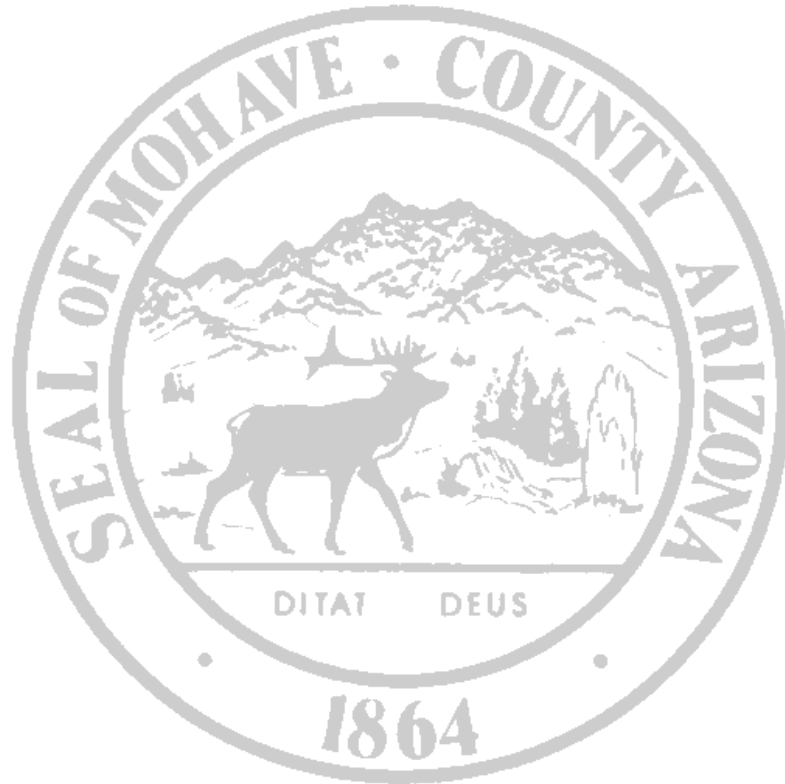


Mohave County Office of the Public Defender



2000/2001 Annual Report

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Executive Summary

The Public Defender's Office for Mohave County was authorized 10 attorneys and 11 support staff during Fiscal year 2001. Unfortunately there was a significant exodus of professional staff in the first and second quarters of the fiscal year. The result of this exodus was an insufficient staff to handle assigned caseloads from the Mohave County courts. This resulted in the approval and implementation of private contracts for the provision of professional legal services for indigent defendants within Mohave County.

These private contracts resulted in significant over expenditure from approved budgetary amounts. The total cost of representation was extraordinarily high as a result and is reflected in the per cost figures in Section *** of this report.

On the positive side, by the end of the fiscal year, many of the private contracts were allowed to expire and not be renewed. This was accomplished due to the hiring of new attorneys. While the staffing level was not complete prior to the end of the fiscal year, projected hires allowed for the Public Defender's Office to retain virtually all Superior Court non-conflict cases filed after May 1, 2001.

Section One of this report summarizes the number of cases to which the Public Defender's Office was appointed, the number of cases sent to private contract attorneys and the number of cases that required other counsel due to conflicts within the Public Defender's Office. An accounting of funds budgeted and expended is also set forth in Section Two. Section Three sets out the basis for calculating the cost per case of indigent defense for fiscal year 2001. This is broken down into cost for cases retained by the Public Defender's Office and costs for cases sent to private contract counsel. Lastly this report sets forth projections for fiscal year 2002 and beyond.

Section 1 – Caseload Figures

The Mohave County Indigent Defense system is designed to provide legal representation to poor criminal defendants. A Public Defender office is statutorily authorized¹ to provide legal services in: a) criminal cases², b) extradition hearings³; c) sanity hearings under title 36⁴; d) involuntary commitment hearings under title 36⁵; e) commitment hearings under 13-4518⁶; f) juvenile delinquency proceedings⁷; g) appeals to higher courts⁸; h) juvenile proceedings other than delinquency (i.e. dependency and neglect)⁹; and h) mental health hearings regarding release recommendations held before the psychiatric security review board pursuant to 13-3994¹⁰. However, the Mohave County Public Defender’s Office has traditionally handled only criminal and juvenile delinquency proceedings. Other representation of indigent persons has been handled by private contracts through the Court Administrator’s office and are not addressed in this report.

During fiscal year 2001 the Mohave County Public Defender’s Office was appointed to the following cases as compared to prior years:

	Misdemeanors	Juvenile	Felony	Total ¹¹	% Change
FY 1999	810	116	1616	2108	n/a
FY 2000	771	151	1755	2254	7%
FY 2001	925	244	2443	3089	37%

According to standards set by the Supreme Court of Arizona in *State v. Joe U. Smith*, 140 Ariz. 355 (1984) an attorney can effectively handle 150 cases per year. The court flatly stated that “Under **NO** circumstances should maximum allowable caseloads for each full-time attorney exceed [this limit]”.

¹ A.R.S. § 11-584

² A.R.S. § 11-584(A)(1)(a)

³ A.R.S. § 11-584(A)(1)(b)

⁴ A.R.S. § 11-584(A)(1)(c)

⁵ A.R.S. § 11-584(A)(1)(d)

⁶ A.R.S. § 11-584(A)(1)(e)

⁷ A.R.S. § 11-584(A)(1)(f)

⁸ A.R.S. § 11-584(A)(1)(g)

⁹ A.R.S. § 11-584(A)(1)(h)

¹⁰ A.R.S. § 11-584(A)(1)(i)

¹¹ Case weighting formula established by Arizona Supreme Court in *Joe U. Smith v. State* counts a misdemeanor at .5, a juvenile case at .75 and a felony at 1. Using these ratios the formula for total cases is ((# misdemeanors x .5) + (# of juveniles x .75) + (# of felonies)).

In order to provide an ethically appropriate standard of representation that would not subject any given attorney to disciplinary claims and actions (including a possible loss of license) the Public Defender’s Office would require a staff of 20.5 attorneys. The Public Defender’s Office is currently staffed at 11 attorneys.

While technology has certainly advanced since Joe U. Smith was decided in 1984, it is unclear to what level this strict admonition from the Arizona Supreme Court is appropriate in today’s society. Advances in computers, case management software, document automation and other management tools has certainly provided attorneys with an ability to handle a greater volume of work without compromising the integrity of the delivered work product. However, the current discrepancies in caseloads in Mohave County versus the approved levels of Joe U. Smith are inviting a dilemma in Mohave County. Any single Defendant who were to discover the actual caseloads of his attorney would have standing to sue the County for failure to comply with statutory mandates, which through Joe U. Smith include the provision of *competent and effective* counsel. This type of a lawsuit would likely be couched in terms of a 1983 civil rights lawsuit against the County.

Not only would this type of a lawsuit subject the County to pecuniary damages, but it could also potentially open up virtually every past criminal case to appellate review for ineffective assistance of counsel. In order to adequately protect Mohave County against such liability, it is my recommendation that the county increase the number of attorneys within the Public Defender’s Office to a minimum of 15. I would note that even an increase to 15 attorneys would still mean a caseload of 206 per attorney. It is my opinion that the advances in technology over the last 16 years could very well justify the increase of allowable caseloads by 1/3.

Actual Expenditures by FY

	Actual	% Change
FY 1999	\$ 1,187,259.69	n/a
FY 2000	\$ 1,160,172.49	-2.2%
FY 2001	\$ 1,751,749.01	51%

Actual Expenditures by FY Internal vs. Contract

	Internal	% Change	Contract	% Change
FY 1999	\$ 932,157.35	N/a	\$ 255,102.34	N/a
FY 2000	\$ 930,463.59	-2 %	\$ 229,708.90	-9.9 %
FY 2001	\$ 764,342.64	-17.9 %	\$ 987,406.37	329.9 %

General Fund Approved Budget

	Approved Budget	Percent Change
FY 1999	\$1,187,260.00	na
FY 2000	\$ 1,198,817.00	.97
FY 2001	\$ 1,357,150.00	13.2