

for The Defense

Training Newsletter of the Maricopa County Public Defender's Office

James J. Haas, Maricopa County Public Defender

Volume 18, Issue 8

October 2008



*Delivering America's
Promise of Justice for All*

for The Defense

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Contents

Representing Juveniles in the 21st Century.....	1
Introducing the Office of the Juvenile Public Defender.....	13
Challenging Court Ordered Attorney Fees For Your Client.....	19
Jury and Bench Trial Results.....	21

Representing Juveniles in the 21st Century

By Mara Siegel, Maricopa County Juvenile Public Defender's Office

The Juvenile Justice system is both adversarial and rehabilitative. Most children (even those not involved in the Juvenile Court system) are physically, cognitively and emotionally less developed than their adult counterparts. Juvenile Defenders often have a more complex relationship with their clients than do attorneys representing adults. Representing teens and children in either the Criminal and/or Juvenile Court presents some of the following challenges:

1. Even youth of average intelligence & development function differently from adults in decision making and/or assisting in their defense;
2. As a result of new local and state-wide law and policy, delinquent children are being asked, upon arrest or "valid noncriminal contact", if they are in the country legally. If they cannot establish legal immigration status, law enforcement contacts ICE which investigates and may commence deportation proceedings. This procedure is implemented irrespective of the length of time the child has been in and families ties to Arizona.¹
3. The Surgeon General reports that more than one in five U.S. children, ages 9 to 17 have a mental² or addictive disorder that causes impairment.³ The National Institute of Mental Health found that "no other illnesses damage so many youths so seriously."⁴ One in every twelve adolescents has experienced a major depressive episode, but there were striking differences by gender (12.7% of females and 4.6% of males reported these conditions).⁵ Suicide is the third leading cause of death among young people ages 15-24 years.⁶
4. From 2006 to 2007, teen drug use is up 20% in high schools and 35% in middle schools.⁷ The vast majority of our clients who attend "drug-infested schools" are 16 times more likely to use an illegal drug other than marijuana; 15 times more likely to abuse prescription drugs, 6 times more likely to possess the ability to buy marijuana within an hour and to get drunk a minimum of 1 time per month, according to Columbia University Director of the Center on Substance Abuse and Addiction, (CASA) Joseph Califano.⁸

5. 50% of Juveniles arrested in young adulthood (ages 16–21) had mental disorders.⁹ Adolescent emotional disorders combined with substance use disorders represented, by far, the greatest risk of future adult offending.¹⁰ The effects of these disorders strongly correlate to adult arrests which include more serious and violent offenses.¹¹ Nearly two thirds of detained boys and nearly three quarters of detained girls have at least one psychiatric disorder. These rates dwarf the estimated 15% of youth in the general population with psychiatric illnesses.¹²
6. Juveniles can be detained because there is inadequate mental health and/or available substance abuse treatment.
7. The vast majority of incarcerated children and teens have learning, emotional, disability, or behavioral disorders.¹³ Many are entitled to Special Education and related services pursuant to the Individuals with Disabilities Education Act (IDEA).¹⁴

WHAT THEY DIDN'T TEACH IN TRIAL ADVOCACY

Due to the complexity of delinquency matters and the looming exposure to extended incarceration in the Juvenile system or the event of transfer to, or charges directly filed in Criminal Court, minors can be incarcerated in the infamous Sheriff Joe Arpaio's Jail and/or the Arizona Department of Corrections. Defense attorneys must be trained trial advocates, possessing knowledge of applicable State and Federal Constitutional provisions, statutes, rules and common law governing juvenile and criminal matters. But because these children often present a broad range of compelling mental, physical, health, and educational issues, we must develop a variety of non-legal expertise in disciplines such as adolescent and childhood development, mental health, substance abuse, pediatric psychotropic medication¹⁵ and special education. Lack of appropriate education and mental health services provided by schools and/or secured by parents can result in delinquent behavior which could be avoided or mitigated by addressing the client's needs. We can play an important role in obtaining and/or demanding these services.

Because of the developmental, experiential, and social differences between youth and adults, we must be highly skilled communicators and able to foster trusting relationships with our clients. The ability to *actively* listen to and *intuitively* understand our clients assists in trial testimony preparation and allocution. It bolsters child-centered advocacy where, for example, affirmative defenses such as Self-Defense or Self Defense-Domestic Violence (A.R.S. § 13-415 e.g. Juvenile was previously the victim of physical abuse by the "victim" in the present case) can establish a "Battered Child Defense."¹⁶ The law mandates that these defenses be judged by the "Reasonable Person Standard," but for children it translates to the "Reasonable Child or Teen Standard"¹⁷ based on developmental factors. At Transfer Hearings, and family history information can prevent transfer to Criminal Court.

MINDFUL MOTION PRACTICE

Motion practice can be enhanced by citing psychiatric,¹⁸ psychological,¹⁹ and substance abuse²⁰ evidence pertinent to the case. Motions, sentencing, and trial briefs citing developmental and psychological, psychiatric and psychotropic information can assist in establishing certain facts, such as the issues of competence of a juvenile or PTSD and substance abuse or the involuntariness of a statement²¹ avoiding a "lack of foundation" objection,²² usually raised at a contested hearing in the absence of expert testimony. If the juvenile was initially found incompetent, even if he/she was ultimately found competent, if appropriate, consider proffering the testimony of one or more of the mental competency evaluators at the suppression hearing.²³ Even if you decide not to call any of these doctors, the competency reports may assist in providing other areas to cover such as a waiver of the right to remain silent.

MENTAL HEALTH ISSUES

Having knowledge of available Magellan behavioral health²⁴ and CPS²⁵ services is essential at all levels of our practice. In Maricopa County, both agencies have Court Liaisons in each Juvenile Division Court facility. All of these liaisons are an invaluable resource for ideas on treatment, trouble-shooting problems with Magellan or CPS, participation in Child Resource Staffings (CRS), and attending court appearances (time permitting). For similar Court Liaison- related- services outside of Maricopa County consult the Division of Arizona Department of Health Services, http://www.azdhs.gov/bhs/provider/provider_main.htm or contact the Regional Behavioral Health Services (RBHA) in your area. If there is no Juvenile Court Liaison, contact your REBA provider for assistance.

Find out if your client is a tribal member. The [Gila River Indian Community](#), [Navajo Nation](#), [Pascua Yaqui Tribe](#), or the [White Mountain Apache Tribe of Arizona](#) each have their own Behavioral Health Services known as Tribal and Regional Behavioral Health Services (TRBHA). Each tribe has an Intergovernmental Agreement (IGA) for both Title XIX Medicaid) and other State Services.²⁶ Most tribes have their own mental health professionals who are of great assistance to your client. Additionally, the ADHS and The Governor's Office have Native American liaisons.²⁷

Often clients are either on ACCHS or are ACCHS eligible. The client may have been receiving benefits through Value Options or Magellan, but services may have been terminated due to their lack of participation. They can be on ACCHS, but may have never applied for behavioral health services. In either case, they can inquire on present status or enroll by contacting Magellan Member Services at 1- 800-564-5465. If they make too much money, they can apply for Kids Care. <http://www.azkidsicare.gov/application.aspx> This website provides their income qualifications. Both Magellan and Kids Care require that the child be a citizen or qualified eligible immigrant – irrespective of the status of the parents.

CPS has two programs available when a dependency action appears imminent and the child's welfare is not in danger²⁸ (legal immigration status not required). Family Preservation and Family Builders attempt to help the family with in-home services to help avoid a dependency.

Incarceration may be an inappropriate consequence for juveniles for whom an existing mental health disorder may cause a heightened sense of trauma and acute feelings of depression, anxiety, and the possibility of suicidal behavior. Detention can interrupt therapeutic services and medication for juveniles already receiving them.²⁹ In Maricopa County, the Juvenile Detention centers have few resources to pay for many of the costly psychotropic medications. Many clients are prescribed more than one psychiatric medicine. Even relatively inexpensive medicines can add up. In addition, because of many factors, such as hormonal changes and growth spurts, maintaining the correct dosage to address serious and complex mental health problems can be difficult. Incarceration can complicate the juvenile's treatment. In Maricopa County, Judges, Juvenile Probation officers and detention staff readily accommodate and facilitate transportation to medication appointments. However, these appointments often take weeks or more to schedule. The detained child's family/guardian is urged to bring the juvenile's medicines to Detention, but it does not always occur. It is always best to follow up with the clinic. E-mails to the clinic in detention in the most efficient method with a copy to the JPO.

Stressful events, such as exposure to or victimization from domestic or street violence,³⁰ or a genetic history of child abuse,³¹ coupled with a mental disorder (acquired pre or post natal) and/or substance abuse, can have serious implications in the development of the juvenile brain. Brain scans of children who were verbally and/or sexually abused show a diminution in a part of the brain resulting in dramatic shifts in mood and personality.³²

ALTERNATIVES TO INCARCERATION

At any hearing (Detention Review Hearing, Adjudication, Disposition or Review of Status, Mental Competency or Review of Restoration) the attorney conversant with the client's mental health (including substance abuse) and educational issues, can suggest community resources and propose viable dispositional proposals. Juvenile Court Judges appreciate input by well-versed counsel in these areas. Presently, as a result of the budget cuts in juvenile services, judges face limited dispositional alternatives to incarceration.³³ To a given judge, an ADOJC disposition may appear the only plausible sentence in a given case. Yet, citing and providing literature from evidenced-based programs specifically to treat *Juvenile Anti-Social Behavior*,³⁴ (the prototype teen most likely condemned to ADOJC candidature) through Multisystem Therapy (MST),³⁵ can be effective in dissuading an ADOJC sentence. MST is widely regarded as one of the few scientifically-based programs effective in preventing juvenile recidivism. In the Maricopa County, only Tochstone conducts MST. But the child's provider can contract with Tochstone as it is part of Magellan. If the child in Maricopa County is not ACCHS eligible, AOC has limited funding to pay for MST. JPO has denied a request to be provided with a copy of the existing MST openings, but the judge and JPO have this information. Specific knowledge of ADOJC programs can explain why commitment may not be appropriate or provide the desired treatment or consequence.³⁶ General arguments about the manifest injustice of a corrections sentence may not be as effective as knowing what ADOJC does or does not offer. ADOJC is in the process of compiling a list of their programs. If commitment appears imminent, cite ADOJC's own recommended Length of Stay Guidelines (July'06) which "*suggests*" a 30 day minimum allowing the Department to keep the child until they are properly treated and not a risk to the community.³⁷



If the child is Magellan-eligible,³⁸ a request for a reduced sentence can include a proposal to work with the *under-utilized* Magellan's Child and Family Team (CFT)³⁹ and Juvenile Parole Behavioral Health Service (RBHA) in your area. If there is no Juvenile Court liaison, contact your REBA provider for assistance to set up an evidence-based program prior to the Parole Hearing to ensure continuity of care upon incarceration. To improve the acceptability of this (or any other Magellan-based dispositional recommendations) proposal, the presence of a CFT member at Disposition may allay judicial concern as the Court loses jurisdiction upon sentence to ADOJC. If ADOJC looks imminent or a possibility, cite, ADOJC's *recommended* Length of Stay Guidelines (July '06) which suggest a minimum sentence of 30 days.⁴⁰ This leaves the Department to decide how long the juvenile should be incarcerated based on whether he/she has been properly treated and whether he/she is no longer a risk to the community. The argument to the Court is: "If ADOJC is qualified to evaluate treat and impose consequences, they are qualified to decide the length of parole".

Some judges mistakenly believe that Juvenile Corrections is a revolving door. ADOJC's records show that 2/3 of the committed juvenile who receive no minimum sentences are incarcerated longer than 72 days following the implementation of the July 2006, ADOJC Length of Stay Guidelines.⁴¹

IMMIGRATION ISSUES

Although it is a moving target, some Maricopa County Juvenile Probation officers address immigration issues as follows:

- A. If JPO staff suspect that a detained juvenile may be a foreign national (or upon Court order) they can contact ICE. While most incoming phone calls to detained juveniles are usually strictly monitored, allowing only counsel or JPOs to initiate contact, ICE is given unlimited telephonic access to these already vulnerable youth, without notice to counsel or parents. Brought here by their parents, ICE can question children as young as 8 about *their* so-called *violations* of Federal Immigration Law.
- B. The Probation Department's position is that they do not determine immigration status, as this is the province of the Immigration Judge.
- C. POs may note immigration status in their contact log, the Disposition or MCI.
- D. Presently, the Maricopa County Juvenile Probation Department's, Sex Crimes Unit contacts ICE, if they suspect that the child is here illegally, irrespective of whether the youth is detained or released.

ADOJC Policy and Procedure 4014.01" (updated 1/8/08) will not only inquire, but investigate the client's immigration status prior to and subsequent to ADOJC's "Receiving and Classification" (RAC).

Consider calling Liz Sweet, an attorney, Children's Attorney Fellow Florence Project specifically assigned to address Juvenile Immigration issues, telephone-520.868.0191, ext. 104, fax-520.868.0192, cell-857-234-0627, lsweet@firrp.org.

In the short term, we can advise our clients to refuse to answer any national origin questions and invoke their right to remain silent pursuant to Miranda and request an attorney. *Edwards v. Arizona*, US 484 (1981). Of course, given the State's direction this may barely be a pyrrhic victory.

Enormous additional pressures are placed on immigrant clients who had no input with respect to their place of birth. Monolingual clients face tremendous psychological⁴² and educational hardships. Bilingual children have advantages, but if their parents are monolingual, they can be exposed to matters that would most often be dealt with by the parents, e.g. negotiating financial matters, communicating with delinquency lawyers, doctors, teachers, etc. In this way, Spanish-speaking parents rely on their children, thus resulting in a child in possession of knowledge superior to that of the parent(s). This problem is aggravated in single-parent homes. Parenting issues and parental control are often under siege. Conduct and Oppositional Defiant Disorders are common in the Juvenile system and are exacerbated by cultural and language barriers.

SEX & RACE ISSUES

Race⁴³ and immigration coupled with economic status are unspoken but obvious critical operatives in our court. It is not a racist intent of the attorneys, judges or any of the participants in Juvenile Court, but the short-sightedness of the Federal and State funding providers who do not adequately provide services for juveniles ensuring minimum resources to prevent recidivism as delinquents or as adults. Even gender issues are often experienced differently by our clients.⁴⁴ Girls who run away from home and live on the streets may be forced to engage in more risky sexual encounters than boys.⁴⁵ Sexually abused children of both genders often act as their own pharmacists to medicate their trauma.



CONCLUSION

If these children are not *assisted* to break free of the Juvenile and/or the Criminal Court system, they will not be prepared to even marginally compete in the U.S. economy and instead will descend into the Inferno where 1 in 100 adults (2.3 million) are already incarcerated.⁴⁶ On a purely economic level, having properly directed resources now, before mental and physical maturity occurs, is both financially and economically prudent given that state governments now spend more than \$27,000.00 a year to incarcerate each prisoner.⁴⁷

Lawyers who try capital cases are taught to “walk in the shoes” of their clients and argue that the life of their condemned murder client be spared execution. Our young clients deserve this same level of *advocacy* and expansive knowledge of their issues and circumstances. Properly directed advocacy now may spare or improve a life. Unlike in Criminal Court, where *Rehabilitation* is barely a hand-maiden to punishment, here, it’s the legal **Goal**.

Lawyers, I suppose, were children once. Epitaph to Harper Lee,⁴⁸ author of *To Kill a Mockingbird*.

Now it’s their time.

In Juvenile Court, because of the doctrine of *Parens Patriae*, children are subject to the direction of not only their parents/guardians but also to the *ultimate parent*- the State. While we are the defenders of the child’s 4th, 5th and 6th Amendment Rights, we are also their private Attorneys’ General, prosecuting the rights⁴⁹ guaranteed by the law and the “Supreme Guardian” the Juvenile Court.

The following articles, charts, and resources are geared to assist the juvenile practitioner to understand some commonly used mental health tests and diagnoses as well various resources.

(Endnotes)

1. Phoenix Police Department Operation 1.4 states: A) If an officer is booking a person into jail and develops information that the person is in the country illegally, the officer will place a hold on the person for federal authorities so that the person can be turned over to ICE after their local charges have been dealt with. B) All arrested persons will be questioned as to their immigration status. C) Officers will be allowed to make a real-time call to ICE in order to access their databases to further a criminal investigation with supervisory approval. D) Upon arrest, prosecution, the sentence will be served, if in the country illegally, they will be deported. (For more information on this topic see material discussed later in this article)
2. See *A Lawyer’s Guide to Psychological Assessment of Adolescents*, National Juvenile Defender Center (April 2003).
3. Department of Health and Human Services, *Mental Health: A Report of the Surgeon General*, 123 (1999). National Institutes of Mental Health, *Blueprint for Change: Research on Child and Adolescent Mental Health* (2001).
4. National Institutes of Mental Health, *Blueprint for Change: Research on Child and Adolescent Mental Health* (2001).
5. U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMSHA) (May 13th, 2008).

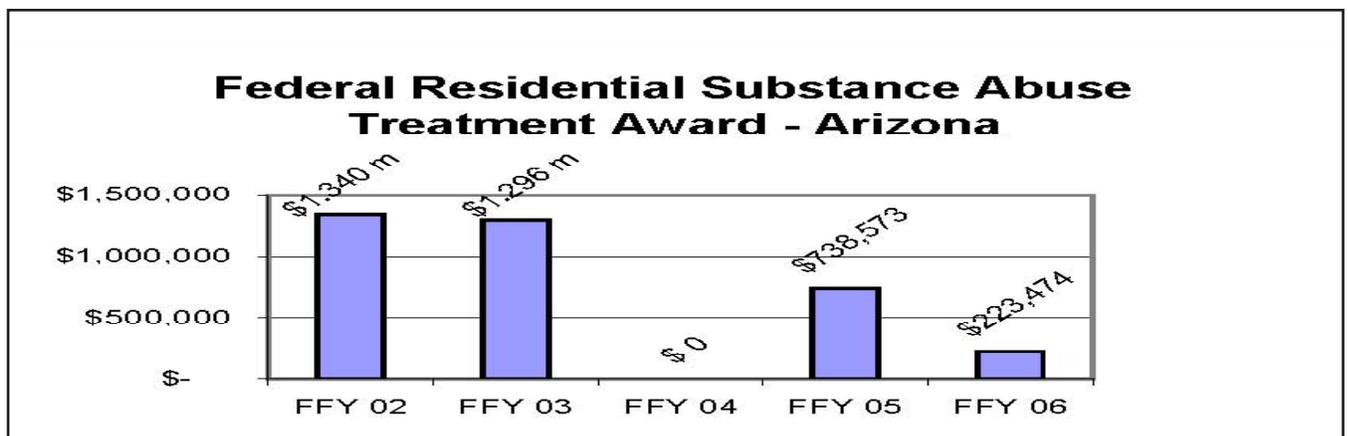
6. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control (2004). Web-based Injury Statistics Query and Reporting System (WISQARS).
7. Statement of Joseph A. Califano, Jr. on National Survey of American Attitudes on Substance Abuse XII: Teens and Parents, Columbia University, National Center on Addiction and Substance Abuse, August 17, 2007 <http://www.casacolumbia.org/absolutenm/templates/PressReleases.aspx?articleid=499&zoneid=65>.
8. Id. Joseph Califano, former U.S. Secretary of Health, Education, and Welfare.
9. *Progress and Perils in the Juvenile Justice and Mental Health Movement*, Grossest. Am J Psychiatry 164:1625-1627, November 2007,doi: 10.1176/appi.ajp.2007.07081353, © 2007 [American Psychiatric Association](#).
10. Id.
11. Id.
12. *Psychiatric Disorders Common Among Detained Youth*, <http://www.nimh.nih.gov/science-news/2002/psychiatric-disorders-common-among-detained-youth.shtml>. This places incarcerated teens on a par with those at highest risk, such as maltreated youth.
13. *Youth with Disabilities in Juvenile Corrections: A National Survey*, Quinn, 2005.
14. Id.
15. *Mental Health Medications used for Adolescents*, NJDC (2004).
16. Admissibility of evidence of battered child syndrome on issue of self-defense 22 A.L.R.5th 787(1994), *Battered Child Syndrome and Self-defense: an Unfortunate Choice of Words*, myerev 10.05 (2007).
17. Expert testimony may be necessary for admission of this syndrome. But such evidence may not be used to present a diminished capacity defense.
18. See websites: National Institute of Mental Health(NIMH), <http://www.nimh.nih.gov> and Academy of Child and Adolescent Psychiatry, <http://www.aacap.org>.
19. Id. NIMH.
20. National Institute of Drug Abuse (NIDA) <http://www.nida.nih.gov/>.
21. *Can I Talk Now? Why Miranda Does Not Offer Adolescents Adequate Protections*, Marrus, E, 79 Temp. L. Rev. 515(2006).
22. Rules 104, 901(a), 702 and 702. Ariz. R. Evid.
23. However, trial incompetence does not always translate to inability to waive Miranda rights.
24. Magellan handbooks in English and Spanish generally describe services and are available at: <https://www.narbha.org/NARBHACD/uploads/425/1222008/122200805984EnglishInterior2Column.pdf>. <https://www.narbha.org/NARBHACD/uploads/425/1222008/122200850753SpanishInterior2Column.pdf>. RBHAs contract with a network

of service providers to deliver a full range of behavioral health care services, including prevention programs for adults and children, a full continuum of services for adults with substance abuse and general mental health disorders, adults with serious mental illness, and children with serious emotional disturbance. The State is divided into six geographical service areas (GSAs) served by four Regional Behavioral Health Authorities (RBHAs). [Magellan](#) serves Maricopa County. [Community Partnership of Southern Arizona \(CPSA\)](#) serves Pima, Graham, Greenlee, Santa Cruz & Cochise Counties. [Northern Arizona Behavioral Health Authority \(NARBHA\)](#) serves Mohave, Coconino, Apache, Navajo, and Yavapai Counties. [Cenpatico Behavioral Health of Arizona](#) serves Pinal, Gila, Yuma and La Paz Counties.

25. <https://www.azdes.gov/dcyf/opfs/directory.asp>.
26. The Tribal RBHAs (TRBHAs), in addition to RBHAs, ADHS/DBHS has Intergovernmental Agreements (IGAs) with some of Arizona's American Indian Tribes to deliver behavioral health services to persons living on the reservation. ADHS/DBHS currently has IGAs with five Arizona Indian Tribes to provide covered behavioral health services for American Indians on reservations [Gila River Indian Community](#), [Navajo Nation](#), [Pascua Yaqui Tribe](#) and the [White Mountain Apache Tribe of Arizona](#) each have an IGA for both Title XIX (Medicaid) and State Subvention Services. [Colorado River Indian Tribe](#) has an IGA for State Subvention Services. Services to other Native American Indian Tribes are provided and covered by the local RBHA in which the tribal reservation resides.
27. See also Carisa Dwyer Tribal Liaison Governor's Office of Children, Youth and Families P: 602-542-3404 F: 602-542-4644 cdwyer@az.gov. See also *THE VOICE OF THE INDIAN CHILD: STRENGTHENING THE INDIAN CHILD WELFARE* 50 AZLR 127, Atwood, B, (Spring 2008).
28. **Family Preservation** a pre-CPS dependency ward service when children are at risk of dependency. A preventive service meant to maintain the family. This service is meant for 90-120 days. Contract providers are to serve English and non-English speaking families. Services are to be provided by a team of 2, a masters level and a paraprofessional. Services are to be intensive with 3 in-home visits per week for the first 60 days and then can be tailored depending on the needs of the families. This program provides a wide range of services including but not limited to the following: crisis intervention, counseling, family assessment, goal setting and case planning in accordance with the Child Safety Assessment, individual, family and marital therapy, conflict resolution skills and anger management, communication and negotiation skills, parenting education and child development, problem-solving skills and stress management, home management and nutrition, job readiness training, and development of linkages with community resources to serve a variety of social needs. Additionally, assistance shall be provided to families in accessing services for: developmental disabilities and substance abuse, by ensuring that the client, Families FIRST Team, or other community based substance abuse program and the contractor meet prior to closing the case, Domestic Violence, Juvenile Probation, Housing, Behavioral Health Services, other service through community referral agencies. In-Home (Family Builders) a pre-CPS custody service, a preventive service meant to maintain the family. The child's safety has been determined to not be at risk. The service provider is to collaborate through Title 19 and other community services to help maintain the family in the home. Contracted providers are to serve English and non-English speaking families. Initially, the case manager can go into the home 1 to 2 times per week. Services include parent aides, case management and some financial assistance. The provider is to see each child in the home twice a week for the first month and thereafter, at a minimum, monthly based on the needs of the family. Upon receiving a referral, the provider makes contact with the family to prepare an assessment. Using the Strengths and Risks Assessment tool, the provider determines services for the family within 48 hours of initial contact. When goals and objectives are achieved, the case is closed. This program can be used as a step down from Family Preservation.

Home Builders a pre-CPS dependency ward service. A preventive service meant to maintain the family. The child's safety has been determined to not be at risk. The service provider is to collaborate through Title 19 and other community services to help maintain the family in the home. Contracted providers are to serve English and non-English speaking families. Initially, the case manager can go into the home 1 to 2 times per week. Services include parent aides, case management and some financial assistance. The provider is to see each child in the home twice a week for the first month and thereafter, at a minimum, monthly based on the needs of the family. Upon receiving a referral, the provider makes contact with the family to prepare an assessment. Using the Strengths and Risks Assessment tool, the provider determines services for the family within 48 hours of initial contact. When goals and objectives are achieved, the case is closed. This program can be used as a step down from Family Preservation

29. *Mental Health Needs of Juvenile Offenders*, National Conference of State Legislatures, Supra.
30. Suicide in the US, NIMH, <http://www.nimh.nih.gov/health/publications/suicide-in-the-us-statistics-and-prevention.shtml#factors>.
31. Suicide victims who were abused as children have clear genetic changes in their brains. Neglect can cause biological effects. *Abuse changes brains of suicide victims*, Medline (May 2008).
32. Harvard University Gazette <http://www.hno.harvard.edu/gazette/2003/05.22/01-brain.html> (May 2003).
33. For example, Arizona Criminal Justice Commission. Chart does not include FFY '07 or '08 which are much lower.



34. http://www.mstservices.com/mst_treatment_model.php.
35. Multisystemic Therapy (MST) for juvenile offenders addresses the multidimensional nature of behavior problems in troubled youth. Treatment focuses on those factors in each youth's social network that are contributing to his or her antisocial behavior. The primary goals of MST programs are to decrease rates of antisocial behavior and other clinical problems, improve functioning (e.g., family relations, school performance), and achieve these outcomes at a cost savings by reducing the use of out-of-home placements such as incarceration, residential treatment, and hospitalization. The ultimate goal of MST is to empower families to build a healthier environment through the mobilization of existing child, family, and community resources. MST is delivered in the natural environment (in the home, school, or community). The typical duration of home-based MST services is approximately 4 months,

with multiple therapist–family contacts occurring weekly. MST addresses risk factors in an individualized, comprehensive, and integrated fashion, allowing families to enhance protective factors. Specific treatment techniques used to facilitate these gains are based on empirically supported therapies, including behavioral, cognitive behavioral, and pragmatic family therapies. National Registries of Evidence-Based Programs (NREPP) a service of the Substance Abuse and Mental Health and Human Services Administration (SAMSHA) a Division of the federal government’s Health and Human Services (HHS) http://www.nrepp.samhsa.gov/programfulldetails.asp?PROGRAM_ID=102. 1 Registry of Evidence-based services Administration (SAMHSA).

36. <http://www.juvenile.state.az.us/>, http://www.mstservices.com/mst_treatment_model.php.
37. <http://www.juvenile.state.az.us/>.
38. See Magellan information 1) Attachment #6, staff Responsibilities, 2) Attachment #7 contact information, 3) Attachment # 8 in Spanish, and 4) Attachment #9 in English. Also, behavioral health releases attached. RBHAs contract with a network of service providers to deliver a full range of behavioral health care services, including prevention programs for children, and children with serious emotional disturbance. See Note 24 for Behavioral Services and Note 26 for Tribal Health Services as well as Indian Tribes: A.R.S. §§ 11-951, 11-952 and the rules and sovereign authority of the contracting Indian Nation.
39. The Child and Family Teams (CFT) are invaluable and under-utilized resources in our practice. The CFT is a defined group of people that includes, at a minimum, the child and his/her family, a behavioral health representative, and any individuals important in the child’s life and who are identified and invited to participate by the child and family. This may include, for example, Juvenile Probation Officers, teachers, extended family members, friends, family support partners, health care providers, coaches, community resource providers, representatives from churches, synagogues or mosques, agent from other service systems like CPS or DDD, etc. The size, scope and intensity of involvement of the team members are determined by the objectives established for the child, the needs of the family in providing for the child, and by which individuals are needed to develop an effective service plan, and can therefore expand and contract as necessary to be successful on behalf of the child. All Magellan youth have CFTs teams. They are invaluable to assist our clients in getting the services they need.
40. ADOJC Policies and Procedures, <http://www.azdjg.gov/Policy/Files/Procedures/pr409001.htm>.
41. <http://www.juvenile.state.az.us/>.
42. Latino youth are at a significantly high risk for poor mental health outcomes. Evidence suggests that they are more likely to drop out of school, to report depression and anxiety, and to consider suicide than white youth. Prevention and treatment are needed to address their mental health problems.
43. *LITIGATING RACISM: EXPOSING INJUSTICE IN JUVENILE PROSECUTIONS*. 60 RULE 245, Rutgers Law review (2007).
44. Girls have higher rates of exposure to sexual assault, and findings indicate they are more affected by the impacts of early puberty, when it is coupled with harsh parenting and disadvantaged neighborhoods. , *Family Court Review*, Zahn, M., Vol. 45, No.3, pp. 456-465 (July, 2007) See also, UNLV Conference on Representing Children in Families brought together nearly one hundred experts to establish principles and guidelines to

enhance children's participation and voice in proceedings and policies affecting them. These recommendations were developed by the Working Group on Sex and Sexuality, which considered the role of clients' gender, sexual orientation, gender identity, and sexual conduct. *Report of the Working Group on the Role of Sex and Sexuality at the UNLV Conference on Representing Children in Families: Children's Advocacy and Justice Ten Years After Fordham* 6 Nev. L.J. 642 (2006).

45. The Commercial Sexual Exploitation of Children in the U.S., Canada and Mexico, University of Pennsylvania http://www.sp2.upenn.edu/~restes/CSEC_Files/Exec_Sum_020220.pdf.
46. Washington Post <http://www.washingtonpost.com/wp-dyn/content/article/2008/02/28/AR2008022801704.html?sid=ST2008022803016>.
47. *Id.* Washington Post [http://www.washingtonpost.com/wp-](http://www.washingtonpost.com/wp-dyn/content/article/2008/02/28/AR2008022801704.html?sid=ST2008022803016)
48. Before she wrote *To Kill a Mocking Bird*, Ms. Lee studied law at the University of Alabama Law School from 1945 to 1949, and spent a year as an exchange student in Oxford University. Her father was a well known lawyer in the South. Modeled on her father, Atticus Finch, represented Tom Watson, a poor black man falsely accused of raping a white man, made perhaps one of the most famous closing argument in legal or fictional history.

Atticus argued: *But there is one way in this country in which all men are created equal—there is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution, gentlemen, is a court. In this country our courts are the great levelers, and in our courts all men are created equal. I'm no idealist to believe firmly in the integrity of our courts and of our jury system. That's no ideal to me. That is a living, working reality.*

49. *THE PRACTICE OF LAW FOR CHILDREN* Hamline Journal of Public Law and Policy 28 HAMJPLP 75(2006).



Sponsored by Maricopa County Public Defender

A Realistic Guide to Cross-Examination and Challenging the Tainted Witness

Presented by Ira Mickenberg
Nationally known Criminal Defense Lawyer and Defender Trainer

Monday, November 17, 2008

Session I: Cross-Examination

- A reliable method of impeaching witnesses, with prior inconsistent statements, omissions, prior bad acts, and past convictions.
- How to control the runaway witness.
- A simple technique for preparing your cross-examination and making sure it advances your theory of defense.
- How to ask effective leading questions in a way that neutralizes prosecution objections

Session II: Taint Hearings

- Recognizing the most common situations in which the State irreparably taints witnesses before trial--child witnesses, identification cases, sex cases.
- How to persuade a judge and/or jury that the State's witness has been tainted.
- Effective motion practice to preclude the tainted witness from testifying.
- Understanding the science of suggestiveness

Parking -- Wells Fargo Parking Garage

Located north of the Conference Center on 2nd Ave and Van Buren, the cost is only \$3.00 when validated by the Conference Center.

Parking -- Wells Fargo Plaza

This garage is attached to the Conference Center and is \$9.00 all day (the Conference Center will not validate this parking)

Wells Fargo Conference Center
100 W. Washington
Phoenix, AZ

Near the corner of 1st Ave/Washington

Check In/Continental Breakfast:
8:30am -- 9:00am

Session I
A Realistic Guide to Cross-Examination
9:00am -- 12:00pm

Lunch On Your Own
12:00pm -- 1:30pm

Session II
Challenging the Tainted Witness
1:30pm -- 4:30pm

Registration Fees

No fee for Public or Legal Defender or Legal Advocate.

Contract Counsel \$100.00

Private Counsel \$125.00

Registration Deadline

Friday, November 7, 2008

See below for contact information

May qualify for up to 5.5 hours CLE

If you would like to register or if you have questions, please contact Celeste Cogley at 602-506-7711 X37569 or via email cogleyc@mail.maricopa.gov--Send Checks or Money Orders to Maricopa County Public Defender, DTJC, 620 W. Jackson Suite 4015, Phoenix, AZ 85003

Introducing the Office of the Juvenile Public Defender

By Chris Phillis, Maricopa County Juvenile Public Defender, Suzanne Sanchez, Division Supervisor, Juvenile Public Defender's Office, and Art Merchant, Division Supervisor, Juvenile Public Defender's Office

A NEW OFFICE

Maricopa County Indigent Representation has a new office, the Office of the Juvenile Public Defender (JPD). The new office opened on July 1, 2008. The Juvenile Public Defender is Chris Phillis, formerly an attorney manager with the Office of the Maricopa County Public Defender.

JPD defends youths aged eight to seventeen years prosecuted in superior court for delinquent acts (violations of the criminal code), probation violations, transfer (to criminal court) hearings, and involuntary commitment hearings. JPD attorneys regularly reach out to the community by working at Restoration of Rights events, serving as Teen Court mentors, giving presentations at schools, and teaching at Know Your Rights Forums.

JPD is divided into two groups, one at 777 W. Southern Ave., Ste. 101, Mesa, Arizona 85210, (602) 372-2815, and the other at 3131 W. Durango St., Phoenix, Arizona 85009 (602) 372-9560. The Mesa group represents clients living east of Central Avenue, while the Phoenix group represents youths living west of Central Avenue.

A WEALTH OF INFORMATION

If you are representing an individual with a juvenile record, **please remember** to review his/her juvenile file. JPD client files often contain a wealth of useful information. Much of it is accessible. If your client is or was represented by JPD, you may have your client sign a release in order to access information in the JPD file.

Accessible Information

Psychological Evaluations

JPD files often contain psychological evaluations, which are of several types. A psycho-sexual evaluation provides information about a juvenile's sexual history, along with the child's propensity to re-offend. In juvenile court, this report is used to determine what services to provide a child who committed a sexual offense. A psycho-educational evaluation provides information regarding behavioral issues, educational needs and treatment alternatives. A transfer psychological is prepared for use in a hearing at which the court determines whether to transfer a child to criminal court. The report is about amenability to treatment. The transfer report contains information regarding the child's educational level, behavioral disorders, family issues, and amenability to juvenile services. The report is only prepared if the State requests a transfer hearing.

Probation Reports

Probation officers write disposition reports for sentencing. Disposition reports contain information about all police referrals, education, family history, prior treatment and disposition recommendations.

Program Services Staffing Reports are written by a team of juvenile probation officers after a staffing with the child, parent, assigned probation officer and defense counsel. The report contains information regarding the treatment options considered and the approach the probation team recommends. The purpose of the staffing is to look at possible treatment options. Program Services Staffings usually occur when the probation officer is considering recommending that the court place the child in a residential

program or a day/evening support program. The child must have a psychological evaluation prior to the staffing.

Review of Status and Review of Placement Reports are written by juvenile probation officers to provide information to the court on juveniles' progress regarding placement or probation terms. If a juvenile is in treatment a review of placement hearing must be held every 60 days. Additionally, the court may also order review of status hearings if the child has deferred detention.

In each case in which the State seeks transfer of a child to criminal court, a probation officer writes a Transfer Report. The report contains the probation officer's recommendation with respect to whether the court should remand the child for adult prosecution. The main concerns of the probation officer are public safety and the child's amenability to treatment.

A Most Current Information Report is written by the juvenile probation officer prior to every court hearing to provide the court with an update regarding the child's and family's activities.

Treatment Providers' Reports are reports written by treatment providers regarding the progress of the juvenile in their programs.

Polygraph reports occasionally are in juvenile files. Usually only adjudicated sex offenders have polygraphs in their files. The polygraphs are given as part of treatment.

Juvenile Profiles

Juvenile Profiles list all police referrals the Juvenile Probation Department has received on a juvenile, regardless of whether they were actually charged. The profile also lists all charging documents, all hearings, and all final resolutions. Further, profiles also list the final disposition of all referrals and all services the juvenile was ordered to participate in, as well as whether the child completed the treatment.

JPD Attorneys

The juvenile's defense attorney possesses information that may assist in creating a defense strategy or aid in mitigation. The attorney can provide information regarding the family, CPS involvement and Magellan assistance.

Inaccessible Information

Mental Competency Reports

Mental Competency Reports are required to be sealed. If you believe it is imperative to see these reports, you must petition the presiding judge of the Juvenile Division of Superior Court. In cases in which mental competency is raised, most juveniles are evaluated by a psychologist and a psychiatrist. Juveniles who are placed in a restoration program will have a review hearing every sixty days. The restoration specialist and/or supervising doctor will prepare a report for court prior to each review hearing.

Psychiatric Assessments

A juvenile may be ordered to undergo a seventy-two hour evaluation for civil commitment purposes. All reports initiated as part of psychiatric acute care services and thus may not be disclosed. A.R.S. § 8-272(R).

Child Protective Services Reports

Dual wards (dependent and delinquent children) may have CPS caseworker reports in their files. To obtain these reports an attorney must petition the presiding judge of the Juvenile Division of Superior Court.

Magellan Reports

Some clients receive services from Magellan, and formerly from Value Options. Reports provided to juvenile defense counsel cannot be disseminated.

The Fight for Life: Death Penalty 2008

Presented By Maricopa County Public Defender, Office of the Legal Defender, Office of the Legal Advocate and Office of the Federal Public Defender-Capital Habeas Unit

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**Phoenix Convention Center - South Building
33 South 3rd Street
Phoenix, AZ 85004**

Death Penalty 101

Pre-Conference

December 4, 2008

Registration/Continental Breakfast: 8:30am - 9:15am

Sessions: 9:15am - 11:30am

Death Penalty Conference

December 4, 2008

Registration: 12:00pm - 1:00pm

Sessions: 1:00pm - 5:00pm

Conference Cont'd

December 5, 2008

Registration/Continental Breakfast: 8:30am - 9:00am

Sessions: 9:00am - 4:30pm

This seminar is designed to meet the Arizona Supreme Court C.L.E. requirements for criminal defense attorneys engaged in death penalty litigation under Rule 6.8, AZ Revised Criminal Procedures.

**Agenda – Pre-Conference
Death Penalty 101 – For the Newly Initiated
May qualify for up to 2 hours CLE
Thursday, December 4, 2008**

- ◆ **The Death Penalty Process:** Ashley McDonald, FPD and Jim Wilson, MCPD
- ◆ **Overview of the Arizona Death Penalty Statute:** Therese Day, FPD and Gary Beren, OLA
- ◆ **Introductions to Capital Investigations:** John Castro, FPD and Jasmine Teter, FPD
- ◆ **Introductions to Mental Health:** Robin Konrad, FPD and Dr. Thomas C. Thompson, Neuropsychiatrist

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**Agenda – Death Penalty Conference Day One
May qualify for up to 9 hours CLE
Thursday, December 4, 2008**

- ◆ **Views from the Bench:** The Honorable Mike Ryan, Justice, Arizona Supreme Court, The Honorable Roland Steinle, Judge, Maricopa County Superior Court
- ◆ **Bond Hearings Can Be Fun:** Bobbi Falduto, MCPD and Billy Little, MCPD
- ◆ **Rule 11 Issues:** Garrett Simpson, MCPD
- ◆ **Capital Case Law Update:** Jennifer Garcia, FPD and Paula Harms, FPD

**Agenda – Death Penalty Conference Day Two
Friday, December 5, 2008**

- ◆ **Life or Death:** Our Experience with the Maricopa County Juror: Victoria Washington, MCPD and Larry Blieden, MCPD
- ◆ **Thoughts on Trial Practice:** Joe Stazzone, MCPD and Gary Bevilacqua, MCPD
- ◆ **All Brain Damage is Mitigating:** Robert Dunham, FPD Philadelphia
- ◆ **Work Product Issues:** John Napper, OLD
- ◆ **Creative Motions:** Bob McWhirter, OLD, Dawn Sinclair, and Maria Schaffer, OLD
- ◆ **Cutting Edge Issues In Mitigation:** Russell Stetler, HAT National Mitigation Coordinator
- ◆ **Panel Discussion - What We've Learned Since Last Year:** Dan Patterson, MCPD (Moderator), Marty Lieberman, AZPCRPD, Rena Glitsos, Private, Alan Tavassoli, MCPD, Tim Agan, OLA, Dale Baich, FPD Phoenix and Brent Graham, MCPD

*Agenda subject to change

Maricopa County Public Defender, Office of the Legal Defender,
Office of the Legal Advocate and Federal Public Defender
Capital Habeas Unit Presents:

The Fight for Life: Death Penalty 2008
December 4th and 5th, 2008
Phoenix Convention Center
Phoenix, AZ 85004
Registration Form

Please return forms by 11/21/08 (No Refunds after 12/1/08)

Please Mark if you are attending the Pre-Conference and/or the Conference only.

Pre-Conference December 4, 2008 Morning Only

No Fee Federal/County Public & Legal Defenders

\$25.00 Court Appointed/Contract Counsel; City Public Defenders

\$50.00 Other/Private

Conference December 4, 2008 Afternoon and December 5, 2008 Full-Day

No Fee Federal/County Public & Legal Defenders

\$75.00 Court Appointed/Contract Counsel; City Public Defenders

\$ 150.00 Other/Private

Total Cost \$ _____ \$ **15.00** Late Fee (After November 21, 2008)

Last Name _____ First _____ MI _____

AZ State Bar # _____

Title/Office _____

Office Address _____

City _____ ZIP _____

E-Mail Address _____

Phone () _____ FAX () _____

- This form must be filled out completely and legibly.
- Enclose a check or money order payable to Maricopa County Public Defender

Send to: Maricopa County Public Defender, Attn: Celeste Cogley,
Downtown Justice Center, 620 W. Jackson, Suite 4015
Phoenix, AZ 85003

**If you have questions or need ADA accommodations, please contact
Celeste Cogley at 602-506-7711 X37569**

PARKING—\$10.00 ALL DAY PARKING

- 1) The **Jefferson Garage** is located at 3rd Street and Jefferson - just south of the Conference Center South Building.
- 2) The **Convention Center East Garage** is located at 5th Street and Jefferson -- just east of the Conference Center South Building.



Challenging Court Ordered Attorney Fees For Your Client

By Edie Lucero, Defender Attorney, Appeals

The right to counsel is guaranteed by the 6th Amendment to the United States Constitution and Article 2, section 24, of the Arizona Constitution. Although the right to counsel is constitutionally guaranteed, it's certainly not a free right, even for those who are financially destitute. Regardless of one's level of poverty, the trial court still has the authority to saddle them with costs associated with their public defender. Challenging court imposed attorney fees may seem like an inconsequential issue to raise at the trial court level, in light of the charges and punishments our clients face, but the issue is important to the client, and therefore, should be important to counsel.

Public defender duties and reimbursement costs associated with indigent representation are statutorily created, pursuant to Arizona Revised Statutes (A.R.S.) § 11-584. In determining the amount of reimbursement for having received the services of a public defender, the statute states, “[T]he court shall take into account the financial resources of the defendant and the nature of the burden that the payment will impose.” A.R.S. § 11-584(C). Legally speaking, “indigent” means “[A] person who is not financially able to employ counsel” and requires the completion of a financial questionnaire sworn to under oath as to its accuracy. Rules 6.4(a), (b), Ariz. R. Crim. P.

“Factors ordinarily to be considered in determining indigency for purposes of receiving court-appointed counsel are ready availability of real or personal property owned, employment benefits, pensions, annuities, social security and unemployment compensation, inheritances, number of dependents, outstanding debts, seriousness of the charge, and any other valuable resources not previously mentioned.” *Morger v. Superior Court In and For Pima County*, 130 Ariz. 508, 509, 637 P.2d 310, 311 (App. 1981).

Even though our clients endure financial hardship, the rules still allow for the imposition of attorney fees when the trial court considers there to be some degree of financial ability to pay. Rule 6.7(d), Ariz. R. Crim. P. A trial attorney should be aware of court ordered attorney fees and determine whether the amount imposed is reasonable. The only protection our clients have against outrageously imposed attorney fees is that the trial court *must make factual findings* that they have the *present financial resources* available to pay the amount ordered without “incurring substantial hardship.” *State v. Taylor*, 216 Ariz. 327, 166 P.3d 118 (App. 2007).

To preserve issues on appeal related to the imposition of court ordered attorney fees against our clients, it is incumbent upon the trial attorney to raise the issue at the trial court level. *State v. Moreno-Medrano*, 218 Ariz. 349, ¶ 17, 185 P.3d 135, 140 (App. 2008). Arguably, considering the treatment of this issue in a recent unreported Division One case, issues concerning the imposition of attorney fees may be limited to special action review because the matter does not affect the final judgment.¹

Defense counsel should always lodge an oral objection when it appears that the court is overstepping with attorneys fees. This objection becomes part of the reporter's transcript, and therefore, part of the record on appeal.

Taylor provides an excellent example of the power of a good oral objection. The court was basing its finding of defendant's ability to pay on speculative “imputed income” tied to the type of minimum wage job that the client *might* be able to get in the future. Here is the objection that the defense counsel made in *Taylor* that carried the day:

MR. MCCARTHY [DEFENSE COUNSEL]: Your honor, there's no indication in the record that the defendant has the ability to pay the fee and the defendant has not worked for quite a period of time. We can go on record, the defendant can take the stand relative to his indigency, but both cases are recommending the imposition of

the \$650 fee, your honor, ... and we're requesting that you make factual findings relative to not only the defendant's ability to pay but also that it will not cause undo [sic] hardship even if it is found that he does have some resources which are available to him, which we do not believe he does have, your honor.

THE COURT: Well, the intent is that-and it's in writing. I don't read everything that's in the sentencing order-that he report to-contact the court's judicial assistance unit after his release from custody and make out a payment plan for reasonable payments, and they extend those-they're pretty liberal on extending those payments over a period of time and accepting pretty small amounts as long as people are regularly paying something. Given that, I find that that is not unduly burdensome to any able-bodied male person, and I know it will be tougher getting a job after prison than it is before, but I don't think that that is unduly harsh or unduly burdensome or something that any person generally in our society can't make payments on financial obligations that they have come to really impose upon themselves by virtue of their having committed crimes, so on and so forth.

MR. MCCARTHY: Your honor-respectfully, your honor, the statute though that governs the assessment of attorney's fees does require-it mandates that the court make a factual finding as to the-not only the defendant's resources but even with respect to his ability to pay and that any assessment made will not cause an undo [sic] hardship and, your honor, on the basis of future anticipation that he might be able to find some employment at some point in time, your honor, I do not think that that satisfies the requisites of the statute regarding a factual finding that any assessment will not cause an undo hardship currently on the defendant relative to his life.

State v. Taylor, 216 Ariz. 327, ¶ 11,166 P.3d 118, 121-22 (App. 2007) (Jon W. Thompson, dissenting).

Finally, in 2005, the Arizona Supreme Court in *Henderson* increased the burden on the defense, under fundamental error review. *State v. Henderson*, 210 Ariz. 561, 115 P.3d 601 (2005). Fundamental error goes to the foundation of the case, takes from the defendant a right essential to his or her defense, and is of such magnitude that it deprives a defendant from having received a fair trial. *Henderson*, 210 Ariz. at ¶ 19. Furthermore, it requires a showing that a defendant suffered actual prejudice. *Henderson*, 210 Ariz. at ¶ 20. Pre-*Henderson*, in 1992, the trial court's failure to ascertain a defendant's financial resources before imposing attorney fees constituted fundamental error, because it attached to the fundamental right to counsel under the United States and Arizona Constitutions. U.S. Const. amend 6; Ariz. Const. art. 2, § 24. See *State v. Lopez*, 175 Ariz. 79, 853 P.2d 1126 (App. 1993). Fundamental error is probably the most familiar standard of review on appeal, yet the most difficult to prevail under, because it functions as a legal obstacle course not in favor of a defendant succeeding on appeal. Thus, to give your clients the best chance of success on appeal, challenge in some form, whether through written motion, or verbal objection, court ordered attorney fees.

(Endnotes)

1. In *State v. Probst*, 1 CA-CR 07-0695, Memorandum Decision filed September 4, 2008, at pp. 4-5, ¶¶ 5-6, the Court of Appeals noted that a special action might be the proper avenue of review to challenge the imposition of court ordered defense attorney fees. Nevertheless, for the issue to be eligible for appeal, a trial attorney should object at the sentencing stage, whether oral or written. Presumably, this would go to the "final judgment of conviction," which falls under the statutory criteria for what may be appealed. Issues for appeal are statutorily limited to include only "(1) a final judgment of conviction[,] . . . (2) [a]n order denying a motion for a new trial or from an order made after judgment affecting the substantial rights of the party[,]" or from "(3) [a] sentence on the grounds that it is illegal or excessive." A.R.S. § 13-4033(A)(1)-(3) (2001) Memorandum decisions cannot be cited as legal precedent under Ariz. R. Supreme Court 111(c) and Ariz. R. Crim. P. 31.24.

Jury and Bench Trial Results

August 2008

Public Defender's Office

Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 1						
7/28 - 8/8	Farrell Rankin	Hoffman	Wade	CR07-101781-001DT Armed Robbery, F2D TOMOT, F3 MIW, F4D	Guilty	Jury
7/28 - 8/19	Dominguez Romani Ralston	Klein	Lynch	CR06-121327-001DT Murder 2nd Deg., F1D	Hung (4-4)	Jury
8/1	Fischer Whalen	Foster	Basta Warzynski	CR06-165551-001DT Murder 2nd Deg., F1D	Stipulate GEI	Bench
8/11 - 8/14	Turner Rankin Curtis	Holding	Kuwata	CR08-102953-001DT Agg. Assault, F6 Resisting Arrest, F6	Not Guilty of Agg. Assault; Guilty of Resisting Arrest	Jury
8/14 - 8/18	Baker Williams	Svoboda	Humm	CR08-104181-001DT Agg. Assault, F6 Resisting Arrest, F6 False Rp. to LE Agency, M1	Not Guilty of Agg. Assault and Resisting Arrest; Guilty of False Rp to LE Agency	Jury
8/18 - 8/20	Whalin Stewart Sain Curtis	Hoffman	Micflickier	CR07-142962-001DT TOMOT, F3	Guilty	Jury
8/18 - 8/21	Dewitt Leigh Browne	Brnovich	Lowe	CR07-008735-001DT 2 cts. Agg. Assault, F3D MIW, F5 Burglary 1st Deg., F2D	Not Guilty	Jury
8/26 - 8/27	Agnick Davis Curtis	O'Connor	Garcia	CR08-102532-001DT PODD, F4	Guilty	Jury
8/27 - 8/28	Smith Mullins Rankin Leigh	Hoffman	Hernacki	CR05-112001-001DT Resisting Arrest, F6	Guilty - Resisting Arrest (Burglary & Agg. Assault dismissed w/o prejudice by prosecution on 8/26)	Jury
Group 2						
8/5 - 8/7	Martens Smith Souther Del Rio	Kemp	Allen	CR07-161111-001DT Agg. Assault, F3D	Guilty of Disorderly Conduct, F6D	Jury
8/13 - 8/19	Scott Baker	Mroz	Arino	CR07-154685-001DT 2 cts. POND, F4 PODP, F6 Child Abuse, F5	Guilty on all Counts	Jury

Jury and Bench Trial Results

August 2008

Public Defender's Office

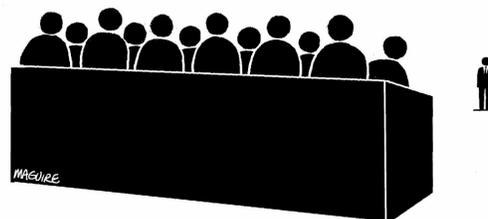
Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 3						
8/1	Kalman- Attorneys Beatty and Campbell assisted Rule 38 Jeff Roth Leigh	French	Lish	CR07-166522-001DT POM, M1	Not Guilty	Bench
7/31 - 8/8	Cain Schreck Flannagan Kunz	Steinle	Phipps- Yonas	CR07-006430-001DT Sex Abuse, F3 Sex Abuse, F5 Sex. Cond. w/ Minor, F2	Guilty Sex Abuse F3, Guilty Sex. Cond., F2; Rule 20 on Sex Abuse, F5	Jury
8/4-8/5	Jackson	Jones	Lynas	CR08-048338-001DT Att. To Commit TOMT, F4 Burg. Tools Poss., F6	Guilty	Jury
8/11 - 8/14	Kalman Spizer Burgess Sikora Kunz	Jones	McAdams	CR07-177226-001DT TOMOT, F3	Not Guilty	Jury
8/27 - 8/28	Cain Flannagan Kunz	Barton	Diekelman	CR07-137639-001DT PODD, F4	Guilty in Absentia	Jury
Group 4						
7/28 - 8/5	Gaziano Quesada	Lynch	Beatty	CR08-030778-001SE Molest. of Child, F2D 3 cts. Sex. Cond. w/Minor, F2D Sexual Abuse, F3D 2 cts. Sex. Cond. w/Minor, F6D	Molest. of Child-Not Guilty All other charges-Guilty	Jury
7/29 - 7/30	Lockard	Udall	Blum	CR07-119400-001SE POM, F6	Not Guilty	Jury
7/29 - 7/31	Dehner	Abrams	Seeger	CR08-111461-001SE Theft, F4	Guilty	Jury
8/4 - 8/7	Corbitt	Contes	Rademacher	CR08-030531-001SE TOMOT, F3 PODD, F4	Guilty	Jury
8/11 - 8/14	Corbitt	Contes	Bonaguidi	CR08-104652-001SE Failure to Reg. as Sex Offender, F4	Not Guilty	Jury
8/11 - 8/13	Ditsworth Advisory Counsel	Abrams	Kelly	CR07-105721-001SE Agg. Assault, F4	Guilty	Jury

Jury and Bench Trial Results

August 2008

Public Defender's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 4 (Continued)						
8/12 - 8/14	Lockard Arvanitas Houser	Duncan	Hymas	CR07-113251-001SE PODD, F4	Not Guilty	Jury
8/14 - 8/22	Klopp	Contes	Clark	CR07-170470-001SE Burg. 2nd Deg., F3 Burg. 3rd Deg., F4 Criminal Trespass, F6 2 cts. Agg. Assault, F3D Unlawful Means Trans., F5 Burg. 3rd Deg., F4	Burg. 2nd Deg.-Not Guilty Burg. 3rd Deg.-Guilty Crim. Trespass-Guilty 2 cts. Agg. Assault-Guilty Unlaw Trans.-Not Guilty	Jury
8/18 - 8/19	Sitver	Abrams	Brenneman	CR08-030607-001SE Agg. Assault, F3D	Guilty	Jury
8/18 - 8/26	Crocker Lockard Beatty Cowart	Udall	Beatty	CR07-133492-001SE 3 cts. Sexual Abuse, F5	Not Guilty	Jury
8/25 - 8/27	Gaziano	Gottsfield	Rodriguez	CR08-116988-001SE Burg. 2nd Degree, F3 Theft, M1 Agg. Assault, F3D False Report to LE, M1	Burg.-Guilty of Lesser Included Criminal Trespass 1st Degree; Theft-Guilty; Agg. Assault-Not Guilty - Lesser included of Assault; False Report-Guilty	Jury
Vehicular						
8/4 - 8/6	Conter	Passamonte	McDermott	CR03-005483-001 DT 2 cts Agg. DUI, F4	Guilty of Lesser Included DUI, M1, on both counts	Jury
8/18	Black Conlon	Lynch	Gilla	CR06-012779-001 DT Agg. Domestic Violence, F5	Mistrial	Jury
8/12 - 8/14	Sloan	Passamonte	Reed	CR07-179170-001 DT 2 cts. Agg. DUI, F4	Guilty	Jury



Jury and Bench Trial Results

August 2008

Legal Defender's Office

Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
8/4 - 8/26	Rothschild	Barton	Basta	CR07-107782-001DT Murder, 1st Degree, F1D 2 Cts Marijuana Violation, F2 Armed Robbery, F2D	Guilty	Jury
8/7 - 8/11	Ross	Anderson	AG	JD15742 Severance Trial	Severance Granted	Bench
8/18 - 8/20	Ivy	Blomo	Kelly	CR07-166770-001SE Agg. Assault, F3D	Guilty	Jury
8/21 - 8/29	Babbitt	Whitten	Anderson	CR07-167442-002DT Theft by Extortion, F2D Kidnapping, F2D Human Smuggling, F4	Guilty	Jury
8/22	Bushor	Ishikawa	AG	JD506831 Severance Trial	Severance Granted	Bench

Legal Advocate's Office

Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	CR# and Charges(s)	Result	Bench or Jury Trial
8/18 - 8/19	Glow	Myers	CR08-107019-001 Trafficking in Stolen Property, F3	Guilty	Jury
8/19 - 8/29	Garcia Brauer Rood	Lynch	CR07-128399-001 Armed Robbery, F2 Burglary-2nd Deg, F3	Not Guilty	Jury



Maricopa County
Public Defender's Office
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pdinfo@mail.maricopa.gov

for The Defense

for The Defense is the monthly training newsletter published by the Maricopa County Public Defender's Office, James J. Haas, Public Defender. *for The Defense* is published for the use of public defenders to convey information to enhance representation of our clients. Any opinions expressed are those of the authors and not necessarily representative of the Maricopa County Public Defender's Office. Articles and training information are welcome and must be submitted to the editor by the 10th of each month.

