50 |
| 17 | 04/12/12 | Storming the Court - CLE Book Club | | 1 | 8 | 0 | 8 | 8 | \$ 312.00 |
| 18 | 04/18/12 | Prisoner No. 707: A Conversation w/H. Cabot | 1.5 | 1.5 | 53 | 2 | 55 | 82.5 | \$ 3,217.50 |
| 19 | 04/20/12 | The Evidence Game | | 3 | 80 | 9 | 89 | 267 | \$ 10,413.00 |
| 20 | 05/03/12 | The Care & Feeding of Experts | | 3 | 47 | 3 | 50 | 150 | \$ 5,850.00 |
| 21 | 05/07/12 | Deposition Skills Training (NAGTRI) | 1 | 14 | 24 | 0 | 24 | 336 | \$ 13,104.00 |
| 22 | 05/14/12 | Ethics Training (PSS Attorneys) | 2.5 | 2.5 | 6 | 0 | 6 | 15 | \$ 585.00 |
| 23 | 05/15/12 | Advanced Trial Techniques | | 6 | 52 | 10 | 62 | 372 | \$ 14,508.00 |
| 24 | 05/30/12 | Being a Happy Warrior: Ethics & Civility | 1.5 | 1.5 | 72 | 9 | 81 | 121.5 | \$ 4,738.50 |
| 25 | 05/30/12 | Cutting Edge Technologies (NAGTRI Webinar) | | 1 | 13 | 0 | 13 | 13 | \$ 507.00 |
| 26 | 06/05/12 | When Lawyers (or Clients or Judges) Attack | 2 | 2 | 79 | 4 | 83 | 166 | \$ 6,474.00 |
| 27 | 06/12/12 | AZ Legislative History Research | | 1.5 | 6 | | 6 | 9 | \$ 351.00 |
| 28 | 06/14/12 | AZ Legislative History Research | | 1.5 | 12 | | 12 | 18 | \$ 702.00 |
| 29 | 06/14/12 | Ethics At The Movies | 3 | 3 | 74 | 5 | 79 | 237 | \$ 9,243.00 |
| 30 | 06/19/12 | AZ Legislative History Research | | 1.5 | 10 | | 10 | 15 | \$ 585.00 |
| 31 | 06/29/12 | US Supreme Court Review | | 2 | 61 | 12 | 73 | 146 | \$ 5,694.00 |
| | | | <i>19</i> | <i>68</i> | <i>1023</i> | <i>116</i> | <i>1139</i> | <i>2686</i> | |
| GRAND TOTAL | | | | | | | | | \$104,754.00 |

**ATTORNEY GENERAL'S
CRIMINAL APPEALS/CAPITAL LITIGATION DIVISION
SUBPROGRAM SUMMARY**

MISSION

To effectively represent the State of Arizona in all felony appeals and federal habeas actions filed by convicted felons. To promote and facilitate safety, justice, healing and restitution for Arizona's crime victims, and support statewide criminal and juvenile justice system entities in the administration of victims' rights laws.

DESCRIPTION

Criminal Appeals Section/Capital Litigation Section - The Division's primary function is defending the State of Arizona in appeals and federal habeas actions initiated by convicted felons. In non-capital appeals, the Section represents the State on direct appeal in the Arizona Court of Appeals and in the Arizona Supreme Court. The Division also represents the State in federal court cases arising from state-court convictions. In capital appeals, the Division defends the State in death penalty proceedings from the time a death sentence is imposed until the sentence is carried out or until the case is otherwise concluded. Those proceedings include the direct appeal, state post-conviction, and federal habeas corpus matters. The Division also provides trial and research assistance at the request of county attorneys.

OBJECTIVES

1. To competently represent the State in all criminal appellate matters in all state and federal courts.
2. To competently handle direct appeal, post-conviction and federal habeas proceedings in all capital cases in Arizona.
3. To provide high quality training and advice to law enforcement agencies on criminal law and death penalty issues.

PERFORMANCE MEASUREMENTS

Goal 1: To ensure that death penalty sentences are carried out justly and as timely as possible in order to preserve the rights of the victims.

Performance Measurements:

| | FY10 | FY11 | FY12 | FY13 Est'd | FY14 Est'd | FY15 Est'd |
|---|------|------|------|---------------|---------------|---------------|
| Death penalty cases open | 134 | 130 | 125 | 130 | 145 | 145 |
| Death sentences carried out | 0 | 4 | 5 | 5 | 5 | 5 |
| Percentage of capital cases convictions upheld by the Arizona Supreme Court on direct appeal and in post-conviction proceedings | 83 | 100 | 100 | 95 | 95 | 95 |
| Percentage of death penalty sentences affirmed by the Arizona Supreme Court on direct appeal and in post-conviction proceedings | 90 | 88 | 88 | 95 | 95 | 95 |

Goal 2: To defend the State of Arizona in all non-capital appellate cases.

Performance Measurements:

| | FY10 | FY11 | FY12 | FY13 Est'd | FY14 Est'd | FY15 Est'd |
|---|------|------|------|---------------|---------------|---------------|
| Number of briefs, habeas answers, petitions for review and responses to petitions for review filed | 781 | 890 | 908 | 917 | 926 | 935 |
| Average number of briefs, habeas answers, petitions for review and responses to petitions for review filed per attorney for non-capital cases | 38 | 32 | 36 | 36 | 36 | 36 |



TOM HORNE
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
CRIMINAL APPEALS/CAPITAL LITIGATION DIVISION

KENT CATTANI
DIVISION CHIEF COUNSEL

ATTORNEY GENERAL FY2012 ANNUAL REPORT

APPENDIX E

I. AGO Criminal Appeals/Capital Litigation Division Year in Review.

- Overview of Accomplishments:

In Fiscal Year 2012, the Criminal Appeals/Capital Litigation Division worked to uphold the convictions and sentences of criminal defendants in Arizona. The Division filed 908 briefs, habeas answers, petitions for review, and responses to petitions for review, in addition to other substantive pleadings. Members of the Division have also been involved in providing education and training on a variety of criminal law and procedure issues to prosecutors throughout the state. The Division also successfully litigated in state and federal courts whether Arizona's lethal injection protocol is constitutional.

Division Highlights.

- The Criminal Appeals/Capital Litigation Division consists of the following sections:

Criminal Appeals Section

Attorneys: 25

Capital Litigation Section

Attorneys: 9

Support Staff: 15

The Criminal Appeals Section represents the State 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 defendants challenge their convictions and sentences in federal habeas corpus petitions. In addition to representing the State in criminal appellate litigation, the Section provides periodic 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 allows 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 consistent, efficient, and high-quality representation that individual counties are unable to provide. This increases the likelihood that dangerous criminals will have their convictions and sentences affirmed on appeal, protecting the community and saving resources that would otherwise be expended on expensive retrials and re-

sentencings.

The Capital Litigation Section handles all appellate and post-conviction proceedings involving 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, and has prepared extensive briefing in a number of pending trial matters. The Section conducts a death penalty seminar for prosecutors every year in connection with the Arizona Prosecuting Attorneys' Advisory Council.

In Addition to handling all post-verdict capital case proceedings in the State, the Section has assisted the Office with criminal issues that affect other sections, and has helped draft opinions for the Attorney General's Opinion Review Committee. Section members serve on the National Board of Directors for the Association of Government Attorneys in Capital Litigation, the Arizona Supreme Court's Capital Case Task Force, the Arizona Prosecuting Attorneys Advisory Council Ethics Committee, and the Arizona State Bar Jury Instructions Committee. Additionally, one of the members of the Section chairs the Executive Council of the Criminal Justice Section of the Arizona State Bar.

Major Cases – Criminal Appeals Section

State v. Young: This case involved a car bombing in Tucson in 1996 that killed a local businessman, Gary Triano. Police suspected that Triano's ex-wife, Pamela Phillips, hired Ronald Young to kill Triano. Young was arrested in Florida in 2005 after this case appeared on America's Most Wanted. The issues on appeal mainly concerned the several searches (inventory, consent, and warrant) of Young's possessions, in particular a laptop computer, which he claimed were unlawful. The court of appeals affirmed the convictions for conspiracy and murder, but remanded for resentencing on the conspiracy charge because Young was not present when that sentence was imposed.

State v. Alvarez: Alvarez was convicted of second-degree burglary of a home and challenged the exclusion of third-party culpability evidence involving a landscaper who was working at the residence on the day of the burglary. The court of appeals rejected any similarity to *State v. Machado*, 226 Ariz. 281, 246 P.3d 632 (2011), which had reversed based on improper exclusion of third-party evidence. Even though the landscaper in this case had a prior conviction for car theft, the court held that Alvarez had failed to establish any connection between the burglary and the landscaper. Thus, Alvarez never offered a valid third-party culpability defense.

State v. McPherson: McPherson was convicted of seven counts of sexual exploitation of a minor under fifteen years old based on his possession of child pornography and sentenced to consecutive ten-year prison terms for each count. The court of appeals held that the statute prohibiting consecutive sentences for a single act punishable under different sections of the law did not apply to McPherson's convictions for seven counts of sexual exploitation because each count violated the same section and was based on a different image of a different victim. Nor did his aggregate 70-year sentence violate the ban on cruel and unusual punishment.

Major Cases – Capital Litigation Section

West v. Brewer: Seven inmates under sentences of death challenged Arizona's lethal injection protocol under 42 U.S.C. § 1983, claiming that the protocol as written, and as applied, violated their Eighth Amendment right to be free from cruel and unusual punishment. The inmates also claimed that their due process and equal protection rights were violated. After a 3-day trial in federal district court, Judge Neil

Wake found that Arizona's protocol both as written and applied did not violate the Eighth Amendment, Fourteenth Amendment Due Process or the Equal Protection Clause.

The following five capital cases were concluded after lengthy appeals proceedings:

West: On June 26, 1987, West and some friends went to Don Bortle's trailer outside Tucson to buy some electronic goods Bortle had advertised for sale. On July 12, 1987, West returned to the trailer, tied Bortle up, beat him, and stole numerous items. West stole Bortle's car and took the stolen goods to Phoenix, where he intended to sell them. While in Phoenix, West told friends what he had done. One of his friends called the Pima County Sheriff's Office and told them to check on Bortle. On July 17, 1987, a deputy entered Bortle's trailer and found Bortle's bound and gagged body. Bortle had died from blunt force injuries to his head. West was executed on July 19, 2011.

Moormann: While serving a sentence of 9 years to life at the Arizona State Prison in Florence, Moormann was given a 72-hour compassionate furlough to visit with his mother. The two stayed at the Blue Mist Motel in Florence. On January 13, 1984, Moormann bound and gagged his mother and then strangled and stabbed her. Moormann chopped the body into many parts and disposed of them in dumpsters throughout Florence. Moormann was executed on February 29, 2012.

Towery: On September 4, 1991, Towery and Randy Barker went to the home of Mark Jones to rob him. Jones knew Towery, and let Towery and Barker into the home. Towery pulled a pistol on Jones, and Barker handcuffed him. Towery took valuables from the house and loaded them into Jones's vehicle. Barker took Jones to the bedroom. Towery told Jones that he was going to give him injections with something that would make him sleep. Towery then injected Jones with battery acid. Jones was not struggling because he trusted Towery. Towery then sought to strangle Jones to death. When the first try failed, he tried again and succeeded. Towery and Barker then left in Jones's car, unloaded Jones's property at their home, and left the car in a nearby parking lot. On September 5, 1991, Jones's body was discovered. On September 12, 1993, Jones's car was recovered. As a result of a tip given to the silent witness program, Towery and Barker were later arrested. Some of Jones's property was recovered from Towery's and Barker's homes. Towery was executed on March 8, 2012.

Kemp: On July 11, 1992, Kemp and Jeffrey Logan killed Hector Juarez. Several days earlier Kemp purchased a .380 semi-automatic handgun and had told Logan he needed money to pay bills, and was going to look for someone with money. Kemp and Logan kidnapped Juarez after he left his apartment in Tucson to get something to eat late at night. Kemp used Juarez's ATM card to withdraw \$200. Kemp and Logan then drove Juarez to the Silverbell mine northwest of Tucson, and Kemp shot Juarez in the head twice. Kemp was executed on April 25, 2012.

Lopez: On October 29, 1986, Lopez broke into the apartment of 59-year-old Estafana Holmes. Lopez raped, beat, and stabbed Ms. Holmes. Her body was found nude from the waist down, with her pajama bottoms tied around her eyes. A lace scarf was crammed tightly into her mouth. She had been stabbed 23 times in the left breast and upper chest, three times in her lower abdomen, and her throat was cut. Lopez was executed on June 27, 2012.



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CHILD AND FAMILY PROTECTION DIVISION

NICOLE DAVIS
DIVISION CHIEF COUNSEL

ATTORNEY GENERAL FY2012 ANNUAL REPORT

APPENDIX F

MISSION

To provide the Arizona Department of Economic Security (ADES) with high quality representation and timely legal advice that promotes the safety, well-being and highest degree of self-sufficiency of children, vulnerable adults and families.

DIVISION SUMMARY

The Child and Family Protection Division (CFPD) provides comprehensive legal representation to ADES with more than 340 employees in locations statewide. CFPD is divided into three parts: Protective Services Section (PSS); Child Support Enforcement Section (CSE); and Civil and Criminal Litigation and Advice Section (CLA). The Division also has an Appellate Practice Group that represents ADES in the Arizona Court of Appeals, Arizona Supreme Court, and the Federal District Courts. The Appellate Practice Group prevails in 96% of all appeals resolved.

PROTECTIVE SERVICES SECTION

The Protective Services Section of the Attorney General's Office provides comprehensive legal representation to ADES' Division of Children, Youth, and Families (DCYF). PSS shares the Department's goal of protecting abused and neglected children, providing services to preserve families, and achieving timely permanency for Arizona's children in foster care.

The attorneys and staff in the PSS provide legal representation to DCYF throughout Arizona's 15 counties with offices located in, Flagstaff, Gila/Pinal, Kingman, Mesa, Phoenix, Prescott, Sierra Vista Tucson, and Yuma.

Trial Practice: PSS attorneys engage in a high-volume, fast-paced, litigation-focused practice in the Juvenile Division of the Arizona Superior Court. Trial attorneys in PSS handle thousands of legal actions each year, generally referred to as “dependency cases.” These court processes involve dependency, guardianship, termination and adoption actions. These proceedings serve to protect abused and neglected children in both in-home and out-of-home placements who are legally in the custody of the ADES, and are monitored by the courts. Protective and remedial social services are provided to the family to remedy the circumstances that brought the children into care in order to achieve successful reunification. If attempts to reunite families prove unsuccessful in a judicial or legislatively determined period of time, PSS attorneys represent ADES in actions to achieve the permanent placement of children through severance of parental rights, guardianship, and adoption proceedings.

Policy & Training: PSS lawyers advise ADES on a variety of legal issues arising from federal and state statutes, regulations, policies, procedures and court decisions. The PSS Litigation Support Unit trains all incoming PSS Assistant Attorneys General. The Litigation Support attorneys second chair trials, high profile cases and straight to severance cases. In addition, Litigation Support attorneys provide significant and ongoing training to the PSS, CPS caseworkers, supervisors, members of the judiciary and various child welfare system stakeholders throughout Arizona.

PSS Appellate Matters: For PSS, the Child and Family Protection Division's Appellate Practice Group regularly appears before the Arizona Court of Appeals to defend (and where appropriate challenge) trial court judgments, and to file and respond to appeals and special actions. In FY2012, the Appeals Group filed 163 briefs on behalf of PSS and prevailed in 99% of all PSS appeals resolved. Additionally, the Appellate Practice Group handled 282 substantive motions or issues and reviewed an additional 66 motions written by PSS attorneys. Of the two published opinions that were issued by the Arizona Court of Appeals in FY2012, both were affirmed in favor of the ADES.

In addition to its regular appellate work, the Appellate Practice Group assisted the PSS by conducting training of new-hire attorneys, refresher training for all PSS attorneys at the Section's statewide CLE day, and researched and published a compendium of subject specific resource materials. Further, the Appellate Practice Group worked with the PSS to develop and present a training program to ensure that all PSS attorneys were familiar with the Indian Child

Welfare Act (ICWA); and modified the training for ADES to enable CPS caseworkers to qualify as expert witnesses in ICWA cases.

Accomplishments:

- In FY2012, PSS attorneys attended 64,145 court appearances; an increase of 9,864 court appearances over FY2011 (54,281). PSS attorneys represented ADES in trial a total of 5,108 days in FY2012; an increase of 1,926 days from FY2011 (3,182).
- PSS implemented “PSS Practice Tips” to increase statutory, rule and Division policy awareness and analysis in the Section and practice consistency throughout the state. The Section reviewed and evaluated the Legal Files case management system to ensure data integrity, and worked with the Child Support Enforcement Section to utilize and implement procedures for Family Court Rule 5.1; which gave the Juvenile Court the authority to consolidate custody, visitation and child support decisions with an open dependency matter. In addition, PSS worked with the Department on an 11.5 million dollar federal grant (“Fostering Readiness and Permanency”) to prepare children for permanent connections and placements, advised Case Manager Specialists on expediting permanency plans for children with cases open longer than 24 months, and continued to evaluate the most serious abuse cases for straight to severance processing.

In FY2012 PSS attorneys and staff statewide:

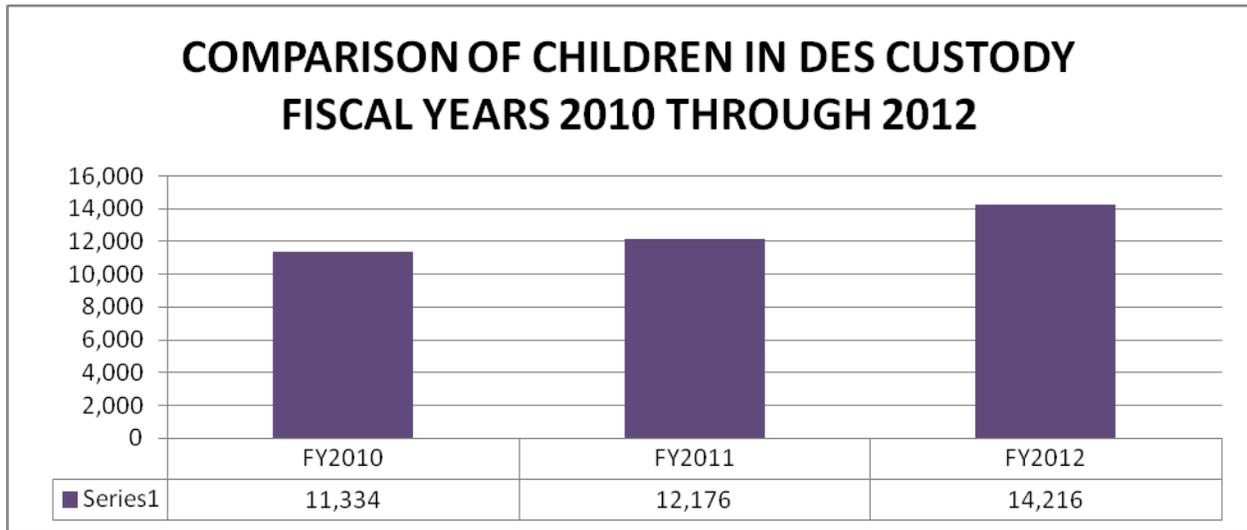
- Protected more than 14,216 children from abuse and neglect¹
- Filed 4,395 new dependency petitions²
- Filed 1,713 severance motions and petitions³
- Filed 342 guardianship motions
- Filed 240 adoption petitions

¹ CPS has seen a staggering increase in the number of children in CPS care this fiscal year. At the end of FY2011 there were 12,176 children in care. This increased by 2,040 children to bring the number at the end of FY2012 to 14,216. This 16.75% increase in the number of children in care is directly correlated to the rise in dependency petition filings statewide.

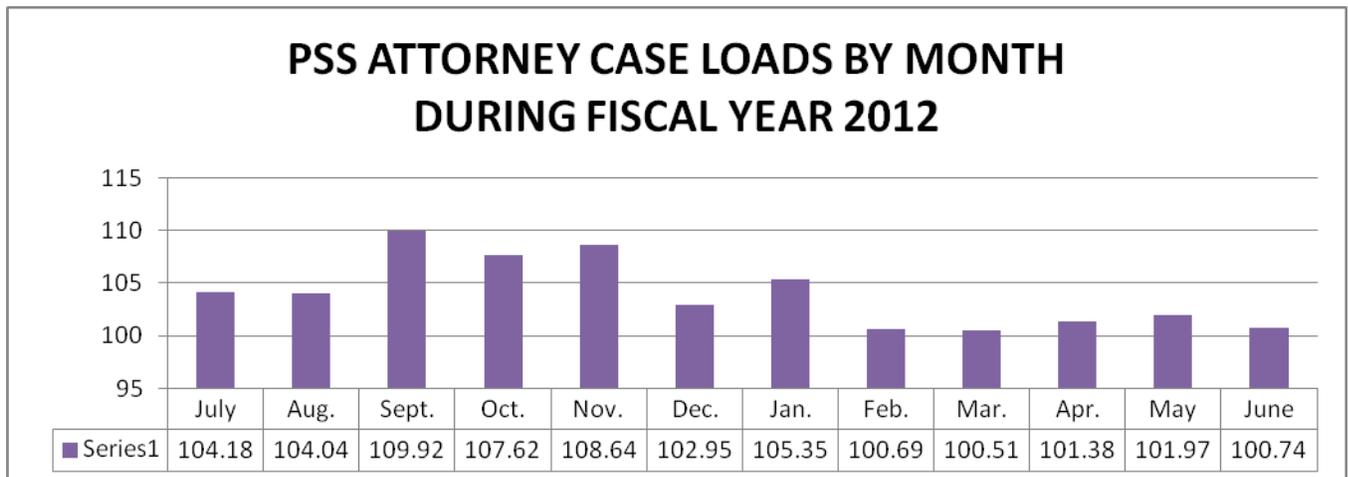
² PSS filed 918 more dependency petitions in FY2012 than the previous fiscal year.

³ Termination of parental rights is the primary permanent goal if reunification with a parent cannot be achieved. PSS has continued its efforts with the Case Permanency Review Process and the new 24 month staffings to ensure timely review of cases for permanency and to identify grounds for severance as early as possible. In addition, the straight to severance procedures implemented for cases in which reunification is not possible (i.e. severe abuse cases; child death and siblings are not in care; new baby to parents whose rights were recently terminated) have freed children for adoption at a much earlier stage. During FY2012, there was a total increase of 127 severance motions and petitions filed from FY2011.

- Reunited 1,244 children with their parents
- Placed 289 children with permanent guardians
- Assisted in the adoption of 1,283 children by relatives or foster parents



Child Protective Services has seen a 25.43% increase in the number of children in care from the end of FY2010 to the end of FY2012.



The American Bar Association has recommended that the dependency caseload for an agency attorney should be no more than 60 cases.⁴ As noted in the chart, PSS attorney caseloads in FY2012 were significantly higher than this standard.⁵

CHILD SUPPORT ENFORCEMENT SECTION

The Child Support Enforcement Section (CSE) of the Attorney General's Office seeks to ensure that children receive the financial support from their parents to which they are entitled. The Section provides legal advice and representation to ADES' Division of Child Support Enforcement (DCSE). CSE handles a high-volume litigation caseload to establish paternity and to establish, modify and enforce child support orders. CSE attorneys and staff are co-located with the client, DCSE, in 11 offices statewide in the following counties: Cochise, Coconino/Apache, Graham/Greenlee, Maricopa, Mohave, Pima/Santa Cruz, Yavapai and Yuma.

Trial Practice: CSE attorneys engage in a high volume, fast paced litigation practice in the Family Court Division of Arizona's Superior Court. Because more than 44% of Arizona's children are born to unwed parents, establishing paternity is often the first step in the child support process. After paternity has been established, CSE may take legal action to pursue child support. Litigation also includes modifying and enforcing existing support orders. DCSE currently has more than 196,151 open child support cases statewide. The litigation caseload for CSE increased from 6824 cases at the close of FY2011 to 8331 cases at the close of FY2012, averaging 397 cases per trial attorney. The CSE Bankruptcy Team currently handles over 400 Chapter 7 and Chapter 13 cases.

Policy and Training: CSE attorneys advise DCSE on various legal issues arising from federal and state statutes, regulations, policies, and court decisions. The CSE Training Team created training manuals for attorneys, support staff and supervisors in an ongoing effort to standardize practices across the state. In addition to overseeing the core training for all incoming staff, the

⁴ The American Bar Association reflects a standard for a dependency attorney handling a trial caseload, preparing and managing their own appellate work and advising the client on policy matters. The PSS is structured differently and thus the per attorney standard is higher.

⁵ The PSS has determined an appropriate caseload for trial attorneys to be approximately 85 cases per attorney. This takes into account that the section has an Appellate Practice Group preparing and managing all appellate work and a Policy Team principally responsible for providing advice to DCYF. PSS has hired nine additional attorneys during FY2012. This brought the caseload numbers down statewide to approximately 100.74 cases per attorney.

CSE Training Team coordinated and presented three full day training programs for the attorneys and paralegals statewide, including the County Partners.

During FY2012, CSE and DCSE continued the process of transforming case files statewide from paper to electronic files⁶ and created a Joint Imaging Task Force to re-engineer business practices and greatly improve efficiencies.

Appellate Matters: In FY2012, the CFPD Appellate Practice Group successfully represented DCSE in a significant number of active and new appeals. These attorneys wrote answering briefs in appeals filed by pro per litigants and resolved a number of cases through substantive motion filing. The Appellate Practice Group was successful in 100% of the appeals resolved during FY2012.

In an effort to increase the level and quality of support provided to the CSE trial units, the CFPD Appellate Group dedicated two of its ten attorneys to handle all CSE appeals. These attorneys staff every case with an experienced reviewer from the Solicitor General's Office, have attended CSE training to increase their substantive knowledge, and have been able to assist the trial units by providing training on how to make a record that will stand solidly on appeal.

In FY2012, CSE helped Arizona children receive the support to which they were entitled by:

- Judicial establishment of paternity for 1,593 children⁷
- Establishing new child support orders for 4,096 families
- Obtaining child support judgments of over \$46.7 million
- Resolving 4,882 actions for modification of support
- Representing DCSE in over 23,213 court appearances
- Assisting DCSE to collect over \$361 million in support
- In bankruptcy cases, collecting \$545,292.69 in support, a 24% increase from FY2011
- In non-Family Court litigation, collecting \$606,506.52 in support⁸

⁶ The estimated completion date is November 2012. That notwithstanding, all CSE staff statewide have been trained on how to properly scan, categorize documents and work efficiently with imaged files.

⁷ The Arizona IV-D Child Support Program is number one in the nation with respect to its efforts in establishment of paternity.

⁸ Non-Family Court litigation consists of liens, foreclosures and settlements.

Accomplishments:

- **Accountability Court:** CSE attorneys cover the Maricopa County Accountability Court calendar; which is a type of problem-solving court for parents who chronically fail to pay child support. Current child support paid on the 361 cases in Accountability Court totaled \$312,707, reflecting an increase of 37% from FY2011 to FY2012, and payments on child support arrears totaled \$805,420, reflecting an increase of 156% during the same time frame.
- **Ground Breaking Collection Case:** CSE received information that an obligor/father was going to inherit a large sum of money as a result of the death of his father. The child support order entered in the parties' 1997 divorce went largely unpaid for years, resulting in arrears of \$231,363.32. The CSE attorneys settled the case and the obligee/Mother received a check in the amount of \$231,363.32, the largest single collection ever received by DCSE.
- **Federal Thrift Savings Program:** CSE assisted DCSE in developing a program to collect child support arrears from the Federal Thrift Savings Program, resulting in collection of \$700,278.49 from non-custodial parents' retirement accounts.

CIVIL AND CRIMINAL LITIGATION AND ADVICE

The Civil and Criminal Litigation and Advice Section of the Attorney General's Office provides legal advice and representation to all ADES programs except Child Protective Services and Child Support Enforcement. CLA advises and represents ADES in matters regarding ADES' business operations, including the review of service provider contracts, intergovernmental agreements, department policies, proposed legislation, personnel matters (including the hiring and discipline of employees), facilities management and the collection of debts owed to the agency by consumers for the overpayment or fraudulent collection of public benefits. CLA advises and represents the following ADES programs: Adoption and Guardianship Subsidies, Adult Protective Services, Procurement, Unemployment Insurance Benefits, Vocational Rehabilitation, Child Care Administration, Benefits and Medical Eligibility, Food Stamps, Cash Assistance, Foster Care Licensing, Developmental Disabilities, and the medical and dental program for dependent children, among others.

The CLA Criminal Team prosecutes individuals and contractors who defraud the State through ADES programs, parents who willfully fail to provide support for their children, and incarcerated individuals who escape from the child support work furlough program.

In FY2012, the CLA Civil Practice Team:

- Opened, litigated and/or reviewed 1033 administrative litigation and civil cases
- Opened and reviewed 258 contracts, leases, Intergovernmental Agreements and/or amendments
- Obtained 375 civil judgments in civil collections cases totaling \$891,115.45
- Secured an additional \$86,677.75 in civil collections without the need for reducing multiple matters to a judgment
- Collected \$338,993.04 through wage and bank garnishments
- Filed 473 civil collections cases
- Opened over 107 “matter” files for tracking significant legal advice provided to ADES
- Responded to over 1,255 subpoenas and requests for public records

| Administrative Litigation and Civil Cases By Program | Total |
|--|-------------|
| Adoption Subsidy | 7 |
| Adult Protective Services and Aging & Adult Administration | 42 |
| Business Enterprise Program (BEP) | 2 |
| Child Care Administration | 12 |
| Comprehensive Medical and Dental Program | 4 |
| Division of Benefits/Medical Eligibility (DBME) | 27 |
| Division of Children Youth & Families (DCYF) | 52 |
| Division of Developmental Disabilities (DDD) | 220 |
| Division of Employment and Rehabilitation Services (DERS) | 34 |
| Arizona Early Intervention Program(AzEIP) | 1 |
| Equal Opportunity Commission/Office of Equal Opportunity | 1 |
| Foster Care and Foster Care Licensing | 10 |
| Internal Affairs I/A | 36 |
| Personnel (All programs) | 129 |
| Protective Services Review Team | 164 |
| Unemployment Insurance Benefits/Unemployment Insurance Contributions | 263 |
| Vocational Rehab & Blind Services | 29 |
| GRAND TOTAL | 1033 |

Civil Collections by Program

| Program | Filed | Collections Rec'd Judgment Not Filed | Collections Without Reducing Matter to Judgment | Judgments Entered | Total Judgments |
|---|------------|--------------------------------------|---|-------------------|---------------------------------|
| Cash Assistance | 2 | 1 | \$1,845.00 | 1 | \$2,465.20 |
| Any Combination | 6 | | | 5 | \$18,779.00 |
| Childcare Assistance | 3 | | | 3 | \$7,858.61 |
| Division of Developmental Disabilities | 10 | 2 | \$7,960.03 | 6 | \$32,259.03 |
| Employee Related | 2 | | | 2 | \$2,960.69 |
| Supplemental Nutrition Assistance program (formerly Food Stamps) | 3 | | | 2 | \$4,291.00 |
| Supplemental Nutrition Assistance program (formerly Food Stamps) Plus Another | 3 | | | 2 | \$5,377.00 |
| Foster Care | 0 | | | 1 | \$5,127.51 |
| Parental Assessment | 3 | 1 | \$180.00 | 3 | \$4,375.00 |
| Unemployment Insurance Benefits | 441 | 39 | \$76,692.72 | 350 | \$807,622.41 |
| Total | 473 | 43 | \$86,677.75 | 375 | \$891,115.45 |
| Total Civil Collections | | | | | \$977,793.20⁹ |

Garnishment Collection Summary

| | |
|--------------------|---------------------|
| 3rd Quarter 2011 | \$70,465.83 |
| 4th Quarter 2011 | \$81,137.22 |
| 1st Quarter 2012 | \$88,337.88 |
| 2nd Quarter 2012 | \$99,052.11 |
| Grand Total | \$338,993.04 |

In FY2012, the CLA Criminal Practice Team:¹⁰

- Filed 210 criminal cases
- Obtained 124 criminal sentences
- Obtained restitution orders totaling \$460,814.20

⁹ Civil collection matters have continued to increase over FY2011. Specifically, matters related to unemployment insurance benefit cases have increased by 67% while collections for several other programs have returned to FY2010 numbers as a result of both client and management encouragement to place an equal emphasis on multiple program collections.

¹⁰ In FY2012, CLA experienced a 43% increase in the number of criminal cases filed. This is principally in the unemployment insurance benefit area despite the increased time and complexity for charging such matters. This increase is not reflected in the number of cases sentenced since the life of a case, and consequently the sentencing attendant with it, can span multiple years. Similarly, the decrease in the total number of community service hours ordered fails to reflect an average increase of 20 hours per individual per case over FY2011 data.

- Collected \$343,338.54 in restitution prior to sentencing
- Obtained orders for fines totaling \$11,000.00
- Obtained orders for 5,035 hours of community service

| Criminal Cases | | | | | | |
|--|--------------------|------------------------|----------------------------|---|------------------------|--------------------------|
| Program | Cases Filed | Cases Sentenced | Restitution Ordered | Restitution Paid Prior to Sentencing | Fines Collected | Community Service |
| Supplemental Nutrition Assistance Program (formerly Food Stamps) | 4 | 4 | \$18,362.00 | \$0 | \$200.00 | 140 |
| Supplemental Nutrition Assistance Program Plus Cash Assistance | 6 | 0 | \$0 | \$0 | \$0 | 0 |
| UIB | 200 | 120 | \$442,452.20 | \$343,338.54 | \$10,800.00 | 4,895 |
| Grand Totals | 210 | 124 | \$460,814.20 | \$343,338.54 | \$11,000.00 | 5,035 |

Accomplishments:

- **Unemployment Insurance Benefit Cases:** CLA continues to experience a surge of collection matters related to the wrongful receipt of unemployment insurance benefit cases. This is largely the result of percipient economic difficulties and ADES' corresponding escalation of its enforcement activities. CLA's efforts have resulted in a 67% increase in civil judgments this year.
- **Protective Services Review Team:** CLA's review and litigation of child and adult protective services cases involving abuse, neglect and the exploitation of vulnerable populations resulted in 29 individuals having been included on the Adult Protective Services Registry, and 70 individuals alleged to having abused or neglected a child having been included on ADES' Child Protective Services Central Registry.
- **Supplemental Nutrition Assistance Program (SNAP) Penalty Appeal:** CLA successfully appealed a \$1,095,515 liability imposed by the Department of Agriculture, Food and Nutrition Services on ADES for its failure to meet error standards related to the Supplemental Nutrition Assistance Program. The liability was ultimately reduced by 60%

and one half of the remaining portion was used towards remedial efforts to improve the error rate.

- **U.S. Department of Health and Human Services (DHHS) Penalty Appeals:** Despite ADES' Division of Benefits and Medical Eligibility adhering to a Corrective Compliance Plan, the United States Department of Health and Human Services (DHHS) considered another instance of fraud as evidence of non-compliance. CLA successfully appealed the penalty on the basis that the instances of fraud were unrelated as they involved different ADES programs for different benefits, and were within different divisions utilizing different computer systems.
- **Civil Litigation:** Over the last several years, CLA has engaged in litigation to stop the operation of an unlicensed child welfare agency operated by a purported religious-based organization. In FY2012, ADES sought to enforce the previous injunction. A default judgment followed, and a stipulated contempt was entered against the principal. The principal failed to comply with the contempt order and attorneys from the section continue to aggressively litigate the matter. Hearings are scheduled to resume in September 2012.
- **Employment Matters:** CLA possess a 100% success rate for matters before the Arizona State Personnel Board in its representation of ADES on personnel matters, which include dismissals, demotions, suspensions of more than 40 hours and whistleblower claims. With this success, ADES has sought additional guidance on drafting Notice of Charges, the application of new Americans with Disabilities Act regulations, Title XII and other civil rights laws applicable to ADES' employees, in addition to revisions of several employment policies and advice on legislative developments relating to personnel reform.

CLA Appellate Matters: For CLA, the CFPD Appellate Practice Group focuses on appeals from 1) unemployment insurance benefit overpayments, 2) denials of benefits coverage, and 3) timeliness of appeals. In FY2012 the Group addressed 27 Notices of Appeal, represented ADES in nine appellate matters, and drafted and/or filed 26 substantive motions. Unlike other appeals, the Court exercises its discretion on matters accepted for review. When a matter is accepted, the court is seeking fundamental error which results in significant research, internal review and subsequent client advice for the Group.



TOM HORNE
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
SOLICITOR GENERAL OFFICE

DEBBIE JACKSON
SOLICITOR GENERAL

ATTORNEY GENERAL FY2012 ANNUAL REPORT

APPENDIX G

Administrative Services Division

The former Administrative Operations Division was reorganized in 2008. A portion of the former Division was moved to Finance and the remaining sections were renamed the Employee Services Division. In 2011, a re-organization occurred with the new Horne Administration. The Employee Services Division was changed to the Administrative Services Division (ASD) and includes Facilities Management and Planning, Human Resources and Procurement. Over the past 7 months, the Administrative Services Division has centralized and streamlined administrative processes across the agency. The ASD team members are focused on serving our clients efficiently and professionally with a progressive and team oriented approach.

Division Mission:

To support the Arizona Attorney General in his mission to serve and defend Arizona by ensuring success for the Arizona Attorney General's Office; support the Assistant Attorneys General's work; and communicate, service and support each other.

Division Summary:

The Administrative Services Division (ASD) consists of the Facilities Management and Planning (FMP) Section, the Human Resources Section (HRS) and Procurement. The ASD provides the office with the internal support and administrative services needed to properly and effectively carry out the Office's mission.

Facilities Management and Planning Section:

The Facilities Management and Planning Section (FMP) manages the day-to-day operations and maintenance of the agency's occupied buildings and office spaces. Primary areas of focus include:

- **Daily operations:** the coordination of the maintenance, tenant improvement and telecommunications service requests across the Office

as well as consultation with division management in the area of space planning.

- Safety and security: the program development and system oversight to include physical security system operations, as well as employee awareness campaigns designed to maximize personnel safety and security.
- Central services: the centralized shuttle transportation, mail room operation, receptionist and copy center services that support the needs of the Office.
- Continuation of Operations Planning (“COOP”): the development of plans and procedures to ensure that the Office can continue to perform essential functions during a wide range of emergencies.

Human Resources Section:

The Human Resources Section (HRS) oversees all activities necessary to develop, support and shape the future of the Office’s workforce—from recruitment through retirement. Four main business areas drive our activities:

- Strategic workforce planning: to concentrate on the singular focus of attracting, developing, motivating and retaining a diverse, qualified workforce within a supportive work environment.
- Skilled consultation: to provide expertise in the areas of research and personnel policy development, employee relations, performance management, and benefit program implementation.
- Organizational development: to provide training opportunities to equip the Office’s employees with the shared values, commitment to mission, knowledge, and skills needed to accomplish extraordinary tasks in service of our state.
- Loss Prevention Program oversight: to ensure Office compliance, to include but not limited to, EEO agency plan implementation, ADA program development, employee grievance process oversight, and agency wide health and safety services.

Procurement:

The Procurement group is responsible for direct contracting and purchasing goods and services as well as management of service contracts for the office.

Division Highlights:

FMP:

2012

- FMP assisted the Special Investigations Section to consolidate to one location within the Criminal Division Tucson main office, in suite 300.
- Worked with ADOA Construction Services and Firetrol in install an upgraded fire detection system in the Law building. Every office, hallway,

and break room in now equipped with smoke or heat detectors that are programmed back to the main panel for history reporting purposes. The State Fire Marshal has inspected and passed the new system. This project was completed in October.

- FMP started working with ADOA Risk Management on developing a Safety Team. We are still in the process of finalizing the requirements for our Agency.
- We worked with FSS and ADOA Building and Planning to add a door and a frame to an office in FSS. This will provide privacy and security for the occupant.
- We worked with CIC to install a new Symposium call center system for their phones.
- We worked with FSS and ADOA Building and Planning to relocated an office door in room 157C. This improved productivity for FSS to have all offices opening to the center of the department.
- We worked with ADOA Custodial Services to provide centralized trash service on Friday afternoons in the Law and Capital Center buildings.
- We worked with ADOA Building and Planning to install dedicated circuits and media lighting in the Attorney General's media room.
- We worked with ADOA Building and Planning to have the previous purchased carpet for the 4th floor Capital Center lobby and lobby conference rooms, installed.
- FMP assisted the Border Crimes Enforcement Section to consolidate to one location within the Criminal Division Tucson main office, in suite 518.
- We worked with AZNet, Black Box, and CenturyLink to install a phone system in the new Prescott office. We are still adding and changing phone types and systems to fit the users in this office.
- We worked with ISS and ADOA Building and Planning to install a dedicated circuit in the ISS area for their copier. It was previously connected with extension cords possibly presenting a trip hazard.
- We worked with FSS and ADOA Building and Planning to relocate an office door in room 159D. This improved productivity for FSS to have all offices opening to the center of the department. This was completed in May 2012.
- We worked with ADOA Building and Planning to build an office in the ASD area. This project was completed in February.
- FMP started working with ADOA Building and Planning to renumber the interior of the Law building office suites. The room numbers have been assigned and ADOA is currently working with the contractors to reprogram building equipment with the new room numbers.

- We worked with ADOA Building and Planning to install an intercom in the BCEU area of the Criminal Division in Tucson. This project was completed in April.
- We worked with Pitney Bowes and purchased a new mailing machine with e-certified options. This will save us \$1.15 on each e-certified sent out, which is approximately \$230/year.
- We worked with PAD/CRD to relocate three employees from the 2nd floor, suite 223 at 400 W. Congress St. to the 3rd floor, suite 300 at 402 W. Congress St.
- We worked with ADOA Building and Planning to remove the wall between the copy center and the mail room. This will allow for copy center expansion and improve customer service. This project will be completed by 5/31.
- FMP has been working with ADOA Construction Services to expand the server room on the 1st floor east side of the Law building and to add a backup generator to power the UPS units.
- FMP is working with ADOA Building and Planning to install a handicap door operator on the 2nd floor center women's restroom.
- FMP is working with ADOA Construction Services to replace the existing carpet in the Basement of the Capital Center building. This will include the ISS former training area, the whole ISS suite, and Conference rooms A and B.
- The Law building was closed due to a flood. ASD/FMP worked with ADOA General Services Division to repair and replace all damaged furniture, flooring, etc. We successfully temporarily relocated 182 employees.
- FMP has been working with the Business Enterprise Program to close down the Capital Center Deli and remodel the area. They had added two new machines and are planning on having an open house for our employees in July.
- We worked with the Business Enterprise Program and ADOA General Services Division to install a new Coffee vending machine.
- FMP is working with Pitney Bowes to purchase a new mailing machine for the Tucson location.
- From July 2011-June 2012, the Shuttle transported 7,404 passengers (2,941 from the Law Building and 823 from the Capital Center building) and drove 12,950 miles.
- From July 2011-June 2012, the Copy Center copied 352,140 black copies and 45,921 color copies, scanned 252,108 documents, copied 449 CDs, and spiral bound 103 books.

- From July 2011-June 2012, the Mailroom metered and sent out 153,488 pieces of mail totaling \$150,474.00.
- From July 2011-June 2012, the Law Building and Capital Center receptionists combined received more than 20,500 phone calls.
- From July 2011-June 2012, FMP processed 1,500 maintenance work orders sent to ADOA General Services Division.
- From July 2011-June 2012, FMP processed 550 phone requests to AZNet.

2011

- FMP worked in conjunction with ADOA and Black Box to install several voice and data jacks in the Phoenix and Tucson locations to improve faxing, scanning, and printing capabilities to AGO employees.
- FMP worked with ADOA Building and Planning and contracted engineers on Energy Conservation projects in the Law Building including: retrofitting all light fixtures from four lamp ballasts to two lamp ballasts and replacing all light bulbs with more energy efficient bulbs throughout the building inside and outside, adding light sensors to all offices and hallways, changing the HVAC system from pneumatic to electric which includes changing all thermostats and connecting them and the VAV boxes to be controlled remotely by ADOA HVAC. This will result in substantial utilities savings for our Office and the State of Arizona.
- Worked with ADOA HVAC and APS to install all new energy efficient thermostats in the Capital Center Building.
- To increase security around the Capital Center Building and parking garage, installed three additional cameras with a digital video recorder.
- FMP coordinated loss prevention issues with ADOA Risk Management such as testing and assessing the current fire alarm systems in the Law and Capital Center Buildings, safety inspections, ergonomic evaluations, tracked and recorded loss trend analysis of Workers' Compensation Claims and took corrective action where possible to avoid repetitive claims and injuries.
- Daily operations continued at an increased pace. The section coordinated 868 telecommunications service requests, which includes relocations. FMP processed and tracked a total of 964 work orders with ADOA Facilities Operations and Maintenance.
- The AG Shuttle continued its valuable service transporting attorneys and other staff to and from court. During the FY2011, we carried 9,094 passengers and logged 13,046 miles.

- We implemented a new log for tracking incoming certified mail. FMP processed approximately 146,550 pieces of mail through the Law Building mailroom. Upgraded software for the mailing machine was installed, which has allowed us to easily track pieces of mail metered and postage used.
- FMP completed 1,167 copy center service requests through the central copy center. Replaced the existing color copier with a high speed copier that has scanning and emailing capabilities.

2010

- Centralized the receptionist services in the Capital Center building, improving efficiency, security and services with limited resources.
- Audited the Agency COOP program, identifying opportunities for improvement of services and recovery response.
- As part of the Loss Prevention Program, conducted a thorough review of emergency systems and developed a scope of work to correct deficiencies. Scope of work included fire safety inspections, review of building access procedures and the development of a *Violence in the Workplace Prevention Program*.
- Developed written procedures for FMP related processes and cross-trained FMP staff on procedures, improving both the consistency and efficiency of services to AGO employees.
- FMP coordinated loss prevention issues with ADOA Risk management such as fire and safety inspections, ergonomic evaluations and submittal of Worker's Compensation reports.
- AG shuttle continued to provide a valuable service, transporting attorneys, staff and documents to the courts and other agencies in the Capitol Mall area. During the year, the shuttle carried 7,738 passengers and logged a total of 14,170 miles. The shuttle saved valuable attorney time, and reduced agency dollars otherwise spent on reimbursed mileage and parking expenses. Additionally, the shuttle service reduced the agency carbon footprint for the year.
- During FY 2010, FMP processed a total of 659 work orders with ADOA Facilities Operations and Maintenance to repair, maintain and improve working conditions in the state buildings occupied by the Attorney General's Office.
- FMP managed 473 telecommunication service requests during the fiscal year.
- FMP processed approximately 164,500 pieces of mail through the Law Building mailroom.
- Completed 1,537 copy center service requests through the central copy center.

HRS:

2012

- The evaluation process was updated and published on office intranet (linkAG).
- Successfully managed and facilitated the annual Employee Recognition Awards.
- Effectively implemented Division re-organizations.
- Administered and managed a Summer Law Clerk Program for more than 44 law students.
- Identified Return Retirees for PSPRS and ASRS Alternate Contribution Rate (ACR) and completed set up with General Accounting Office.
- Began planning process for implementation of Personnel Reform and communicating the changes to our employees. Partnering with ADOA to strategically roll out and manage the initiatives that will impact our agency.
- Providing Health & Wellness Events to the agency including email blasts, intranet updates and wellness courses, screenings and clinics (Nutrition Management Courses, Flu Shot, Prostate Onsite Project, Mobile Onsite Mammography, Blood Drives).
- The New Employee Orientation available to new employees on their very own linkAG page.
- Formalized process and tracking system for the redaction process.
- Worked with ADOA on the new Absence Management system.
- Assumed responsibilities for managing FMLA for all Child and Family Protection Division employees.
- Partnered with our payroll department to receive bi-weekly reports for purposes of monitoring FMLA leave, Sick leave, temporary status employee hours, Worker's Compensation and various other time card entries.
- Joined efforts with Facilities to renumber the law building maps and offices.
- Created volunteer attorney, intern job announcements to keep a pool of interested candidates.
- Coupled with ISS to implement New Employee Technology Training within the first two days of hire.
- United with ISS to add office addresses and office numbers to Outlook and to update the Division and Section for employees after the re-organization.
- Streamlined the FMLA process for all AGO employees from request of leave to return from leave.
- Teamed up with the Facilities group on the Security Badging process for improved customer service.
- Updated our file systems for better organization and accessibility.

- Worked with ISS to update the AGO external website employment page to boast jobs at the AGO and for the State of Arizona.
- Implemented an electronic policy routing system through our office intranet.
- Trained and assisted the Facilities group with the implementation of the Footprint tracking process for all centralized services.
- Processed bi-annual Return Retiree Benefit Premium Subsidy reimbursement requests.
- Worked with Facilities and ISS to effectively manage and organize the emergency relocation of AGO staff during the flood of the Law Building.
- Created a process to identify and manage positions that are not currently funded but are still active.
- Performed monthly audits on agency Organizational Charts.
- Centralized the AGO intern program for Undergraduate, Graduate and Law School Students including Interns, Externs and Fellows.
- Centralized the AGO volunteer program.
- Coordinated AGO's participation and representation in Colleges and Universities seasonal onsite job fair events in Phoenix and Tucson.
- Maintained general employment advertisements on: the State Bar of Arizona webpage, Arizona Attorney Magazine monthly publication, Arizona Prosecuting Attorney's Advisory Council (APAAC), Career sites for ASU, Phoenix School of Law and UA and Social media sites such as Twitter, LinkedIn & Facebook.
- Combined efforts with the Executive Office and Information Services Section to complete the Recruitment Video initiative.
- Designed and implemented the Attorney Recruitment Interview Structure.
- Implemented a new process to review Conflict of Interest forms by reviewing Legal Files and coordinating with the Solicitor General's Office.
- Processed and tracked all of the AGO's public information requests.
- Updated all AGO employees Personal Information Forms.
- Updated the process to manage agency Worker's Compensation Claims and successfully completed all OSHA reporting requirements.
- Administered the *State Employees Charitable Campaign* for the Office.
- Successfully processed and on-boarded 241 new hires, transfers and promotions.
- Successfully processed and on-boarded 166 temporary employees and unpaid interns/volunteers.

2011

- Expanded the Human Resources Section to manage the centralization of all Human Resource functions including Recruitment, New Hire Onboarding and Transition, Intern/Volunteer Programs, Professional Development, Personnel Actions, Employee Relations and Exit processes.
- Streamlined all HR processes for increased efficiency and customer satisfaction using electronic tools to enhance productivity and accessibility for our clients.
- Successfully managed and facilitated the annual Employee Recognition Awards.
- Effectively implemented three Division re-organizations.
- Created office-wide Organizational Charts to track all agency employees and positions.
- Assisted with the implementation of the new Employee Time Entry System.
- Put into operation the Footprints application to track all HR transactions and requests.
- Started providing customer service surveys to measure HR performance and client satisfaction.
- Created a comprehensive New Employee Orientation for all new employees, interns, volunteers and temporary staff.
- Developed and implemented an updated Office Policies and Procedures.
- Administered and managed a Summer Law Clerk Program for more than 40 law students.

2010

- Assisted the Divisions in implementing the 2010 legislative mandated budget reduction bill, which resulted in an Office-wide implementation of a 2010 Reduction- in-Force (RIF), an involuntary furlough and a voluntary furlough program. Provided out-reach placement services for impacted employees and training support for supervisors to minimize the impact of the RIFs.
- Established and implemented diversity and cultural competency program initiatives across the Office including the creation of the *Accessibility and Accommodation Guidebook*, performing exit interviews that capture employee perceptions of inclusion and respect, and instituting welcoming environment practices.
- Executed a series of internal audits to ensure Office personnel practices were compliant with applicable Arizona Department of Administrative rules/procedures and state and federal laws.
- Conducted a thorough review of the Office badge access system and corrected deficiencies resulting in improved safety and security of all personnel and physical assets.

- Implemented health initiatives such as the annual and pandemic flu shots, CPR/AED trainings, and the on-site mobile mammography program.
- Coordinated the agency *Travel Reduction Survey* resulting in a 92% completion rate.
- Administered the *State Employees Charitable Campaign* for the Office. The Office exceeded the internal goal for dollars and participation.
- Upon completion of an internal audit the Office Loss Prevention Program, HRS developed and implemented trainings in the areas of ADA, Ethics, Confidentiality and Conducting Performance Appraisals to ensure compliance with applicable state, federal and agency regulations.
- During the year, HRS reviewed over 10,000 resumes, recruited and hired 27 attorney and 47 non-attorney “mission critical” positions.
- Coordinated the Office Blood Drive Campaign. The Office received high recognition with a “Bronze Award” for 20% or more participation in blood drives conducted throughout the year, which made a life preserving difference to hundreds of patients throughout Valley hospitals.
- Oversight and implementation of a *Pandemic Flu Planning and Awareness* campaign which minimized the Office’s risk and improved employee health and safety. One positive campaign result: 350 employees received on-site flu shots and 146 employees received H1N1 shots, reducing the risk of illness to employees across the agency.

Procurement:

2012

- Procurement has partially implemented ProcureAZ and is trying to strategically implement other aspects to aid the agency without creating extra work loads and inefficiencies.
- Implement a review and file process for ISAs and IGAs
- Continue to overhaul the copy machine/printer usage at the agency to make a better use of resources.
- Clarify the process of the expert witness agreements to identify the value of the agreements.

2011

- Administered the Request for Proposal for Outside Counsel for legal services to assist the Attorney General’s Office, if needed. This review resulted in a total of 94 law firms being selected in various areas of law to represent the Office, if needed.

- Administered the Request for Proposal for security screening equipment to replace outdated equipment at the Office. This resulted in the purchase of two x-ray machines and two walk through metal detectors.



TOM HORNE
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
BUSINESS AND FINANCE DIVISION

VICKI SALAZAR
DIVISION DIRECTOR

ATTORNEY GENERAL FY2012 ANNUAL REPORT

APPENDIX H

Division Mission:

To support the Attorney General's Office and the State with a multidisciplinary team of financial information services. We provide strategic planning, budgeting, debt collection, accounting, grant processing, and financial control services through a commitment to continual process improvements with timely and accurate financial information, analysis and forecasting, while ensuring compliance with Federal and State laws and Agency guidelines and policies.

Division Summary:

The Business and Finance division is comprised of the Bankruptcy and Collection Enforcement Section (BCE), the Budget and Strategic Planning Section, the Grants Management Section and the Financial Services Section (FSS).

Bankruptcy and Collection Enforcement Section (BCE):

The Bankruptcy and Collection Enforcement Section (BCE), comprised of the Collection Enforcement Section and the State Court and Bankruptcy Section, is a cross-functional team of attorneys, legal staff and debt-collection professionals. BCE's mission is to collect debts owed to the State of Arizona, efficiently, expeditiously and fairly in order to maximize revenue.

BCE represents virtually all state agencies, boards, commissions and departments in bankruptcy, state court litigation and collection matters, and its responsibilities range from routine collection and bankruptcy matters to complex litigation to establish debt.

In FY2012, BCE collected \$ 14.2 Million on behalf of the State, which is a 29% increase over the previous fiscal year. Significant collections included:

- \$600,000 on behalf of the Department of Revenue in the Quebecor World bankruptcy case,
- \$850,000 on behalf of the Department of Transportation in the Mesa Air Group bankruptcy case, and
- \$500,000 on behalf of the Department of Revenue in the Circuit City bankruptcy case.

Budget Section:

Budget Section assists with the planning and coordination of the Department's functions and resources. We obtain and maximize the use of our financial resources to assure the successful accomplishment of the AGO's goals. We provide each division with high quality financial reporting and analysis presentations monthly, providing accurate and timely financial information, to assure they successfully accomplish their goals and legislative requirements. Review and analyze various funding priorities for consideration in the annual budget process.

Section Highlights:

- Lobbied for and secured funding for the following budget issues to support and implement the AGO Goals & Strategies:
 1. Federal Grant Backfill
 2. Agency Counsel Funding Increase
 3. Cost Associated with Tobacco Settlement Litigation
- Revised internal cost allocation methodologies.
- Continue to improve services by streamlining paperwork and administrative burdens.
- Increased the use of data and information technology as a management tool to make better informed decisions.
- Ensured that necessary fiscal and managerial reports were developed and in place to provide maximum accountability and performance by division, section and fund.
- Spearheaded the Strategic Planning Development Sessions for ten Divisions and forty-four Sections within the AGO

Grants Management Section:

The Grants Management Section provides centralized grants management services to the AGO. The Grants Management Section oversees all grant applications and fiscal requirements of each grant, maintaining accountability for each grant for each division within the AGO.

Section Highlights:

- The Grants Management Section has successfully maintained a "grant" working relationship with the all divisions of the AGO following the grant processes.
- During FY2012 the Grants Management Section worked closely with the Criminal Division and the Director of the Anti-Money Laundering Alliance to secure a three million dollar three year grant. This new grant will fund ten positions and greatly enhance the law enforcement efforts against money laundering.
- During FY2012 the Grants Management Section was assigned the responsibility of writing and implementing new guidelines for the distribution, monitoring, and auditing of the Criminal Justice Enhancement Funds (CJEF) distributed on a quarterly basis to the County Attorneys. The new guidelines were developed and approved by the Board Members of the Arizona Criminal Justice Commission (ACJC).
- The Grants Management Section worked closely with the Community Outreach Unit and the Office of Victim Services in securing funding for four additional grants.

Financial Services Section(FSS):

The Financial Services Section is responsible for managing the financial functions of the Attorney General's Office ensuring fiscal compliance and accountability by division, section and unit. Financial resources are managed across twenty funding sources within ten divisions for a total agency budget of approximately \$100 Million. The Financial Services Section is comprised of the following units:

General Ledger & Accounts Receivable - accounts for debts owed to the State of Arizona and the Office of the Attorney General. Generates invoices and statements for services rendered and debts owed. Deposits all monies collected by the office while maintaining adequate cash flows, internal controls and proper stewardship of the Office's assets.

Payroll - ensures that all employees are paid accurately and timely along with their leave accruals. Generates reports for Human Resources verification and monitors all variances against prior pay cycles. Reconciles payroll system activity against the accounting system and performs leave accrual audits, adjustments and payouts as needed.

Accounts Payable & Travel - tracks encumbrances, inbound invoices, employee reimbursement claims, travel claims, and restitution payments. Verifies and reconciles invoice and claims data, schedules payments, verifies expenditures against unnecessary or duplicate expenses and issues appropriate checks while maximizing applicable discounts and ensuring proper remittance of Use Taxes.

Section Highlights:

- Implementation of Credit Cards. Established a payment portal where the Bankruptcy and Collections Enforcement Section staff can now accept credit cards as a form of payment against debts owed to the State. Additionally, the tool allows the staff to establish recurring payments for those debtors on payment plans which is preferred over the former method of relying on debtors to remember to mail in their payment offering both a convenience to the debtors while ensuring timely payments. Further, system improvements are currently in progress that allows for debtors to check their balances online which is expected to be fully rolled out early in calendar year 2013.
- Deposit Process. The process in which Accounting handles in-coming checks was revamped. Previously, any checks on hand for a particular Division was scanned individually to the Division Office Administrator every day until a deposit form was received by the Division. Further, the Division would submit a single deposit form for each check. Under the new process, a deposit form is automatically generated through Crystal Reports for all checks on hand for each Division. All that is now required by the Division is the PCA/accounting code and a signature. The streamlined deposit process enables faster access to cash to meet the business need of the office.
- Travel Education and Materials. Conducted training sessions in Phoenix and Tucson on the State Travel Policy as well as the office's travel policy. Training was open to all employees and covered the process employees should follow when arranging for travel accommodations; the process to seek reimbursement

for expenses paid by the employee; and, commonly made mistakes by travelers. Further, travel materials, including the presentation used during the training sessions, were updated and posted on LinkAG.

- Employee Time Entry - Labor Distribution Implementation. During 2011 Employee Time Entry system was implemented and during 2012 additional functionality was rolled out allowing for employees to allocate/distribute work activities to specific programs. The Payroll Unit worked with Human Resources to implement the Employee Time Entry – Labor Distribution. The implementation of this system also ensures agency compliance with Federal Grant reporting requirements.
- ProcureAZ. Completed implementation of ProcureAZ within the Budget and Accounting Unit. Implementation of this system will now allow us to electronically approve budget requests and load encumbrances into AFIS for those requests automatically. In the past, these transactions would have to be approved by Budget manually and then keyed into AFIS by Accounting. We are currently in the process of implementing additional functionality that would allow for the acknowledgement of receipt of goods and payment of invoices through ProcureAZ which is expect the significantly reduce the amount of manual keying associated with these transactions.
- Footprints Implementation. Footprints is currently used to track all internal and external deliverables for Accounting and Budget. There are over 250 of these deliverables. Many of the deliverables are recurring with frequencies that range from Daily to Annually. Once these items have been calendared though Footprints, issues are automatically generated and assigned to team members when they become due. Within the issues, we can document problems that we encountered along with the turnaround times for the deliverables and it allows us to identify areas that are time intensive so that we can implement process improvements. With this implementation we are able to better identify people resources that are overloaded along with resources that have capacity so that we can better manage workloads.

To further leverage the system functionality we are currently in the process of implementing additional tracking mechanism in Footprints that will eliminate the need to maintain various external logs. The change will allow supervisors to manage all work activities through footprints providing management with transparency and accountability on Budget and Accounting specific deliverables.



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OFFICE OF THE ARIZONA ATTORNEY GENERAL
COMMUNITY OUTREACH AND EDUCATION DIVISION

KATHLEEN WINN
DIVISION DIRECTOR

ATTORNEY GENERAL FY2012 ANNUAL REPORT

APPENDIX I

Community Outreach and Education Division 2012

In fiscal year 2012, Community Outreach and Education participated in over 538 presentations. The topics included, Life Care Planning, Consumer Scams, Identity Theft, Mortgage Scams, Internet Safety, senior related crimes and scams, and issues related to the safety of our own children. Outreach had over 27,000 in person contacts. We handled over 3,300 phone contacts and distributed over 36,000 pieces of literature to aide consumers.

Grant Funded Programs

Governor's Office of Children, Youth and Families

Under a grant the Arizona Governor's Office of Children, Youth and Families, the Community Outreach staff developed new materials targeted towards parents and educators regarding substance abuse, social networking and how they are interrelated. Requirements of the grant facilitated the production of three public service announcements targeted towards creating awareness for adults on how their children can gain access to illegal substances. The staff also created an updated version of our internet safety presentation which included substance abuse information for both parents and students. Community Outreach and Education Division spoke with over 12,000 students this past year.

Department of Justice/Maryland Crime Victim Resource Center

The Arizona Identity Theft Network created a reporting mechanism which processed over 483 identity theft related calls in 2012. The coalition also produced 14 public service announcements that ran statewide reaching over 58,400 unique listeners with over 387,000 impressions. Our statewide network has worked in collaboration with local, state, and federal agencies to inform and protect consumers. A special initiative was instituted to protect our deploying military members who have been particularly susceptible to identity theft.

Internet Crimes Against Children

The Internet Crimes Against Children taskforce worked in partnership with the Outreach Division to raise further awareness for children and their vulnerability on the internet. The AG office provides specialized training and keeps the public aware of emerging trends. Our Division also works on child exploitation issues.

Internal Initiatives

C.A.M.O

The Attorney General's Military/Veteran Task Force, also known as C.A.M.O., is divided into five sub-committees. The **Command** group will provide legal assistance for Veterans. The **Control** group will seek to improve outreach efforts to Arizona Women Veterans. The **Communication** networks among the 19 Information Centers, create Public Service Announcements (PSAs), raise awareness for the Veteran services. The **Connectivity** committee will provide services and assistance for Veterans on criminal matters through Veterans Court. The **Intelligence** group will aid Veterans by providing access to education, jobs and social services. There are currently close to 40 members on C.A.M.O. and the progress being made through our combined efforts is substantial. C.A.M.O. meets quarterly, but the sub-committees are encouraged to meet independently as needed.

Community Outreach/ Attorney General Taskforce Against Senior Abuse (TASA)

Community Outreach and Education works to protect seniors by providing information about current scams and fraud. We produced three separate publications to illustrate scams/fraud against seniors, health care provider information, and life care planning. We gave over 200 presentations and continue to expand the work of TASA. Our office also encourages victims to file complaints and we support tough legal action to protect our vulnerable seniors. In 2012, we worked to give more presentations about elder abuse to private businesses and their employees, training them on the importance of being alert when working with senior customers who exhibit signs of abuse of any kind. Because we are a statewide agency, we have been using that advantage to help elder abuse coalitions around the state do a better job of collaborating and working together in a more cohesive and effective way.