

for The Defense

Training Newsletter of the Maricopa County Public Defender's Office

James J. Haas, Maricopa County Public Defender

Volume 19, Issue 2

February, 2009



*Delivering America's
Promise of Justice for All*

for The Defense

Editor: Dan Lowrance

Assistant Editors:
Jeremy Mussman
Susie Graham

Office:
620 West Jackson, Ste. 4015
Phoenix, AZ 85003
(602) 506-7711

Copyright © 2009

Contents

Trial Tips	1
Aggravating Aggravators	7
Career Center at Community College.....	10
An Employment Resource for Our Clients.....	11
Jury and Bench Trial Results.....	13

Trial Tips

By Terry Lovett Publik and Brent E. Graham, Attorney Supervisors

Contemporaneous Record

Practice of holding conference off the record and making the record at a later recess has been strongly disapproved by all Arizona appellate courts. *State v. Babineaux*, 22 Ariz. 322, 526 P.2d 1277 (1974), *State v. Sanchez*, 130 Ariz. 295, 636 P.2d 1217 (1981), *State v. Paxton*, 186 Ariz. 580, P.2d 721 (1996).

- Jury notes - *State v. Fletcher*, 149 Ariz. 187, 717 P.2d 866 (1986).
- Motions in limine - *State v. Bay*, 150 Ariz. 112, 722 P.2d 280 (1986).
- Jury instructions - *Gosewisch v. American Honda Motor Co.*, 153 Ariz. 400, 731 P.2d 316 (1987).

Asking Witness If Other Witness/Cop Is Lying?

Questioning a witness about whether or not another witness lying is improper. (Object - improper question, object to the form of the question.) *State v. Morales*, 198 Ariz. 372, 375, 10 P.3d 630, 633 (App. 2000); *State v. James Montella*, 1 CA-CR 05-1041 App. Div. 1 (2007) (memorandum decision); *State v. Bible*, 175 Ariz. 549, 601, 858 P.2d 1152, 1204 (1993).

Vouching

U.S. v. Brook. No. 05-30261 11/29/07, Vouching is bad.

- Cooperating witness testifying about why they have to tell the truth is vouching and impermissible
- Government bolstering wire tap by eliciting testimony about how DOJ and courts have to approve application is vouching (vouching excused because of overwhelming guilt).

It is improper for the prosecutor to comment on or elicit a witness' opinion about a person's truthfulness, even if done indirectly. *State v. Bible*, 175 Ariz. 549,601, 858 P.2d 1152, 1204 (1993). *State v. Martinez*, 175 Ariz. 114, 119, 854 P.2d 147, 152 (1993). This includes eliciting the testimony through expert witnesses. *State v. Lindsey*, 149 Ariz. 472, 475, 720 P.2d 73, 76 (1986).

Impeachment

Prosecutor cannot impeach a witness with insinuating questions without being prepared to prove the insinuation. *State v. Singleton*, 182 P.2d 920 (1947).

Photos

Trial court has discretion to admit photographs and will not be reversed absent a clear abuse of discretion. *State v. Stuard*, 176 Ariz. 589, 663 P.2d 881 (1993).

- Court may admit photo if relevant to an issue in the case or if it helps the jury to understand the disputed issue.
- If photo is relevant but would tend to incite passion or inflame the jury, the probative value must be outweighed against any unfair prejudice caused by the admission. Especially true for gruesome photos. *State v. Powers*, 117 Ariz. 220, 223-224, 571 P.2d 1016, 1019-20 (1977).
- Try to limit the number of photos to those necessary to prove the relevant issue.

Prosecutorial Misconduct

Prosecutorial misconduct constitutes fundamental error only when it is so egregious as to deprive the defendant of a fair trial. *State v. Hernandez*, 170 Ariz. 30, 307, 823 P.2d 1309, 1315 (1991). To prevail on a claim of prosecutorial misconduct, a defendant must demonstrate that the prosecutor's misconduct, "so infected the trial with unfairness as to make the resulting conviction a denial of due process." *Donnelly v. DeChristoforo*, 416 U.S. 637, 643 (1974). Prosecutorial misconduct is harmless error on appeal only if the court finds, beyond a reasonable doubt, that the misconduct did not contribute to or affect the verdict. When making that determination, the court must consider the cumulative prejudice from all instances of prosecutorial misconduct. *State v. Hughes*, 193 Ariz. 72, 79, 969 P.2d 1184, 1191 (1998). In determining the prejudice, the court should consider the experience of the prosecutor. An experienced prosecutor has a "greater appreciation of the advantages" of committing prosecutorial misconduct. *In re Zawada*, 232, 238-9, 92 P.3d 862, 868-69 (2004).

Examples:

- Appeals to fear by the jury "if defendant not convicted will be able to commit future murders." *State v. Hughes*.
- Improper to call client names like "monster", "filth", "devil incarnate", "psychopath". It improperly appeals to passions and fears of jury. *State v. Henry*, 176 Ariz. 569, 581, 863 P.2d 861, 873 (1993) (capital case), *State v. Comer*, 165 Ariz. 413, 426-27, 799 P.2d 333, 346-47 (1990) (capital).
- Argument that defense was "fabricated," or a "red herring", expert was fool or fraud, defense coached witnesses, etc. Unethical for prosecutor to impugn the integrity or honesty of opposing counsel. *State v. Hughes*.
- Referring to defense counsel as a liar is grossly inappropriate. *State v. Smith*, 182 Ariz. 113, 116, 893 P.2d 764, 767 (App. 1995).
- Improper to argue that "psychiatrists create excuses for criminals." *State v. Hughes*.
- Condemned "win-by-any-means" strategy. Because of overwhelming power vested in prosecutor's office, his obligation to play fair is every bit as compelling as his responsibility to protect the public. *In re Zawada*.

- Pretending to represent the victim or be the victim's crusader. Improper as it misleads the jury and is designed to encourage jury to decide case on emotion and ignore courts instructions. *State v. Bible*, also *State v. Superior Court (Flores)*, 181 Ariz. 378, 383, 891 P.2d 246, 250 (App. 1995).
- Too many leading questions may justify a new trial. Constituted a "prejudicial irregularity" that was one of the factors leading to reversal. *Locken v. United States*, 383 F.2d 340, 341 (9th Cir. 1967), *State v. Cardenas*, 146 Ariz. 193, 197, 704 P.2d 834, 838 (App. 1985).
- Misstatement of the Law is improper – *State v. Serna*, 163 Ariz. 260, 266, 787 P.2d 1056, 1062 (1990). Example: State didn't have to prove case beyond "any" reasonable doubt or beyond "all" reasonable doubt.
- Misstatement of Facts is improper – *In re Peasley*, 208 Ariz. 27, 36, 90 P.3d 764, 773 (2004, (disbarring Mr. Peasley). *State v. Minnett*, 203 Ariz. 431, 439-40, 55 P.3d 774, 782-83 (2002), (Peasley was prosecutor).
- Improper for the prosecutor to suggest that information not presented to the jury supports a witness' testimony. *State v. Bible*, *State v. Woods*. 141 Ariz. 446, 455, 687 P.2d 1202, 1210 (1984), *State v. Leon*, 190 Ariz. 159, 162, 945 P.2d 1290 1293 (1997).
- Prosecutor may not even indirectly comment about the fact that the defendant did not testify at trial. *Griffin v. California*, 380 U.S. 609, 612-15 (1965).
- Improper for the prosecutor to comment on the defendant's seeking, contacting or retaining counsel. *United States v. Kallin*, 50 F.3d 689, 693-94 (9th Cir. 1995). *State v. Palenkas*, 188 Ariz. 201, 212, 933 P.2d 1269, 1281 (App. 1996).
- Improper for the prosecutor to comment on defendant's silence, invocation of the right to remain silent or desire to remain silent after speaking to an attorney once the defendant has been *Mirandized*. *Doyle v. Ohio*, 426 U.S. 610, 618-19 (1976), *State v. Keeley*, 178 Ariz. 233, 871 P.2d 1169 (Ariz. App. Div. 1, 1994), *State v. Henry*, 176 Ariz. 569, 579, 863 P.2d 861, 871 (1993), *State v. Mauro* 159 Ariz. 186, 197, 766 P.2d 59, 70 (1988).

***Making Record**

Each time the misconduct occurs during trial, make a specific contemporaneous objection (e.g., "Objection, misstates the law").

- If sustained, move to strike and request instruction to disregard the statement/or conduct.
- If situation warrants it, move for mistrial.
- If mistrial granted, request dismissal with prejudice pursuant to *Pool v. Superior Court*, 139 Ariz. 98, 677 P.2d 261 (1984)
- If denied, file motion for new trial (attach copies of transcript).

Burden Shifting

Objecting to the prosecutor's closing argument for "shifting the burden of proof" to the defendant does not preserve the record for "prosecutorial misconduct." Need to make both objections. *State v. Rutledge*, 205 Ariz. 7, 66 P.3d 50 (2003).

The state is entitled to "comment upon the failure of the other party to produce a witness" in appropriate circumstances, such as, when the witness not produced would give favorable testimony to the party who fails to call the witness. *State v. Jerdee*, 154 Ariz. 414, 743 P.2d 10 (App. 1987).

State is entitled to point out the absence of evidence that would substantiate defendant's story, *State v. Herrera*, 203 Ariz. 131, 51 P.3d 353 (App. 2002).

Tainting Jurors

It is unprofessional to taint jurors. Arizona State Bar 1978 Ethics Opinion No. 78-42.

Prosecutors who tell jurors about inadmissible evidence, i.e., defendant had priors, disclose evidence that was suppressed, etc., are engaging in suspect, if not unprofessional or unethical conduct.

- Any comments which tend to influence or prejudice a juror's judgment in any future jury service are improper. ABA Criminal Justice Standards 5.4(c) and 5.10 and E.R. 3.5.

Crawford/Confrontation

Crawford v. Washington, 541 U.S 36 (2004). Superior Court held that the 6th Amendment Confrontation Clause prohibited use of a testimonial statement made out-of-court by a declarant absent from trial, unless declarant was truly unavailable and defendant had a prior opportunity to cross-examine declarant.

Trial court did not violate 6th Amendment Confrontation Clause as interpreted by *Crawford* when it allowed a police officer who testified to a complete lack of memory to read from DR at trial. *State v. Real*, 2 CA-CR 2006-0024.

Exculpatory Statements of the Defendant

Generally, whenever one party gives part of a conversation as evidence, the other party may offer the entire conversation. *State v. Lovely*, 110 Ariz. 219, 220, 517 P.2d 1016, 1022 (1983). Rule 106 complements but does not supersede the common-law rule of completeness. Applies to confessions made to police when the defendant makes both inculpatory and exculpatory statements. Our Supreme Court has adopted the *Soures* test, exculpatory statements made as part of a confession should be admitted if they explain the admitted portion, place the admitted portion in context, avoid misleading the trier-of-fact and ensure a fair and impartial understanding of the confession. *United States v. Soures*, 736 F.2d 87 (3rd Cir. 1984); *State v. Dunlap*, 187 Ariz. 441, 930 P.2d 518 (App. 1996).

Courts have frowned on requiring the defendant to waive his Fifth Amendment rights by taking the stand to present the exculpatory evidence. *Herderson v. United States*, 632 A.2d 419, 426 (D.C. App. 1993). *Swinney v. Mississippi*, 829 So.2d 1125, 1235-36 (Miss. 2002). (Differentiated between statements allowing confession but no prior statements where defendant made denials.)

Expert Testimony/Limitations

Expert testimony must be limited to that which would be helpful to the jury and must not constitute a comment on a witness' credibility or on "whether the crime occurred, whether the defendant is the perpetrator, or like questions." *State v. Moran*, 151 Ariz. 378, 728 P.2d 248 (1986).

Testimony about general characteristics of child sexual abuse victims and the manner in which children may react to abuse is generally held to be proper. *State v. Lindsey*, 149 Ariz. 472, 720 P.2d 73 (1986).

Evidence of behavioral characteristics of sex offenders may constitute "profile evidence" that is inadmissible to prove guilt. "Profile evidence" is a compilation of characteristics and behaviors

typically displayed by persons engaged in a particular crime. *State v. Lee*, 191 Ariz. 542, 959 P.2d 799 (1998). The Arizona Supreme Court has warned that the use of profile evidence to indicate guilt creates too high a risk that a defendant will be convicted not for what he did but for what others “are doing.” *State v. Cifuentes*, 171 Ariz. 257, 830 P.2d 469 (1991).

State v. Kendell Blasi, 1 CA-CR 01-0004 (App. 6/22/04), is an interesting memorandum opinion discussing Wendy Dutton’s testimony that improperly “profiled” characteristics of sex offenders. A clear distinction must be made between “victim profile” evidence compared to “offender profile” evidence.

1. Dutton described set of “common behavioral traits of sex offenders” derived from interviews of convicted molesters and actual victims and evidence presented at trial revealed that defendant exhibited many of same behaviors. This became a subtle means of conveying to the jury that the expert thought defendant was guilty.
2. Dutton quantification of the percentage of victims molested by someone they knew was impermissible expert testimony expressly forbidden by our Supreme Court in *Moran*.
3. Dutton improperly testified about the manner in which sex offenders typically operate “the five stages” of the assault process. (Behavioral patterns of sex offenders invites the faulty assumption or inference of guilt based on characteristics that are not probative of the defendant’s actual guilt or innocence).
4. Dutton improperly testified regarding the percentage of sex offenders known to the family as opposed to strangers.

Drug Agent Expert Testimony

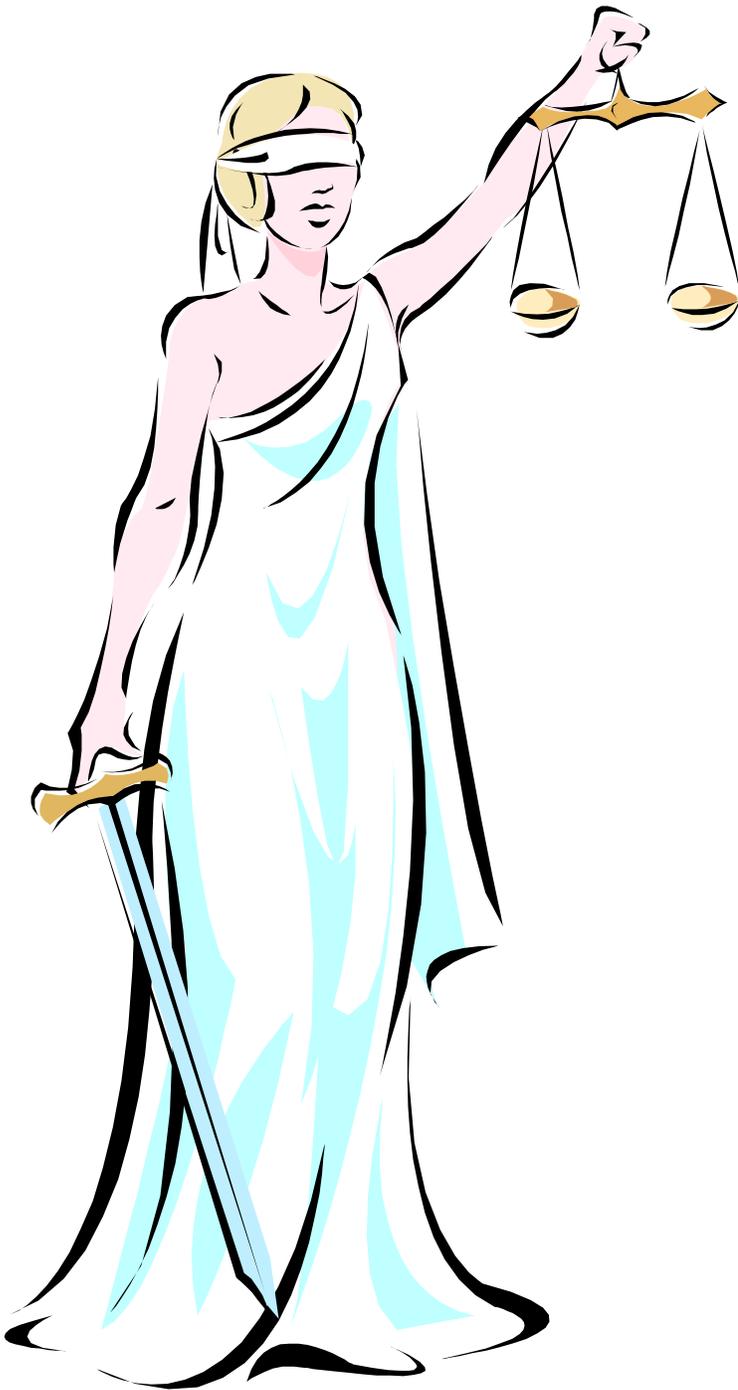
Improper for agent, testifying as an expert and lay witness, to speculate as to why the defendant may have acted in a certain way, and could not give his own interpretation to clear meaning of words. *U.S. v. Freeman* No. 05-50401 (6/11/07).

Representation by Counsel

Criminal defendants have a constitutional right to be represented by competent counsel with whom they have no irreconcilable differences or to choose to represent themselves. *State v. LeGrand*, 152 Ariz. 483, 733 P.2d 1066 (1987). Defendants do not have the right, however, to choose their counsel or to experience a meaningful relationship with counsel. *State v. Bible*, 175 Ariz. 549, 858 P.2d 1152 (1993), *Morris v. Slappy*, 461 U.S. 1, 103 S.Ct. 1610 (1983).

Failure to Sanitize Priors

“[T]he rule in Arizona remains that a defendant must take the stand before he can challenge an adverse pretrial ruling allowing prior convictions to be admitted for impeachment purposes.” *State v. Smyers*, 207 Ariz. 314, 318, §15, 86 P.3d 370, 374 (2004) (quoting *State v. Allie*, 147 320, 327, 710 P.2d 430, 437 (1984)). Because defendant did not testify at trial, he waived appellate review of this issue.



The Maricopa County
Public Defender's Office
Presents

The 13th Annual
Trial College

March 11, 12 & 13, 2009
Maricopa County Public Defender
Downtown Justice Center
Phoenix, AZ

Featuring:

Terry MacCarthy, nationally known
speaker on Cross-Examination and
Impeachment.

Josh Karton, nationally known
communications instructor with a
focus on Jury Communication.

*To register, please contact Celeste
Cogley by phone at 602-506-7711
X37569 or by email
cogleyc@mail.maricopa.gov

*For Defense Attorneys

Aggravating Aggravators

State's Laundry List of Spurious Aggravating Factors

By Tennie Martin, Defender Attorney

Lately, some prosecutors seem to be making a habit out of alleging a laundry list of every potential aggravating circumstance that they imagine might exist in the realm of all criminal cases. The listed aggravators may very well have nothing to do with your case and, yet, the prosecutor files the entire allegation of aggravating circumstances against your client. Worse, the listed aggravators may not even be properly considered as aggravators and, yet, the prosecutor files the specious allegations of aggravating circumstances against your client.

Some of the more outrageous “aggravators” alleged by prosecutors these days include, but are not limited to:

- 1) "The Defendant testified or will testify falsely at trial or another court proceeding."

In support of this inflammatory allegation, the prosecution cites to *State v. McDonald*, 156 Ariz. 260, 263 (App. 1987) and *State v. Smith*, 183 Ariz. 424, 426 (App. 1995), vacated on other grounds by *State v. Smith*, 184 Ariz. 456 (1996). In *McDonald*, the trial court found as an aggravating factor the defendant's “outrageous falsehood.” “At his trial, McDonald testified that he had been a customer at Goog's when the holdup occurred. He told the jury that he found a wad of paper with money inside on the floor which he ‘instinctively’ picked up. This paper and money consisted of a pay voucher containing cash which had previously been taken at gunpoint from a customer. McDonald stated that he put on a pair of rubber gloves in the kitchen, covered his face with a bandana he had, and used a second bandana to cover his head. He then jumped through the window of the restaurant because he had two felony convictions and did not want to be present when the police arrived.” Without trying very hard, you can probably distinguish this case from your client's case.

In *Smith*, the trial court claimed as an aggravating factor that defendant committed “perjury” during his presentence hearing. There is no reference to what the perjury was.

- 2) "The Defendant has a bad attitude or a failure to appear at trial or the Defendant will have failed to appear at trial."

In support of this tenuous allegation, the prosecution cites to *State v. LeMaster*, 137 Ariz. 159, 165 (App. 1983). In *LeMaster*, the appellate court stated: The “trial court could use defendant's bad attitude, manifested in part by his failure to appear for trial and for sentencing, as an aggravating factor. Although a defendant may waive his presence at trial, the record is clear in this case that he absented himself from the proceedings in order to avoid prosecution and punishment.” So, this is one case out of how many trials in absentia where the court used a defendant's failure to appear as an aggravating circumstance.

It is interesting and perhaps instructive to note that the aggravating circumstances in the cases cited by the prosecution were found by the trial court and not by the jury. Could it be argued that a trial court relaying these types of aggravating factors via a jury instruction was improperly commenting on the evidence? The aggravators are stated as already determined facts – “The Defendant testified falsely” – “The Defendant has a bad attitude.” “Article VI, § 27 of the Arizona Constitution provides, in pertinent part: ‘Judges shall not charge juries with respect to matters of fact, nor comment thereon, but shall declare the law.’ To violate this constitutional prohibition against commenting on the evidence, ‘the court must express an opinion as to what the evidence proves’ or ‘interfere with the jury’s independent evaluation of that evidence.’” *State v. Cheramie*, 171 P.3d 1253, 1258 (App. 2007) (citations omitted). Isn’t the trial court’s telling the jury that the defendant testified falsely or that the defendant has a bad attitude expressing the court’s opinion as to what the evidence proves?

With respect to the State’s ability to allege aggravating circumstances, the State must allege “non-capital sentencing allegations that must be found by a jury within the time limits of Rule 16.1(b).” Ariz. R. Crim. P. Rule 13.5(a). Generally, Ariz. R. Crim. P. Rule 16.1(b) requires that motions be made no later than 20 days before trial.

Most importantly, what is also included in Ariz. R. Crim. P. Rule 13.5 gives you the prescription for challenging the State’s allegations of aggravating circumstances. Ariz. R. Crim. P. Rule 13.5(d) states: “A defendant may challenge the legal sufficiency of an alleged prior conviction or non-capital sentencing allegation that must be found by a jury by motion filed pursuant to Rule 16.”

So, when the State does allege a spurious laundry list of aggravating circumstances against your client, you have the means and the duty to challenge the “legal sufficiency” of the allegation well in advance of trial.

One other, perhaps less onerous, strategy that you can start with to try to force the prosecution into narrowing the laundry list before you challenge the legal sufficiency is to ask the trial court to compel the State to make a “good-faith” attempt to identify the actual, specific aggravating circumstances that it will seek to prove against your client. In taking this path, you can draw an analogy to the cases like *State v. Tucker*, 157 Ariz. 433, 441, 759 P.2d 579, 586-587 (1988). *Tucker* dealt with the State’s discovery rule violations where the prosecutor listed, on his witness list, all persons named in the police report. The *Tucker* court “strenuously disapproved” of the prosecutor’s conduct and noted: “Rule 15 requires the prosecutor to make a good-faith attempt to identify its witnesses for its case-in-chief, as well as its rebuttal witnesses.” That court added that it was the trial court’s “responsibility to enforce” disclosure rules and that trial judges were in a far better position to ensure that prosecutors did not ignore disclosure rules. *Tucker*, 157 Ariz. at 441.

In summary, the need to object and to challenge the State’s list of aggravating circumstances is like so many other things – object and challenge early and often.



Maricopa County Public Defender presents

Eyewitness Testimony: Defending Eyewitness Identification Cases

Presented by
Ira Mickenberg

Friday, April 17, 2009
Board of Supervisor's Auditorium
205 W. Jefferson, Phoenix, AZ 85003

Check In : 8:30am - 9:00am

Session: 9:00am - 4:00pm (Lunch on your own)

No food allowed in the auditorium - bottled water only / Open to Defense Attorneys only

Registration Fees (checks only):

No Fee Public Defenders/Legal Defenders/Legal Advocate

\$100.00 City Public Defenders/Federal Defenders/Contract Counsel

\$125.00 Private Counsel

Registration Deadline: Friday, April 10, 2009

Contact Name: Celeste Cogley @ 602-506-7711 X37569

Eyewitness Testimony Friday, April 17, 2009

Name: _____	Make checks payable to: Maricopa County Public Defender
Office: _____	Mail to: Maricopa County Public Defender Attn: Celeste Cogley 620 W. Jackson, Suite 4015 Phoenix, AZ 85003
Address: _____	
Phone: _____ Bar#: _____	

Career Center at Community College

By Rebecca Lukasik, Mitigation Specialist



Many of our clients are not aware of the vast amount of resources available in the community to assist with job development and placement. One resource that has not been widely used or acknowledged is the community colleges. All of the community colleges in Maricopa County have a job resource center located on the campus that is open to the public, not only students. I was not able to tour all of these facilities, but I did gain an understanding of resources available to the community by acquiring information from one of the campuses.

Touring the Job Development Services at Paradise Valley Community College informed me about all the different programs and services offered at this college. The campus is located at 18401 N. 32nd St. and the phone number is (602) 787-6500. The hours of operation are 8:00 am to 7:00 pm Monday through Thursday and 8:00 am to 5:00 pm on Friday.

The facility is divided into three different programs; each program provides different services to both the community and the students at the college. The first program consists of counseling services offered for both personal issues and for career advice. There are nine counselors on staff that are available from 9:00 am to 11:00 am Monday through Friday. These counselors assist with career assessments that are free to the community to help people develop a career path.

A second program offered at this facility is the Career Services Department. There are three people staffed in order to help people find jobs in the community and at the college. In addition, they assist people in finding internships at various jobs in order to acquire hands-on experience in a certain career field. This program is offered both to the public and students. In addition, the career services department provides students and the general public access to 10 computer terminals for job searching on the internet. Furthermore, books on job skills, interview techniques and resume writing are provided to the public.

The third program offered is the Advisement Center. Ten advisors are on staff mainly to assist students establish degree goals and advise on classes to take at school. In addition, there are free seminars that are offered to the public throughout the year which consist of time management and stress management techniques.

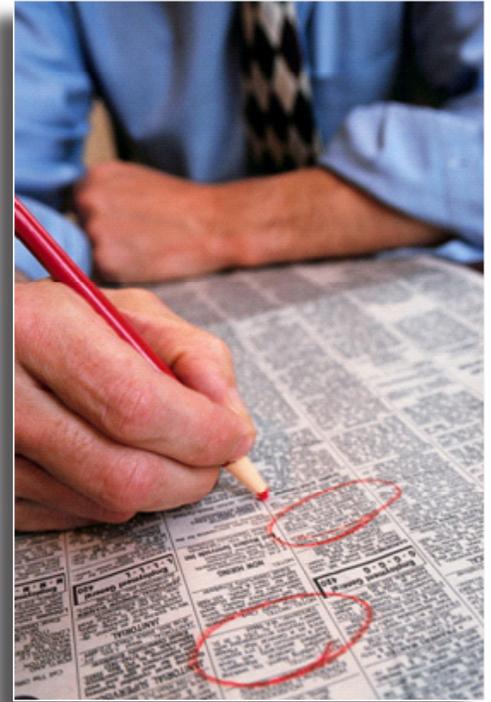
In conclusion, gaining knowledge about the various resources available in our community will assist us with different avenues we can direct our clients to pursue for their vocational needs. The Community College Job Centers are just one resource that may help our clients acquire a better future.

An Employment Resource for Our Clients

By Jennifer Gebhart, Mitigation Specialist

The tough economic times that our country is facing makes it hard for anyone to find a job, but it becomes even more difficult for our clients who are trying to become productive citizens in our society. The Maricopa County Human Services Department has a great service that could be of tremendous use to our clients who receive a term of probation and who will have difficulty in the employment search. There are several one-stop career centers that are open to the public for assistance in many different areas of a job search.

The centers are open for business Monday through Friday from 8 am – 5 pm. The Centers hold orientations to explain their services Monday through Friday at 9:30 am, 11:30 am, and 1:30 pm. The assistance is funded to help everyone in the community. Membership is required to participate in their services, but the services are **free** once you fill out a minimal amount of paperwork to register with the center. You can even register online at www.arizonavirtualonestop.com, if you don't have time to stop by one of their centers. They will give you a membership card after that initial visit to present each time you come back to utilize the center.



Services are available for job searches, career development and planning, career assessments, workshops, computers, faxes, copiers, phones (for job search activities), one-on-one job related assistance, networking, professional connections, goal setting, seminars, job fairs, job clubs and emotional support. The center even offers workshops on how to design, write and update a resume to help you create the best document to sell yourself! The workshops for resumes are offered every week. There are other workshops available each week Monday through Thursday. It is not necessary to register for a workshop.

The following is a list of locations for the Maricopa Workforce Connections:

West Valley Career Center

1840 North 95th Avenue
Suite 160
At the NE intersection of 1-10 and 101
602-372-4200

Scottsdale

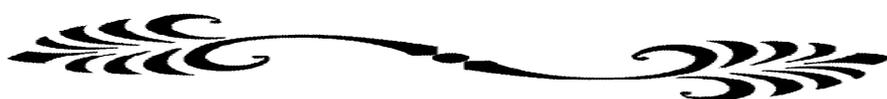
7375 East 2nd Street-Building #2
In the Vista Del Camino Center
480-312-0062

Gilbert

735 North Gilbert Road
Suite 135
On the SE corner of Guadalupe and \
Gilbert Rd.
480-497-0350

East Valley Job Services

163 North Dobson Road
1 Block North of Main Street
on the East side of Dobson Road
480-962-7678



SPONSORED BY MARICOPA COUNTY PUBLIC DEFENDER,
APAAC AND APDA

Spring Professionalism Course

Friday, April 24, 2009

11:00am — 3:15pm

**Downtown Justice Center
620 W. Jackson,
2nd Floor Training Room**



Presenters include:

Russ Born,
Deputy Maricopa County Public Defender
Sylvia Lafferty,
Deputy Pinal County Attorney
Kevin Maricle,
Deputy Maricopa County Attorney
Art Merchant,
Deputy Maricopa County Juvenile Public Defender
Jeremy Mussman,
Deputy Director Maricopa County Public Defender
Barbara Marshall,
Deputy Maricopa County Attorney

This course is designed for newly admitted attorneys and will satisfy the State Bar of Arizona requirement.

May qualify for up to 4 hours Ethics CLE.

*Feel free to bring your lunch

To register or for questions, please contact
Celeste Cogley (MCPD)
602-506-7711 X37569 or email
cogleyc@mail.maricopa.gov

Jury and Bench Trial Results

December 2008

Public Defender's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 1						
11/19 - 12/1	Farney	Foster	Leckrone Henderson	CR08-128668-001DT Burglary 1st Deg., F2D Agg. Assault, F3D MIW, F4	Guilty	Jury
12/1 - 12/4	Hann Stewart Ames Rankin Leigh	Harrison	Baek	CR08-134287-001DT Burglary 3rd Deg., F4 Theft, M1	Guilty	Jury
12/2 - 12/5	Baker Leigh	Newell	Robinson	CR08-121537-001DT Unlawful Use Means Transp., F5	Guilty	Jury
12/9 - 12/17	Farrell Sain Curtis	Blomo	Reed	CR08-109868-001DT Burglary 1st Deg., F2D Kidnapping, F2D Armed Robbery, F2D	Guilty	Jury
12/15 - 12/16	Hann Leigh	Ditsworth	Lynas	CR06-173219-001DT TOMOT, F3	Guilty	Jury
12/15-12/17	Farney	Harrison	Kittredge	CR08-117695-001DT Sexual Conduct with a Minor, F2 (DCAC) Kidnapping, F2 (DCAC)	Not Guilty	Jury
11/24-12/03	De La Torre	Blomo	Horn	CR08-006420-001-DT POND, F4	Guilty	Jury
Group 2						
12/10-12/15	Steinfeld	Barton	Church	CR08-134895-001DT Cruelty to Animals, F6	Guilty	Jury
11/24-12/03	De La Torre	Blomo	Horn	CR08-006420-001-DT POND, F4	Guilty	Jury
Group 3						
12/15-12/18	Naegle Schreck O'Farrell Williams	McMurdie	Swanstrom	CR08-145483-001DT Agg. Assault, F6 Resisting Arrest, F6	Not Guilty on both counts	Jury
12/16	Kalman Browne	Verdin	Keer	CR08-006481-001DT POM, M1 PODP, M1	Guilty	Bench
Group 4						
12/1	Braaksma	Rogers	Daley	TR08-116327-001 WT Driving w/ Suspended License	Guilty	Bench
12/5	Braaksma	Goodman	Grabowski	TR08-145390-001 SM 2 cts. DUI, M DUI w/BAC of .08 or more, M	Guilty	Jury

Jury and Bench Trial Results

December 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 4 (Continued)						
12/10 - 12/16	Lockard	Sanders	Maroney	CR06-048840-001SE Agg. Assault, F6 POM, F6 PODP, F6	Agg. Assault- Not Guilty POM & PODP - Dismissed per prosecution motion on 9/4/07	Jury
12/10 - 12/15	Gaziano Whitney	Contes	Hammond	CR08-144585-001SE 2 cts. Agg. Assault, F3D Assault, M1 Burglary 1st Degree, F2 Criminal Damage, M2 PODP, F6	Agg Assault-Guilty of Lesser Agg Assault - Directed Verdict Assault - Guilty Buglary-Not Guilty Crim. Damage-Guilty PODP - Guilty	Jury
12/15 - 12/16	Dehner	Udall	Seeger	CR08-030682-001SE Agg. Assault, F6 Resisting Arrest, F6	Agg. Assault-dismissed by Prosecution Motion on 12/15/08. Resisting Arrest - Not Guilty	Jury
Juveniles in Adult Court						
12/8 - 12/11	Traher Burgess Ortiz	Ditsworth	Gallagher Wade	CR08-007291-001DT 2 cts. Armed Robbery, F2D Agg. Assault, F3D	Guilty all counts	Jury

Jury and Bench Trial Results

December 2008

Legal Advocate's Office

Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	CR# and Charges(s)	Result	Bench or Jury Trial
12-9 - 12-10	Christian Christiansen	Talamante	JD 506843 Severance Trial	Under Advisement	Bench
7/15 & 12/8	Stubbs Contreras	Akers	JD 506472 Severance Trial	Severance Granted to Both Parents	Bench

Jury and Bench Trial Results

December 2008

Legal Defender's Office

Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
12/1 - 12/9	Tate	Arellano	Kalish	CR07-151813-001SE Murder, 2nd Degree, F1D	Guilty	Jury
12/2 - 12/31	Tallan Reidy De Santiago <i>Popalardo</i>	Hannah	Charbel	CR07-030908-001DT Murder, 1st Degree, F1D 2 Cts. Kidnap, F2D	Not Guilty	Jury
12/10 - 12/16	S. Allen	Sanders	Maroney	CR06-048840-002SE Agg. Assault, F6	Not Guilty	Jury
12/16	Sanders	Sinclair	AG	JD14733 Guardianship Trial	Guardianship Granted	Bench

Save the Date...

7TH ANNUAL APDA CONFERENCE

June 17, 18 & 19, 2009



Maricopa County
Public Defender's Office
620 West Jackson, Ste. 4015
Phoenix, AZ 85003
Tel: 602 506 7711
Fax: 602 506 8377
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.

