

for The Defense

Training Newsletter of the Maricopa County Public Defender's Office

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*Delivering America's
Promise of Justice for All*

for The Defense

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Contents

Completing the Story.....	1
Helping Indigent Clients Avoid Fees, Surcharges and Assessments.....	4
Search Incident to Arrest of Personal Electronic Devices.....	6
Interstate Compact Update.....	9
Jury and Bench Trial Results.....	12

Completing the Story

The Darling of the Litigator's Nursery

By Robert L. Gottsfield, Maricopa County Superior Court Judge

“Completing the story” appears to be a part of the weaponry of both sides of the aisle. Judging by how often it is used, especially as a justification for why certain evidence should be admissible, neither side wishes to give it up.

Ok, so don't give it up. But it is suggested that you add a second sentence immediately after uttering the daunting phrase: tell the judge why in the context of your case completing the story is relevant and admissible.

Completing the story is a classic example of an argument which begs the question. Simply put, when you respond in this way, your answer fails to answer the question or issue posed. It thus begs the question or begs the point at issue. In essence it avoids answering the question posed.

That more is required than the response “completing the story” is borne out by the case law.

In State v. Levato, 183 Ariz. 558, 562, 905 P.2d 567, 571 (App.1995), reversed on other grounds, 186 Ariz. 441, 924 P.2d 445 (1996), which set aside defendant's conviction of nine counts of theft, the trial court permitted the state to question the victims about the sources of their investment money. This was held to be irrelevant and served only to play upon the jurors' sympathy for the victims. The pertinent language of the court states:

Here, the investment-sources testimony added nothing, in spite of the “complete-the-story” purpose proffered by the state at trial, to the theft evidence considered by the jury. Indeed it smacked of the “hardship” testimony excluded by the trial court. The source of the victims' investment money had no bearing upon the defendant's intent to deprive the victims of their money, his control or unauthorized conversion of the money, or the existence of any material misrepresentation used by the defendant to obtain the investments.

In State v. Weaver, 158 Ariz. 407, 410, 762 P.2d 1361, 1364 (App. 1988), a prosecution for forgery, credit card theft, and second-degree escape, evidence that defendant had been under surveillance prior to the charges being filed, was admitted unfairly (although it was harmless error where the properly admitted evidence of guilt was overwhelming). In response to the state's claim that all the surveillance evidence was necessary to “complete the story of the crime” the court remarked:

[T]his phrase does not mean that the prosecution is entitled to complete the defendant's criminal history. Nor should a defendant's criminal history be suggested by evidence that has either no probative value, or has probative value that is substantially outweighed by the danger of unfair prejudice. The former is plainly precluded by rule 404(b), and the latter may be precluded by rule 403, Arizona Rules of Evidence.

In *State v. Alatorre*, 191 Ariz. 208, 213, 953 P.2d 1261, 1266 (App. 1998), which affirmed convictions of child molestation and sexual conduct with a minor, the court concluded that evidence defendant struck the victim in the stomach, should not have been admitted under the rubric it was necessary to complete the story. This uncharged act was not admissible either as sexual propensity evidence. While the error was deemed harmless under the circumstances the court determined that completing the story should be limited to what is essentially "intrinsic" evidence. In *State v. Dickens*, 187 Ariz. 1, 926 P.2d 468 (1996), *cert. denied*, 522 U.S. 920 (1997), evidence was held to be intrinsic in the other acts context where the other act evidence and the evidence of the crime charged are "inextricably intertwined", or both acts are part of a "single criminal episode" or the other acts were "necessary preliminaries" to the crime charged.

A major problem caused by permitting the admission of extrinsic (as distinct from intrinsic) evidence on a response that it completes the story, or that it is the rest of the story which the jury has a right to hear, is that it often links a defendant to other crimes. *State v. Gamez*, 144 Ariz. 178, 179, 696 P.2d 1327, 1328 (1985) (harmless error under circumstances but improper to admit police testimony they belonged to the "major offenses unit" and a statement by the prosecutor that defendant "is real good at what he does").

Generally evidence of other acts are not admissible to prove guilt of another crime (Id.). Rule 404(b) excluding most evidence of this nature exists to avoid confusing the jury and to prevent its attention from being distracted from the real issues in the case. (Id.).

The rule is based also on the fact that a jury should not be made to think the defendant is an evil person which could cause the jury to convict the defendant on lesser evidence that might ordinarily be necessary to support a conviction (Id.).

In a foundation case in this area, a defendant's conviction for sale of small quantities of marijuana to an undercover officer posing as a high school student was reversed. Witnesses were allowed to testify to sales on other occasions and the seizure of a small amount of marijuana occurring a month after the instant charges. At trial the prosecutor argued all this evidence "completed the story of the crime".

The court, through Judge Livermore, stated in *State v. Ramirez Enriquez*, 153 Ariz. 431, 432, 737 P.2d 407, 408 (App.1987):

But that phrase does not mean that the prosecution is entitled to complete the defendant's criminal history. In order to prove the crimes on October 30 and 31, 1984, it was hardly necessary to prove either events during the prior year or a seizure a month later.

Ramirez Enriquez also found it was error to let an officer testify why an undercover investigation was undertaken (suspected drug activity in defendant's house) and that young people came to the house and left within a few minutes which the officer stated is consistent with someone regularly selling drugs. The court's classic response was:

The supervisor cannot be allowed to conclude from what he has otherwise learned about the defendant that the defendant is guilty. The observations were as consistent with selling baseball cards as with selling marijuana. (Id. at 153 Ariz. 433, 737 P.2d 409)

See also, *State v. Simms*, 176 Ariz. 538, 863 P.2d 257 (App. 1993), *rev. denied* (introduction of undercover officer's hearsay statement that they contacted defendant because they thought he was selling narcotics, under guise of completing story of the crime, can be reversible error).

Just as courts should not permit unfair and irrelevant "completes the story" evidence through a police officer or lay witnesses, it should not permit it to be "laundered" through an expert's testimony. Thus in a civil case where an expert was allowed to testify that the plaintiff-bus driver's misuse of prescription drugs on occasions from two to eight years before the accident as a basis of the expert's opinion that the plaintiff on the date of the accident was impaired, the court, again through Judge Livermore, offered the following:

[W]e believe that permitting character evidence to support an expert opinion of what happened on a particular occasion is improper for at least two reasons. First expertise is not essential for the trier of fact to understand the simple proposition that if a person has done something often before, it is more likely that it will have been done again. If triers are to be permitted to draw such conclusions, they can do so directly without the intervening aid of the expert. Second, if an expert can in effect "launder" character evidence, thus rendering what had been inadmissible admissible, the rule excluding character evidence will have been effectively eliminated. We do not find edifying the proposition that character evidence is inadmissible unless an expert relies on the evidence in forming an opinion in a way that we forbid the trier of fact from relying directly.

Henson v. Triumph Trucking, Inc., 180 Ariz. 305, 307, 884 P.2d 191, 193 (App. 1994), *rev. denied*.

Finally there is a difference between competing the story and Arizona Rule of Evidence 106, which is the rule of completeness. Thus when a writing or recorded statement or any part thereof is introduced in evidence, the adverse party may require the introduction at that time of any other part of that or any other writing or recorded statement which in all fairness should be considered at the same time as that which is sought to be introduced. *State v. Prasertphong*, 210 Ariz. 496, 499, 114 P.3d 828, 831 (2005).

In summary, use the phrase if you must but always go on and tell the court why completing the story in your particular case is not only relevant but admissible. Intrinsic evidence will always be admissible without a Rule 404(b) analysis but with a Rule 403 finding by the court. *State v. Dickens*, 187 Ariz.1,926 P.2d 468 (1996), *cert, denied*, 522 U.S. 920 (1997).

If other acts evidence is sought to be admitted against a witness or defendant, make sure the other act fits into a 404(b) exception remembering the stringent rules which have evolved for such evidence. *State v. Ives*, 187 Ariz. 102, 927 P.2d 762 (1996) (adopts most narrow definition of "common scheme or plan" following the rationale of Judge and Professor Joe Livermore's *Ramirez Enriquez* decision, *supra*; use of "intent", "motive" and "knowledge" similarly restricted); *State v. Prion*, 203 Ariz. 157, 52 P.3d 189 (2002) (restricts "identity" to signature crimes and limits "motive").

And never give up making proper objections when faced with the completing the story response. Advise the court it begs the question and request the court to make a ruling as to its relevancy and specifically why it is being admitted if that is what the court intends to do. Don't think that just because some appellate courts have hesitated to reverse a conviction where the properly admitted evidence is overwhelming as to defendant's guilt it won't happen in your case. The Supreme Court in *Gamez*, *supra*, specifically warns counsel there will be a situation where the admission of improper statements and evidence will have such an impact on a jury's decision that reversing the conviction will be the only proper result. *Id.* at 144 Ariz. 180, 696 P.2d 1329.

Helping Indigent Clients Avoid Fees, Surcharges and Assessments

By Rose Weston, Pima County Defender Attorney, Appellate Division

A court's imposition of many fees, surcharges and assessments is discretionary and subject to attack both in the trial court and on appeal. Here are some ideas for fighting these costs in the trial court and preserving the record on appeal:



1. **Object when the trial court imposes costs without regard to your client's financial resources and ability to pay or without considering any substantial hardship on the client or family that will result from the total amount imposed.** Although Rule 6.7(d) (requiring trial court to consider ability to pay and substantial hardship before imposing attorney fees) seems to apply only to attorney fees, there is a basis to argue that the requirement also applies to other fees, surcharges, and assessments under A.R.S. § 12-116.01(F).
2. **Make your client's financial statement part of the record.** Without a document showing the indigent client's lack of financial resources, appellate courts will presume the missing record supports the trial court's decision. When the client's employment or financial circumstances have changed because of incarceration or other events during the course of the case, be sure that a *current* Financial Statement gets into the record before sentencing and that the trial court considers it instead of the statement prepared just after arrest. Help your client include all relevant financial circumstances, including all debts and living expenses.
3. **Check to make certain the PSR's "Financial" section is accurate, current, and complete.** If not, object under Rule 26.8 and request corrections. Or you can ask the trial court to seal the objectionable PSR and order preparation of a new PSR by a different PO or by the same PO but with specific instructions.
4. **Object if the court tries to reduce costs to a civil judgment by entering a criminal restitution order at the time of sentencing.** On the date the court enters such an order, *ten percent interest* begins to accrue immediately. Under A.R.S. § 13-805, the criminal restitution order cannot be entered until the sentence has actually expired (this delay benefits our clients by putting the onus on the court system to keep track of the case and remember to get the interest started later.) If the trial court insists on entering the order at sentencing, try to persuade the judge to specify that the criminal restitution order becomes effective "upon expiration of the sentence."

ADDITIONAL ARGUMENTS FOR FIGHTING DISCRETIONARY COSTS

- Trial courts have the power to reduce or waive nonmandatory costs when the defendant lacks the financial resources to pay them. A.R.S. § 12-116.01. "A defendant's lack of employment, which largely accounts for his indigence in the first place, must be viewed as showing a lack of financial resources." *State v. Taylor*, 216 Ariz. 327, ¶ 24, 166 P.3d 118, 125 (App. 2007).
- Because unpaid costs accrue interest at a statutory rate of ten percent per annum, A.R.S. § 44-1201, the amount owed continually mounts and becomes ever more difficult for an indigent defendant to pay.

- Because courts make payment of outstanding fees, surcharges, and assessments a condition of probation (see A.R.S. § 13-808(B)) ordering an indigent defendant to pay an amount that is impossible to pay off completely results in a **de facto sentence of extended probation**. And because trial courts can ensure payment by extending probation under A.R.S. § 13-902(C) for five years for a felony and two years for a misdemeanor, the ultimate length of probation in some cases will result in an illegal sentence, and you should object on that basis. However, even if additional probation would result in a permissible sentence, you can argue that the resulting sentence will be for longer than the court intends to impose.
- **The trial court cannot consider prospective income or earnings, only the defendant's current financial circumstances.** *Taylor*, 216 Ariz. 327, ¶ 24, 166 P.3d at 125 (in determining discretionary costs, court cannot consider future earning capacity or "create" financial resources by imputing future income to defendant).
- **The trial court should not consider an unmarried partner's income and assets** in determining the defendant's ability to pay (unless, you open the door by arguing that the discretionary costs will cause substantial hardship to the partner.)
- **Debts must be considered in determining a person's financial circumstances and ability to pay.** Such debts may include unpaid child support, outstanding costs from prior convictions, credit card bills, and mortgages.

CASES:

State v. Lopez, 175 Ariz. 79, 82, 853 P.2d 1126, 1129 (App. 1993) (holding trial court committed fundamental error in imposing large surcharge and attorney fees without requisite prior examination of financial resources and potential hardship in paying non mandatory costs).

State v. Torres-Soto, 187 Ariz. 144, 146, 927 P.2d 804, 806 (App. 1996) (vacating surcharge and attorney fees after trial court failed to make hardship findings under Rule 6.7(d) before imposing non mandatory costs on indigent defendant who was without assets or financial resources).



Search Incident to Arrest of Personal Electronic Devices

By Richard Gissel, Defender Investigator, Juvenile Division



It seems new personal electronic devices are introduced daily. Pagers, laptop computers, personal digital assistants, cell phones, and thumb flash drives are but a few of the personal electronic devices people carry with them everyday. These devices can contain huge amounts of information that people might believe to be safe and secure. Yet, in this post 911 era, many people are unaware that their personal information is open to examination if they are arrested. Changing technologies present tough questions about how these devices fit within the current framework of court cases and laws.

The United States Supreme Court held in *United States v. Robinson*¹ that police can search a person and items within that person's control incident to an arrest. The Court found that officer safety and preservation of evidence interests prevail over personal privacy rights, making such searches reasonable under the Fourth Amendment. The guidelines for a search incident to arrest seem simple to follow on its surface, but new electronic technologies complicate the matter. Lower courts have relied upon *Robinson* to guide them when determining if the police actions were reasonable retrieving information within devices carried by those arrested.

Time limits are even less troublesome when items to be search are immediately associated with the accused. In *United States v. Edwards*,² the Supreme Court reasoned that as long as the administrative process incident to the arrest had not been completed, a search of effects seized from the accused is still incident to the arrest and, therefore, permissible. Yet, questions remain about the extent to which these principles extend to personal electronic devices and the digital evidence contained within.

Digital Evidence

Digital evidence is simply information in a digital format such as e-mails, digital photographs, digital videos, word processing documents, and instant message histories. Its use has increased in recent years as the courts have applied the *Federal Rules of Evidence* to define digital evidence in the same manner as more traditional documents, but courts have also noted important differences. The courts have found that digital evidence is difficult to destroy, easily changed and copied, and more readily available. For these reasons, some courts treat digital evidence differently for purposes of hearsay, authentication, the best evidence rule, and privilege. Still, as the courts have become comfortable with digital formats they have ruled "computer data compilations... should be treated as any other records."³

Searching Personal Electronic Devices

Most challenges to digital evidence center around authenticity questions such as "Was the data altered?", "Was the program that generated the data reliable?", and "Who is the author of the data?" But, a far more important question to consider: "Was the data legally obtained?"

Laptop Computers

A person may carry several personal electronic devices on them at any one time and if arrested these devices can become the subject of a warrantless search. Yet, the courts have looked at the right-to-privacy issue about data on computers and found there is a reasonable expectation of privacy concerning digital files stored on a laptop computer.⁴ Still, it is important to note that (1) a person may lose his right to privacy if he allows a third-party access to that data; and (2) the right to privacy does not extend to searches conducted by private parties not acting for the government. For example,

in *United States v. Hall*,⁵ the defendant had taken his laptop to be repaired and the technician found child pornography on it. Authorities got a search warrant based on information given by the technician. The court ruled, “Seizure of an entire computer was justified when the warrant narrowly described the child pornography files sought, since agents would not, under the terms of the warrant, be free to rummage through the defendant’s property.”

Recently, there has been a shift away from a focus on privacy to one of security. Generally, a computer in a private home cannot be searched without a warrant, but at the border it is a different story. Customs agents have the power to read, seize, and store all the information that can be retrieved from laptops of travelers entering the United States. The Ninth Circuit Court of Appeals held that forensic analysis of a laptop by U.S. Immigration and Customs Enforcement is permissible without probable cause or a warrant. The court ruled, “under the border search exception, the government may conduct routine searches of persons entering the United States without probable cause, reasonable suspicion, or a warrant.”⁶ However, when the question arises about a search incident to arrest of a laptop, the courts look toward rulings regarding other personal electronic devices like cell phones.

Cell Phones

Today most people carry with them a cell phone which is regularly found on defendants or within their immediate control if arrested. In the *United States v. Finley*, a cell phone was taken from the defendant during a search incident to a lawful arrest. With a codefendant they were taken to the codefendant’s home where authorities were carrying out a search warrant. During the search of the home, the memory of the cell phone found on the defendant was searched and several text messages related to drug trafficking were found. This information was later used to convict the defendant. On appeal the court found the defendant did have an expectation of privacy regarding the contents of the cell phone, but the search was within the scope of a search incident to arrest. Further, the court ruled the fact the cell phone was not searched right away after the custodial arrest did not change the validity of the search.⁷

In *United States v. Mercado-Nava*, the defendant was arrested after a narcotics dog alerted on his truck and drugs were found. The arresting officer found a cell phone on the defendant and downloaded its entire memory at the time. The court upheld the search of the defendant’s cell phone under the preserve evidence prong of the search incident to arrest exception. The court ruled that the “need to preserve evidence is underscored where evidence may be lost due to the dynamic nature of the information stored on...cell phones.”⁸ Under these decisions, the data on a cell phone is encompassed by the search incident to arrest exception.

Pagers

Until cell phones became popular, pagers fulfilled the major role as the common personal communications device. A pager is a simple telecommunications device that receives a short message consisting of a few digits, such as a phone number that the user can call. Although pagers have become obsolete, they are still used in niche markets like emergency services. Pagers are also still preferred by some who like their simplicity and privacy. Although pagers are not common, the courts have ruled that information contained on them is open to search incident to arrest. For example, in *United States v. Chan*, the court denied the defendant’s motion to suppress information gained from his pager as a result of a lawful search incident to his arrest. The court found the search of the pager was conducted contemporaneous to the arrest and was a lawful search under the Fourth Amendment.⁹

Flash Cards

IPods, digital cameras, GPS, and even wristwatches are but a few personal electronic devices that use flash cards. A flash card, sometimes called a memory card, offers high record abilities, extensive

data and power-free storage, and a rugged environment to keep data safe. The courts have not yet ruled on the legality of search incident to arrest of flash cards which might be carried by a defendant unattached from a personal electronic device. Still, it would stand to reason the courts would follow the same logic when called on to decide the validity of a flash card search incident to arrest.

Areas to Consider

One area to consider when forming a possible defense strategy might be based on statutory protections granted some wire and electronic communications at both the federal and state levels. These statutory provisions restrict the intentional intercepting of some forms of wire or electronic communication unless approved by a court order. Of course each case will have to be analyzed on its own merits and facts to decide if these provisions apply.

Another developing legal area regarding the search of personal digital devices is Fifth Amendment protections. Government agencies have stressed the need to collect electronic information in the name of public safety, especially after September 11th. For example, travelers entering the United States routinely have the information on their laptops copied even if that information is proprietary. There is also an expectation that travelers not only show how their digital devices work but also surrender personal passwords as well. But this requirement is under scrutiny in the courts. The United State District Court of Vermont recently ruled that a defendant did not have to reveal his personal password to the government. To do so would violate the defendant's Fifth Amendment right against self-incrimination. The court stated: "The government can force a person to give up the key to a safe because a key is physical, not in a person's mind. But a person cannot be compelled to give up a safe combination because that would 'convey the contents of one's mind,' which is a 'testimonial' act protected by the Fifth Amendment." The court's ruling is on appeal.¹⁰

Summary

Be prepared for prosecutors to argue that if the police can search a person incident to arrest and seize any evidence found, then personal electronic devices should be treated the same. There are important distinctions, however, that defense counsel can emphasize. For example, the information on a flash card can take days to examine and will still be available in full if simply impounded and not searched. Further, under the Fourth Amendment the search must be reasonable. Improved privacy protections, like encryption and passwords, moreover, may be key to establishing another tier of protection under the Fifth Amendment.

References

1. *United States v. Robinson*, (414 U.S. 218 1973)
2. *United States v. Edwards*, 415 U.S. 800 (1974)
3. *United States v. Vela*, 673 F.2d 86, 90 (5th Cir. 1982).
4. *United States v. Barth*, 26 F. Supp. 2d 929, 936-7 (W.D. Tex. 1998)
5. *United States v. Hall*, 142 F. 3d 988 (7th Cir, 1998)
6. *United States v. Montoya de Hernandez*, 473 U.S. 531, 538 (1985)
7. *United States v. Finley*, 2007 U.S. App. LEXIS 1806 (5th Cir. 2007)
8. *United States v. Mercado-Nava*, 2007 WL 1098203 (District of Kansas 2007),
9. *United States v. Chan*, 830 F.Supp. 531 (N.D. Cal., 1993).
10. In Child Porn Case, a Digital Dilemma -<http://www.washingtonpost.com/wp-dyn/content/article/2008/01/15/AR2008011503663.html>

Interstate Compact Update

By Brian Sloan, Defender Attorney

Editor's Note: The following guide on the Interstate Compact updates the guide that was provided in *for The Defense*, Volume 17, Issue 6. It was developed by Brian Sloan for our clients who wish to move out of state after dealing with their cases. Simply provide them with this guide to assist them in their efforts to relocate out of Arizona. We appreciate the assistance of Dori Ege, Deputy Compact Administrator with Adult Probation Services, for providing regular presentations on this topic and assisting Mr. Sloan in the creation and update of this guide.

INTERSTATE COMPACT – PROBATION SUPERVISION IN ANOTHER STATE – A.R.S. §31-467
InterstateCompact.org / State Compact Office 602-452-3805; 602-372-2479 (A-K); 602-372-2408 (L-Z)

REQUIREMENTS FOR INTERSTATE COMPACT

Fee	Application Fee - \$300, which must be paid upon submittal of application. If transfer to another state is granted, the Arizona monthly probation fee will be waived, however, there may be a monthly probation fee in the receiving state
States	All 50 states are members, including D.C., U.S. Virgin Islands, and Puerto Rico
Time	Process takes about 60 days (time for a transfer request, and a response from the receiving state)
Qualifications	<p>Felonies: All felonies with three months or more of probation remaining, however, sex offenders – those who are required to register in the sending or receiving state – have separate rules that apply</p> <p>Misdemeanors: The Interstate Compact is available to misdemeanor offenders if their sentence includes one year or more of supervised probation, and the offense involved at least one of the following:</p> <ul style="list-style-type: none"> • An offense in which a person has incurred direct or threatened physical or psychological harm; or • An offense that involves the use or possession of a firearm; or • A 2nd or subsequent misdemeanor offense of DUI (based on history, not on actual plea); or • A sexual offense that requires the offender to register as a sex offender in Arizona

ELIGIBILITY:

- To be eligible for the Interstate Compact, all of the following requirements must be met:
 - There is three months or more of supervision remaining; AND
 - There is a valid plan of supervision in other state; AND
 - The offender is in substantial compliance with the terms of supervision – so as not to result in the initiation of revocation procedures; AND
 - The offender must intend to relocate to other state for more than 45 consecutive days in 12 month period;
- The decision to transfer is in the sole discretion of the sending state (Arizona)
- Offenders subject to deferred sentences are eligible
- Offenders under pre-trial intervention programs, bail, or a similar program are not eligible

MANDATORY ACCEPTANCE – the receiving state shall accept supervision if one of the following:

- The offender is a resident of the receiving state (all must be met):
 - The offender has continuously inhabited what would be the receiving state for at least one year prior to the commission of the offense for which the offender is under supervision; AND

- The receiving state is the person's principle place of residence; AND
- The offender has not, unless while incarcerated, relocated to another state or states for a continuous period of six months or more with the intent to establish a new principle place of residence

OR

- Offender has family in the receiving state:
 - Family in receiving state are willing to assist and have the ability to assist; AND
 - The offender can obtain employment or has visible means of support; AND
 - Resident family must:
 - Be a parent, grandparent, aunt, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent; AND
 - Have resided in the receiving state for 180 days or longer as of the date of the transfer request; AND
 - Indicate a willingness and ability to assist the offender as specified in the plan of supervision

OR

- The offender is in the active military and is being deployed to another state

OR

- The offender resides with family in the military

OR

- The offender resides with family whose current employer is transferring to another state

DISCRETIONARY ACCEPTANCE:

The sending state may request transfer of supervision of an offender who does not meet the mandatory acceptance requirements (above) if:

- The sending state provides sufficient documentation to justify the requested transfer; AND
- The receiving state, in their discretion, accepts or rejects the transfer of the supervision in a manner consistent with the purpose of the compact; AND
- Offender shall not travel until:
 - The application has been completed and submitted; AND
 - Receiving state shall have the opportunity to investigate prior to offender's arrival. *Arrival in the receiving state prior to acceptance and investigation may lead to automatic rejection*
 - Exceptions (do not apply to registered sex offenders who must remain in Arizona pending receipt of reporting instructions):
 - Sending state may grant travel permit to an offender living in receiving state at time of sentencing;
 - Offender sentenced to a period of incarceration of six months or less and who was living in the receiving state at the time of sentencing will qualify for reporting instructions upon release to probation;
 - If the formal investigation is denied, Arizona must order the offender to return. If the offender fails to return within 10 days, Arizona must issue a nation-wide warrant

LIMITATIONS:

- Offenders who are relocated to the receiving state under this compact are not allowed to relocate to another state except as provided by the rules of Interstate Compact.
- The receiving state shall supervise an offender consistent with the supervision of other similar offenders sentenced in the receiving state. This may include special conditions imposed by the receiving state. However, the length of supervision is determined by the sending state.

Transportation to receiving state – an offender will be given a 7-day travel permit to get to the receiving state after acceptance or receipt of approved reporting instructions from the receiving state. Getting to the receiving state is the offender's responsibility.

Victims – if any, and if they opt in – will be notified of the offender's desire to enter into the interstate compact, and will be allowed to give their input.

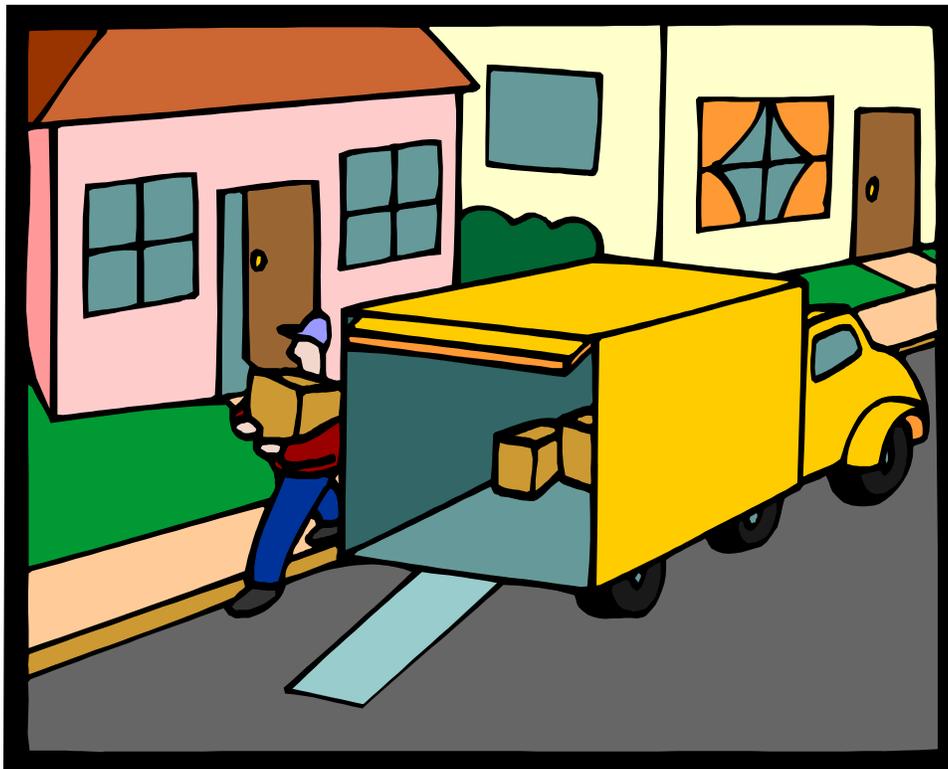
Waiver of extradition – prior to the offender being transferred to the receiving state, they shall sign a waiver of extradition to be sent back to the sending state if they violate the terms of their probation.

Violations of probation – a violation of probation may result in the sending state (Arizona) “retaking” the offender for possible probation revocation procedures, unless there are new charges in the receiving state.

HOW TO START THE PROCESS:

The probation officer has the forms, and will fill out the application, which the offender must sign. If the offender is in prison, and has a probation term following the prison sentence, this application process can begin 120 days prior to release. It takes \$300 to start the process, in the form of a money order or cashier’s check, which can be paid by someone on the outside

NOTE: An application for Interstate Compact cannot be submitted prior to sentencing. However, the offender can begin to gather the paperwork needed to complete the application (for example: showing that a family member is willing to assist the offender, or proving residency in the receiving state) prior to sentencing.



Jury and Bench Trial Results

March 2008

Public Defender's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 1						
2/27 - 3/3	Reece Armstrong	Spencer	Whitney Gilla	CR07-143425-001DT Agg. Assault, F3D	Guilty	Jury
3/4 - 3/6	Bradley Stewart	Lynch	Alegre	CR06-108832-001DT Disorderly Conduct, F6D	Guilty of Disorderly Conduct Non-Dangerous	Jury
3/18 - 3/19	Jakobe Whalin Thompson	Donahoe	Losico	CR07-157447-001DT PODD f/s, F2 PODP, F6	Guilty - Trial held in absentia.	Jury
3/24 - 2/25	A. Traher Davis Sain	Davis	Kelly	CR07-160768-001DT Forgery, F4	Not Guilty	Jury
3/24 - 3/25	Smith Stewart Rankin	Hicks	Prichard	CR05-012673-001DT Theft, F6 Engage in Contracting w/o a License, M1	Directed Verdict	Jury
Group 2						
3/3 - 3/7	Taradash Crawford Urista Del Rio	Anderson	Okano	CR07-147714-001DT Agg. Assault, F3D	Not Guilty	Jury
3/10 - 3/12	Steinfeld Leonard	Spencer	Halstenrud	CR07-157340-001DT Robbery, F4 Theft, F4	Guilty	Jury
3/12 - 3/17	Mestaz	Donahoe	Golomb	CR07-151969-000DT Voyeurism, F5 Burg. 3rd Deg., F4	Not Guilty Voyeurism Guilty of Lesser Included Offense - Surreptitious Viewing Guilty on Burglary	Jury
3/18 - 3/20	Taradash Souther	Houser	Allen	CR07-164502-001DT Agg. Assault, F3	Not Guilty	Jury
3/25 - 3/27	Rosell	O'Connor	Herman	CR07-144525-001DT Theft, F3	Not Guilty	Jury
3/31	Lee	Gordon	Murphy	CR07-005055-001DT Murder 2, F1 Agg. Assault, F3	Hung Jury (5 not guilty 7 guilty)	Jury
3/27- 4/1	Kozelka Mealy Romani	Dunevant	Herman	CR2007-144903-001DT Crim Damage, F5	Not Guilty	Jury
Group 3						
3/4 - 3/6	Spurling Spizer	Verdin	Dixon	CR06-007365-001DT PODD, F4 PODP, F6	Not Guilty	Jury

Jury and Bench Trial Results

March 2008

Public Defender's Office

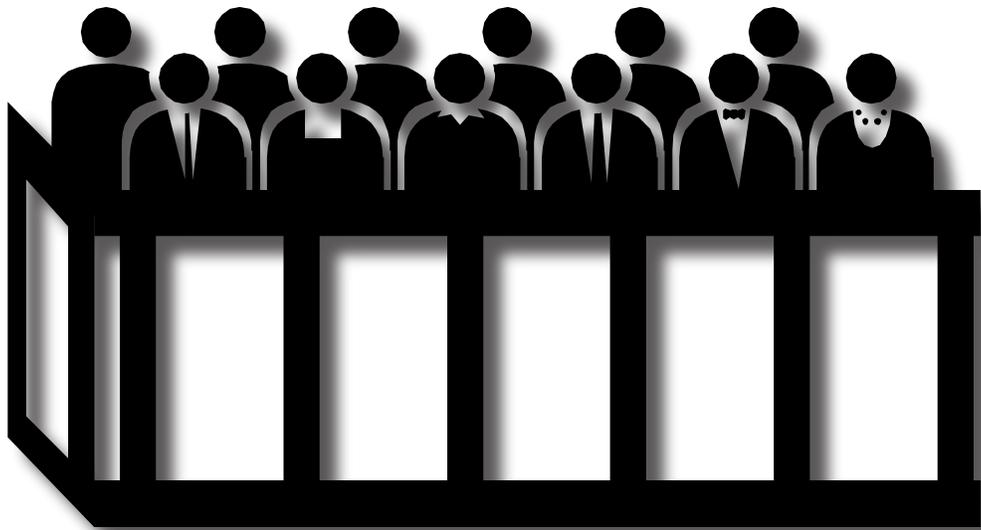
Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 4						
2/25 - 2/27	Dehner	Sanders	Brooks	CR07-145888-001SE Burg. 3rd Deg., F4 False Report to Law Enforcement, M1	Guilty	Jury
2/25 - 3/5	Houck Beatty Houser	Udall	Beatty	CR06-030990-001SE Sexual Abuse, F3 Att. to Commit. Molestation of Child, F3	Not Guilty	Jury
2/26 - 2/27	Jolley	Contes	Lucca	CR05-114265-001SE POND, F2	Guilty	Jury
3/10 - 3/13	Quesada	Udall	Micflikier	CR06-158619-001SE TOMOT, F3	Guilty	Jury
3/11 - 3/12	Gaziano	Arellano	Murphy	CR07-031388-001SE Agg. Assault, F6 Crim. Trespass 3rd Deg., M3	Guilty	Jury
3/12 - 3/13	Jolley	Contes	Minicozzi	CR07-130211-001SE PODD, F4 PODP, F6	Not Guilty	Jury
3/13 - 3/24	Klopp Beatty Arvanitas Houser	Abrams	Beatty	CR07-105311-001SE 2 cts. Molest of Child, F2 3 cts. Sexual Conduct w/Minor, F2	2 cts. Molest of Child- Guilty Sexual Conduct w/Minor- Guilty 2 cts. Sexual Conduct w/Minor-Not Guilty	Jury
3/19 - 3/24	Corbitt	Sanders	Brooks	CR07-108286-002SE PODD, F4	Mistrial	Jury
3/24 - 3/27	Sitver	Abrams	Otis	CR07-145743-001SE Molestation of Child, F2 Sexual Abuse, F3	Guilty	Jury
3/24 - 3/31	Gaziano Houser	Arellano	Valenzuela	CR07-146461-001SE Manslaughter, F2D	Guilty	Jury
Vehicular						
2/28 - 3/3	Timmer	Passmonte	Foster	CR07-113220-001 DT 2 cts. Agg DUI, F4	Guilty	Jury
3/27	Conter	Passmonte	Munoz	CR07-111614-001 DT 2 cts. Agg DUI, F4	Guilty	Bench

Jury and Bench Trial Results

March 2008

Public Defender's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Vehicular (Continued)						
3/24 - 4/1	Iniquez	Donahoe	McGregor	CR06-156015-001 DT 2 cts. Murder 2nd Deg., F1D Hit and Run w/ Death/Injury, F3	Guilty	Jury
Capital						
10/25/07 - 02/26/08	Brown Blieden Unterberger Alling Davis <i>James</i> Southern	Duncan	Barry Larish	CR04-048263-001 DT 2 cts Murder, F1D 2 cts. Agg. Assault, F3D Burg. 1st Deg., F2D	Guilty - Life	Jury



Jury and Bench Trial Results

March 2008

Legal Defender's Office

Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
2/26 - 2/29	Babbitt	Anderson	Harames	CR07-133083-001DT Theft, F3	Not Guilty	Jury
3/4 - 3/5	Ivy	Contes	Hymas	CR07-164971-001SE Burglary 3rd Degree, F4 Poss. Burglary Tools, F6	Guilty	Jury
3/4 - 3/6	Jolly	French	Strange	Agg. Assault, F3D Unlawful Dschrg Firearm, F6D	Guilty	Jury
3/7	Bushor	Ishikawa	AG	JD507047 Dependency Trial	Dependency Found	Bench
3/10	Kolbe	Thompson	AG	JD506536 Severance Trial	Severance Granted	Bench
3/11	Pulver	Hoag	AG	JD506495 Severance Trial	Severance Granted	Bench
3/17	Gaunt	Holt	AG	JD14597 Severance Trial	Severance Granted	Bench
3/26 - 3/28	Cuccia Haimovitz	Foster	Plicht	CR07-123037-001DT Burglary 2nd Degree, F3	Not Guilty	Jury

Legal Advocate's Office

Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	CR# and Charges(s)	Result	Bench or Jury Trial
2/25 - 3/3	Eaton Konkel Marrero Nations	Ishikawa	JD-13460 - Severance	Severance Granted	Bench - Jury Trial
3/10 - 3/13	Reinhardt	Verdin	CR07-128156-001-DT Molest. Of Child - CF2 and DCAC	Guilty	Jury
2/8 - 3/17	Agan Terrible (Knapp) Mullavey Brauer	Steinle	CR01-005001-DT 1st Deg. Murder; F1	Guilty	Jury
3/26 - 4/1	Gray Sinsabaugh	Duncan	CR06-011398-001-DT Child Abuse; 5F	Not Guilty	Jury
2/19 - 3-7	Koestner Mullavey Rood	Gordon	CR05-005248-001-DT 1st Deg. Murder (2 cts) - F1 Armed Robbery - F2	Not Guilty On All Charges	Jury
2/11, 13, 20 and 3/3	Christian Christensen	Araneta	JD506770 - Dependency	Dependency Found with Mother	Bench
1/23 & 3/4	Owsley Marrero	McClennen	JS-11025 - Termination of Parental Rights	Severance Granted	Bench

**SAVE THE
DATES...**



SIXTH ANNUAL APDA CONFERENCE



**TEMPE MISSION PALMS RESORT
& CONFERENCE CENTER
60 EAST FIFTH STREET, TEMPE, 85281**

MONDAY, JUNE 16, 2008

**Pre-Conference: 8:45 am - Noon
Conference: 1:30 pm - 5:00 pm
Social Hour: 5:00 pm - 6:00 pm**

TUESDAY, JUNE 17, 2008

**Conference: 9:00 am - 5:00 pm
Awards Luncheon: Noon - 1:15 pm
Social Hour: 5:00 pm - 6:00 pm**

WEDNESDAY, JUNE 18, 2008

**Conference: 9:00 am - 12:15 pm
Post-Conference: 1:30 pm - 4:45 pm**



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for The Defense

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