

# for The Defense

Training Newsletter of the Maricopa County Public Defender's Office

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## When the Indictment Says Nothing

### Motions to Dismiss Indictments as Legally Insufficient

By Mark Dwyer, Defender Attorney, Major Fraud Specialist

In merry old England from 1487 until it was abolished in 1641, there existed something called the Star Chamber. This court was so named because the court chamber had a pattern of stars on a dark blue background painted on its ceiling. Initially, the Star Chamber was well-regarded because of its speed and flexibility. The court was set up to ensure the fair enforcement of laws against prominent people, those so powerful that ordinary courts could never convict them of their crimes. However, over time, the Star Chamber morphed into something quite different.

In its later years, the Star Chamber's sessions were held in secret, with no indictments, no right of appeal, no juries, and no witnesses. Evidence was presented in writing. The court routinely handed down sentences of incarceration and occasionally even ordered torture. It also was particularly good at banning books and persecuting the Puritans. The excesses of the Star Chamber provided a rallying cry for the good folks who eventually executed Charles I. In modern usage, courts characterized by arbitrary rulings and secretive proceedings are sometimes poetically called "star chambers".

Our courts and legal proceedings are not star chambers by any means -- yet.

HOWEVER, in one regard, they are becoming similar. The worst aspect of the Star Chamber was its secrecy. The defendant usually didn't know he was even charged with anything. How can you defend yourself if you don't know what the charges are? Witness a recent charge leveled at one of our clients:

On or between August 1, 2000 and December 31, 2003, defendant, pursuant to a scheme or artifice to defraud, knowingly obtained a benefit by obtaining investments in non-existent or non-performing businesses and promising high investment returns, with knowledge that there would be no such investment returns, in violation of A.R.S. §§ 13-2310, 13-2301, 13-105, 13-301, 13-302, 13-303, 13-304, 13-305, 13-306, 13-701, 13-701, 13-702, 13-702.01, 13-702.02, 13-801 and 13-803.

SAY WHAT? Who are the alleged victims? What is the business or businesses in question? What exactly is the benefit? Notice the inclusion of all the accomplice liability statutes -- are there other allegedly guilty people? Thankfully, the state saw fit to narrow down the timeframe -- only four years!



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Going to the Grand Jury transcripts, you find a mere 30 pages of testimony haphazardly presenting a hodgepodge of details involving six different business entities. One or two of these entities seem to be the subject of different fraud counts, although those counts are not any more comprehensible, so you cannot be sure. The indictment also contains 22 theft counts, one money laundering count, and four illegal enterprise counts. These counts are just as cryptic as the fraud schemes counts.

Going to the initial disclosure, you find 12,321 documents, none of which are anything approaching a police report or summary which might help define the charges.

BOTTOM LINE: you really don't know exactly what the count is referring to. You can guess. You can probably make a dozen guesses. But, unless you do something quick, you probably won't have a solid idea of the state's theory of the case until at least midway through the trial. You file a motion complaining about the situation; the trial judge says, "Counselor, we have notice pleading in Arizona – live with it." You prepare for trial as best you can, trying to anticipate all the possible ways that the state might try to fit the facts into the charge, but invariably there is at least one permutation that you didn't imagine. Your client is convicted and

you sit back and wait for the claim of ineffective assistance of counsel. Now you know why the Puritans came to America.

“DO NOT GO GENTLE INTO THAT GOOD NIGHT.” ATTACK THE INDICTMENT. DEMAND TO KNOW WHAT THE CHARGES REALLY ARE.

Defendants must be told, at the initiation of the prosecution, what charges they are facing and they must be told with sufficient clarity as to permit them to defend themselves.

Both the United States<sup>1</sup> and the Arizona<sup>2</sup> Constitutions guarantee a criminal defendant the right to know the nature of the charges against him. Additionally, Rule 13.2, Ariz. Rules of Criminal Procedure, states that, “The indictment or information shall be a plain, concise statement of the facts sufficiently definite to inform the defendant of the offense charged.”

In *Russel v. United States*, 369 U.S. 749, 761, (1962), the Supreme Court said that the basic purpose of the charging document “was to provide a fair method for instituting criminal proceedings.” The Court listed the constitutional purposes of the charging document as (1) giving defendants notice of the charges with sufficient particularity so as to permit adequate defenses, (2) properly informing the courts of the facts alleged so that they can apply the law, and (3) identifying the facts underlying criminal charges in order to protect against subsequent improper prosecution (i.e., double jeopardy). *Id.* at 763-64, 769.

Similar language is found in Arizona law. According to *State v. Rickard-Hughes*, an indictment must inform the defendant of the essential elements of the charge and be sufficiently definite so that the defendant can prepare to meet the charges. 182 Ariz. 273, 275, 895 P.2d. 1036, 1038 (App. 1995).

True, Arizona does generally permit “notice pleading.”<sup>3</sup> However, notice pleading is permitted based on the assumption that the accused is

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# Can I Get a Witness?!

*Crawford v. Washington*, 541 U.S. 36 (2004), 124 S.Ct. 1354

By Victoria Washington, Defender Attorney, Capital Unit

The essential holding of *Crawford* is "out of court statements by witnesses *that are testimonial* are barred, under the Confrontation Clause, unless witnesses are unavailable and defendants had prior opportunity to cross-examine witnesses, regardless of whether such statements are deemed reliable by the court, abrogating *Ohio v. Roberts*, 488 U.S. 56, 100 S.Ct. 2531."<sup>1</sup> (Emphasis added). The key word in the holding is "testimonial". Where *testimonial* evidence is at issue, the Sixth Amendment demands what the common law required: unavailability and a prior opportunity for cross-examination.<sup>2</sup>

## What is Testimonial?

*Crawford* leaves that open, declining to define it; however, there are clues scattered throughout the opinion that can give us an idea.

1. In-court testimony or its functional equivalent, materials such as affidavits, custodial examinations, prior testimony, or similar pre-trial statements that declarants would reasonably expect to be used prosecutorially.<sup>3</sup> Extra-judicial statements...contained in formalized testimonial materials, such as affidavits, depositions, prior testimony, or confessions. *White v. Illinois*, 502 U.S. 346, 365 (1992).<sup>4</sup>
2. Consider these factors in your analysis: are the statements formal statements to government officers? What was the involvement of government officers in the production of the statement? Was the statement or document prepared with an eye towards trial? Were the statements recorded given in response to structured police questioning?<sup>5</sup>

Consider these common scenarios where a *Crawford* objection should be made:

1. Domestic Violence cases where the victim refuses to show up.
2. MVD affidavits of suspension mailings = notice to defendants
3. 911 tapes/calls
4. Confidential Informants
5. Child Hearsay Statements
6. Witnesses' Statements

In the past, courts have allowed these statements and documents in under various hearsay exceptions: excited utterances, self-authenticating, present sense impressions, etc. For purposes of analysis, objections, and court rulings-- *Hearsay (or "firmly rooted" hearsay objections) are not relevant!!* The central holding of *Crawford* is that the Confrontation Clause is a rule of procedure, *not of evidence*. Therefore, the constitutional admissibility of statements declarants would reasonably expect to be used for evidentiary purposes no longer turn in *any way* on the rules of evidence or some notion of "reliability".<sup>6</sup> Constitutional considerations requiring testimonial statements to be subject to cross-examination in criminal cases do not evaporate when testimony happens to fall within some broad, modern hearsay exception, even if that exception might be justifiable in other circumstances.<sup>7</sup>

## Making the Objection

When? You never really know if a witness is going to show up or not. If the day of trial is here and the state's witness is not, make the objection pre-trial, on the record. If you know ahead of time the witness will not be present (e.g. confidential informants, or MVD affidavits) file a written motion to preclude the statements.

Is the witness truly unavailable?<sup>8</sup> What were the state's "good faith efforts to secure attendance"? A witness who is physically unavailable (dead or the government cannot locate with good faith effort) is "unavailable".<sup>9</sup> When a valid privilege prevents testimony (spouse or self-incrimination), that witness is probably unavailable.<sup>10</sup>

You have had no opportunity to cross-examine the witness (see end-note for information/case law on precluding preliminary hearing testimony)<sup>11</sup> and the statement is testimonial.

The speaking and/or written objection would sound/look something like, "I object to the statements offered as a violation of *Crawford v. Washington*. The witness is unavailable, I have not had the opportunity to cross-examine, and the witness' statements are clearly testimonial." You *must* make the case the statements are testimonial.

### **How Do I Make the Case the Statement is Testimonial?**

1. DV cases where alleged victim isn't there. Usually, the police arrive on scene and question the alleged victim about what happened. This questioning is structured, and obviously with an eye towards prosecution; sometimes the police even tape the interviews. Structured questioning + taped interview = testimonial. In other words, this statement was produced with an eye towards trial. Excited utterance exception doesn't matter; therefore, a hearsay analysis by the judge in deciding admissibility is irrelevant.
2. MVD affidavits where the custodian or someone attests to the regularity or proof of mailing of driver's license as proper notice. Look at the affidavit - when was it signed and produced? Self-authenticating or business record exception to hearsay is irrelevant. If the license was suspended in 2004 and the affidavit wasn't executed

until 2006, it was clearly produced and executed for trial purposes. Therefore it is testimonial, therefore it should be excluded.<sup>12</sup>

3. 911 tapes/calls. The first 20 seconds or so are usually not testimonial. It goes something like this: "911, what is your emergency"...then the caller explains why they need assistance. This is *not* testimonial. This is not for purposes of trial; the caller is merely trying to get assistance. *But*, further structured questioning by the 911 operator does produce testimonial evidence and those statements should be precluded.

For instance: 911 operator: what is the subject wearing? Do you know who shot you? Which direction is he traveling? Is he on foot? In a nutshell, statements made in a call that say more than "come help me" should be considered testimonial". A case to watch involving 911 calls is *Washington v. Davis*. The Washington Supreme Court held that for purposes of analyzing whether admission of an emergency 911 call is barred by the Confrontation Clause, each 911 call should be analyzed on a case-by-case basis; 911 calls may contain both testimonial and nontestimonial statements under *Crawford v. Washington*.<sup>13</sup>

4. Confidential Informants: When a CI gives information to a police officer for use in a criminal investigation, those statements are testimonial.
5. Child Statements: If the child is too young or incompetent to testify, he/she is probably unavailable. If the child has made an accusation to a government agent in an interview, the statements are testimonial, in that they are obtained in examinations conducted as part of a criminal investigation. However, be prepared. No court wants to exclude such testimony, so they will

bend over backwards to find a way to say the statements are not testimonial.<sup>14</sup>

6. Witness statements to police: generally given to governmental officers for evidentiary purposes and are ordinarily testimonial.<sup>15</sup> It really doesn't matter if the statements qualify as "excited utterances" or satisfy any other hearsay exception. The Supremes have already vacated and remanded one decision involving excited utterances to a police officer responding to the scene of a crime.<sup>16</sup>

These are just examples of some issues a trial lawyer may run into as they litigate *Crawford* issues. Just remember: Unavailability + no prior opportunity to cross-examine + testimonial = Crawford objection for preclusion.

One final note on hearsay issues. When your judge starts issuing his/her findings based on hearsay rules of evidence, ask for clarification; i.e. "Judge, are you finding that the witness's statements are not testimonial"? Only when non-testimonial hearsay is an issue should the judge base his/her analysis on "firmly rooted" exceptions.<sup>17</sup> Two Arizona cases to watch: *State v. Alvarez*, 210 Ariz. 24, 107 P.3d 350 (Div. 2, 2005) (holding victim's statement to deputy was not testimonial, therefore admission did not violate right to confrontation); *State v. Parks*, 211 Ariz. 19, 116 P.3d 631 (Div. 1, 2005) (holding excited utterances of defendant's son to police officer shortly after he witnessed killing were "testimonial" and thus were not admissible). These cases are useful for purposes of analysis, but I believe the Arizona Supreme Court will review the findings.

Final Practice Pointer: When interviewing the police officers associated with your case, have *Crawford* in the back of your mind as you are questioning officers about witness statements. In other words, inquire as to how soon after the incident they spoke to the witness, witness's demeanor, who made the contact (witness contact officer or vice versa), those types of things; because you may end up having to put

on a brief evidentiary hearing to establish the witness's statements were testimonial in nature.

(Endnotes)

1. *Crawford v. Washington*, 541 U.S. 36 (2004), 124 S.Ct. 1354
2. 124 S.Ct. at 1374 (emphasis added)
3. 124 S.Ct. at 1364
4. Quoted in 124 S.Ct. at 1364
5. 124 S.Ct. at 13-63-67 (including n. 4 & 7)
6. 124 S.Ct. at 1370; see also *United States v. Cromer*, 389 F.3d 662, 679 (6th Cir. 2004) ("If there is one theme that emerges from *Crawford*, it is that the Confrontation Clause confers a powerful and fundamental right that is no longer subsumed by the evidentiary rules governing the admissibility of hearsay statements").
7. *Id.* at 1367 n. 7
8. 124 S.Ct. at 1360 ("only if the witness is demonstrably unavailable to testify in person") the burden is on the government.
9. *Barber v. Page*, 390 U.S. 719, 724-25 (1968).
10. *Lilly v. Virginia*, 527 U.S. 116, 124 (1999)
11. *People v. Fry*, 92 P.3d 970 (Colo. 2004) (holding admission of preliminary hearing testimony of defendant's uncle, deceased at time of trial, violated defendant's right of confrontation). Court ruled in this manner because preliminary hearings in Colorado do not present an adequate opportunity for cross-examination. But See, *California v. Green*, 399 U.S. 149, 165-168 (1970) (holding there was adequate opportunity to cross-examine at a preliminary hearing where defendant was represented by counsel)
12. *People v. Capellan*, 6 Misc.3d 809, 791 N.Y.S.2d 315 (N.Y. City Crim. Ct.)
13. *Washington v. Davis*, 154 Wash.2d 291, 111 P.3d 844.
14. *People v. Vigil*, 127 P.3d 916 (Colo. 2006)
15. 124 S.Ct. 1368 n. 8
16. *Siler v. Ohio*, 543 U.S. 1019, 125 S.Ct. 671 (Mem); *State v. Siler* (not reported in N.E. 2d), 2003 WL 22429053
17. Where non-testimonial hearsay is at issue, it is wholly consistent with the Framers' design to afford the states flexibility in their development of hearsay law. 124 S.Ct. at 1364. 

# The Distinguished Tom Kibler

## A Gentleman, A Friend, A Hero - A Giant of a Man

Maricopa County Public Defender Thomas Reed Kibler, recipient of The Distinguished Flying Cross in Vietnam, died on Feb. 16th at St. Luke's Hospice in Phoenix. He was 58.

Tom won the Flying Cross while flying F-4E Phantom's with the United States Air Force. The Distinguished Flying Cross is awarded to any person who, while serving in any capacity with the Armed Forces of the United States, distinguishes himself by heroism or extraordinary achievement while participating in aerial flight. Tom flew bombing raids into downtown Hanoi, a city which, at the time, had the second most sophisticated anti-aircraft radar system in the world next to Moscow.

Tom was born in Pembina County, Grand Forks, North Dakota on November 26, 1947. After serving in Vietnam, he lived in England for two years. He then moved back to North Dakota and served with the North Dakota Air National Guard. In 1980, he graduated from the University of North Dakota School of Law and practiced law there until he moved to Phoenix in 1989 and became an attorney with the Maricopa County Office of the Public Defender. It was there that he distinguished himself as a superior trial attorney.

Winning his fair share of unwinnable cases, Tom, known to his coworkers as "The Senator", loved to quote Dickens and took risks that many attorneys would not take. He once arranged to meet alone, in a high-crime neighborhood park, with a Department of Corrections parolee who

claimed responsibility for a triple homicide that his client had been charged with.

In another high-profile case, a defendant left his murdered wife's body in the marital bed and failed to remove it for six years. Tom, in a trial to the Bench, gained an acquittal for his client, arguing, in addition to his client's innocence of the underlying murder, that "Sometimes when you put things off, they get harder to do as time passes."



Tom's work ethic was unsurpassable. He'd shrug off compliments about his service to his country and clients and preferred to talk about his beloved pound-rescued dog, Viva.

Tom Kibler was a well-traveled man and gifted raconteur. "I don't need new stories," he would often say, "just a new audience." He loved to travel and did so extensively throughout

Europe, Mexico and the Caribbean as well as the United States. Despite his worldliness, he was a humble man who never forgot what it meant to be a good neighbor and fellow human being. He had a way of turning bad situations into good ones and was a loyal friend. In that way, he never left Pembina County, the place where he "lived and traveled extensively" as he was often heard saying.

"Senator Kibler" is survived by his parents Beverly and Jack Kibler of Oro Valley, and his brother and sister-in-law, Paul and Ruth Ann Kibler and their two children, Paula and Jeremy of Omaha Nebraska, and his many grieving friends.



# Rule 11 and Misdemeanors

## Perspectives and Tips From Two Defender Attorneys

### Reflections of a Newby

By Kathryn Petroff, Defender Attorney  
Trial Group F

What is the most effective way to deal with a low-level misdemeanor case where a client is unable to understand the proceedings against him?

I met Client X on October 20, 2005, as part of my periodic coverage duty at justice court. He is an attractive, clean shaven, tidy, polite, homeless man in his mid-twenties, reminiscent in age and appearance to my son. At the time of our initial meeting, he had already been in custody for approximately 30 days on a class three misdemeanor for allegedly trespassing (sleeping) on the grounds of a college campus. He was either a truly gifted actor, or a man wholly unable to comprehend why he was 1) in custody, 2) at justice court, or 3) speaking to the likes of me in a dank, smelly cell.

The brief file notes in the matter indicated that X had been arrested in June 2005 and was picked up on a bench warrant on September 22nd. His bond was set at \$500.00. In early October, the county attorney set the matter for trial, but when X appeared for trial in mid-October, the case was continued so that a public defender could be appointed to assist X (attorneys are not usually appointed in such cases). Whether X had acted unusually at this time was undocumented, but presumed.

On October 20, X was offered a plea to serve one year of unsupervised probation and to pay a fine of \$150.00 or complete 15 hours of community service. I attempted to advise X of his options, without success. X was agitated and bewildered. After both my supervisor and I spoke to X a second time, we were faced with "Rule 11 Conundrum Number 1." To press Client X to sign a plea agreement, which he could not possibly understand, in the hope that he would

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### Reflections from the Old School

By Fredrica Strumpf, Defender Attorney  
Criminal Mental Health Specialist

#### Tips for Addressing Deficits in the Rule 11 System:

1. This case seems to have fallen between the cracks before Kathy received it. This could be remedied if the attorney who first handles the Rule 11 matter in justice court retains the case, instead of passing it on, to ensure continuity.
2. We need to clarify these issues for the justices of the peace, who do not handle many Rule 11 cases. They may not understand the potential duration of incarceration. Inform them as early on as possible that incarceration can end up going well beyond the statutory sentencing guidelines for misdemeanors.
3. Prosecutors are taught by rote that when mental health issues arise, the defendant *must* be transferred into the Rule 11 "system." That is not always the case – the matter might be dismissed or resolved through negotiations. Emphasize the need to weigh the use of resources like this for a minor offense. In some limited situations, if appropriate, a public defender might offer to have the defendant submit to a court-ordered civil evaluation in exchange for a dismissal on the criminal side. (Note that such an evaluation may not be the best option for the defendant. There are invasive medicating procedures you may be obligating your client to, as well as infringement upon liberty interests. Discuss the parameters of a court-ordered evaluation with our Civil Mental Health Unit to ascertain whether this is what is best under the circumstances.)
4. Criminal attorneys do not usually take a position on the need for civil evaluations,

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**Continued from Reflections of a Newby by Kathryn Petroff p. 7**

make it through the factual basis and be out of custody within a day or so, seemed the humane option. The fall weather was still holding, and X had accrued almost 30 days incarceration credit. But it was clear from X's confused responses that he had little or no appreciation of his surroundings or predicament. The only option was to request a Rule 11 pre-screen evaluation for X and see him returned to jail.

On October 28, I contacted court forensics, which had not yet received the evaluation request from the justice court. By this date, X had spent more than the maximum time in custody he would have served, had he proceeded to trial on the misdemeanor and lost. I nudged forensics with what information I had and asked for suggestions from all the usual suspects.\* On November 2, I sent what was, in retrospect, a rather naïve email to the assigned county attorney suggesting that the matter be dismissed, and noted that X's evaluation was set for November 11.

On that same day, I visited X in the Lower Buckeye Jail. I had never visited the jail, knew little about Rule 11 procedures, and nothing about how to approach X. But I felt a certain desperateness and incredulity about X's situation, even if he did not. Although there was no indication that X's mental health had improved, I spoke with him for about 30 minutes, explaining his legal situation and advising him of the upcoming evaluation. I was unable to glean any information about possible family members or friends who might come to his assistance. X did not appear to recognize me from our previous meeting.

Various emails and research ensued. On November 15, I received an email from the county attorney declining to dismiss the case. The next day I received the prescreen evaluation results recommending that X undergo "further evaluation." Unfortunately, presuming my next move was to request "further evaluation" from the justice court as the catalyst for a transfer to the superior court's Rule 11 docket, X was not

scheduled to appear for another hearing at the justice court until December 15.

Here was the rub – "Rule 11 Conundrum Number 2." X would languish at "LBJ" until December 15, 2005, thereafter to languish several more weeks in custody, at the very least, while two more Rule 11 evaluations were prepared, pursuant to procedure. I had read from the justice court "hold" card that X was on "LOAF" and was told that this indicated X was only being fed a kind of barely-nutritious bread for meals, because, not surprisingly, he had been unable to comport his behavior to jail norms. If I filed a motion to dismiss with the justice court and prevailed, the temperature was starting to drop and, as far as I knew, X had absolutely no support system – no place to go for even basic shelter.

I determined to let my role as a public defender trump my considerable concerns as a citizen quasi-parent. I was, woefully, not equipped to act as any kind of psychiatrist or social worker. At the advice of another usual suspect, I emailed a connection at Central Arizona Shelter Services (CASS) for information on housing for X, on the slim chance that the motion to dismiss might be granted. I phoned Value Options ("VO") and was advised that X, a previous client, would be reinstated into the VO program if he would only call them from jail and ask. Reinstatement would include a jail pick up and transport to an awaiting CASS facility.

On November 25, having no legal leg (and only a judge's possible compassion) to stand on, I filed a three-page motion to dismiss, asking for an emergency ruling and/or emergency oral argument. I based my request loosely on ARS §13-4504, which allows a judge to dismiss a case where a defendant has already been adjudicated incompetent to stand trial – which X had not. And then heard nothing. X had now been in custody more than twice the maximum sentence, had he lost at trial in October.

I contacted the justice court on November 29 and was advised the judge would not rule on the motion until hearing from the county attorney,

any perceived emergency notwithstanding. On November 30, I visit X at LBJ. Again, X did not recognize me and appeared, not surprisingly, resigned about his state of affairs. I advised X about the motion I had filed and gave him the number for VO. I painstakingly explained Rule 11 Conundrum Number 3, that if he would only call the number and speak to a VO representative, he could possibly receive assistance towards his release from custody. As far as I could tell, none of this registered. To my knowledge, X never made the call to VO.

In an effort to learn more about his condition, I asked X to sign a medical release to forward to VO. I wrestled with the ethics of asking X to sign any document where I did not believe he was competent, but determined to err on the side of presuming X's competence, as this was technically the court's current position anyway (Rule 11 Conundrum Number 4). The signature was legible, but nowhere approaching the area of the signature line. I asked X if he wanted me to contact anyone on his behalf. There was no one.

On December 1, a mitigation specialist assisted me in directing the release to the proper VO personnel with a mind to obtaining some medical history to support the motion. I called the justice court and was told the judge would wait for the county attorney's written response, despite my request to expedite the matter.

On December 5, I received word from CASS that they could place X if VO would transport X to CASS to stay while he was being assisted by VO, should the court grant the motion. On December 9, VO rejected my medical release because X had not technically written his name on the signature line. I also learned that the judge had denied the motion without argument, but had magnanimously lowered X's bond to \$50.00. Because X was an indigent without friend, relative, or any earthly "wherewithal," this seemed a rather futile gesture on the court's part. I later found out that the county attorney's response to the motion had been hand written on her copy of my motion. It consisted of three sentences objecting to the motion stating, paradoxically: "The Defendant needs to be held

responsible for his actions." X had now been in custody for 77 days.

At this point, I determined that I should, at a minimum, move for a third-party release at the upcoming December 15 hearing. If the judge were to grant it, X might be moved to a CASS facility and maybe off his LOAF diet for the holidays. On December 14, VO advised me that they could not reinstate X until they knew of his release date. This raised the somewhat circular problem of convincing the judge to release X to VO, knowing that VO would not consent to any kind of third-party involvement until they knew what date X would be released. I had stopped counting the Rule 11 Conundrums.

On December 15, after argument on the oral motion, the judge agreed to release X to a third-party VO or CASS representative *if* the representative came to the justice court personally to pick up the release order. This would allow X into the care of CASS and VO, but did not, of course, forward the resolution of the trespass case. As X sat silently surveying the proceedings, I obtained his signature on the proper section of another medical release. The judge set another initial pretrial conference 30 more days out, and X was returned to LBJ.

At this point, a procedural holiday miracle transpired. On December 19, 2005, VO notified me that X had been determined to be "PAD" (persistently and/or acutely disabled), by persons unknown. What set this in motion, I have never discovered. Was this something arranged by one of the usual suspects? Was this the mark of a sympathetic clinical liaison at the jail? Is this a jail procedure which automatically kicks in after three months captivity for any prisoner who has been acting strangely? In any event, X was immediately transported to VO for a 24-hour observation, and then transferred to Desert Vista to receive (actually) medical attention. He had been in custody 90 days – three times the amount he could have possibly served, had he been found guilty at trial and lost.

On December 29, 2006, X was found to be officially "PAD" at a civil commitment hearing and

was placed under court-ordered in-patient and (possibly) out-patient treatment for an initial one-year term. In the meantime, a new pretrial conference was set for X to appear in justice court on January 12, 2006, on the trespass. I filed another (shorter) motion to dismiss on the strength of ARS §13-4504 and the civil court order, although the order had not precisely “adjudicated” X “incompetent to stand trial” in the justice court matter.

On January 12, I appeared without X to argue the motion. X was not present, considered a flight risk whom Desert Vista could not bring to court without a deputy. Providence was with me. I was blessed with a law-trained pro tem who actually read the motion and appreciated X’s predicament. The judge was also possibly disgruntled by the fact that the county attorney had neither responded to nor read the motion. The judge granted the motion *with prejudice*. I left a voice mail with Desert Vista to please forward the news to X, although I was pretty sure he would not be able to place me.

A few weeks later, I received X’s medical documents from VO.

\*Candice Shoemaker, Fredrica Strumpf, Jeremy Mussman, Will Peterson, Lance Antonson, Sara Johnson, Deborah Caddy, Donna McKay, Vivian Arnold-Bethel, Irene Esqueda, and Dan Carrion, to name but a few.



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**Continued from *Reflections from the Old School* by Fredrica Strumpf p. 7**

as it presents a conflict (see above). For example, we don’t prepare the petitions or act as witnesses at civil commitment hearings. But if you believe this may be a good option for your client (in lieu of criminal prosecution), talk to our Civil Mental Health Unit first. Then, Correctional Health Services (CHS) could do a preliminary evaluation. It is likely that this is what happened in Kathy’s case, probably with assistance from Value Options. Contact the CHS liaison

and ask them whether they believe your client is doing poorly. Get a release (or order if needed) and obtain the CHS records, as they may show your client is not being offered the necessary services to stay safe and healthy. If the jail provides deficient mental health interventions, address that issue. Do not try to petition your client only because the jail is not following up on their end of the bargain.

5. Skip the Rule 11 prescreen and go right to the full-blown Rule 11 evaluation, if you believe it is warranted. See Rule 11.2C and A.R.S. § 13-4503C. Educate the JP on this – that if your client is in the psych unit at LBJ with an obvious psychosis and a lot of collateral information suggesting significant sickness, a prescreen wastes everyone’s time.
6. Please keep an eye on sentencing guidelines and competency statute time lines. For misdemeanors, the maximum jail time may be 6 months for M1, 4 months for M2 and 1 month for M3 (A.R.S. § 13-707). Thus, if you are getting near those numbers, or anticipate that you will, fight to get the case dismissed. Rule 11 evaluations can take two months or more. The statutes allow for up to 15 months for restoration (plus an extra six months if there is progress). Does that sound like an efficient use of resources? Argue that it is not!
7. A.R.S. § 13-4504 allows for dismissal of misdemeanor charges if your client was found incompetent in the past. Look into it, and if it applies, move that the court dismiss.
8. Above all else, don’t forget to focus on getting your client *out of custody*, rather than spending too much time on figuring out what is wrong with him or making him “well.” Although it was good that Kathy was able to establish a support network for her client serendipitously, a social worker/case manager should have been working on the case from the first day to get adequate supports in place. 

# A Long-Time Partner in the Community: Friendly House

By Jennifer Gebhart, Mitigation Specialist



Friendly House  
802 South First Avenue  
P.O. Box 3695  
Phoenix, Arizona 85030  
Phone: 602-257-1870  
Fax: 602-257-8278  
Website: [www.friendlyhouse.org](http://www.friendlyhouse.org)

Friendly House is a great local resource that has been serving the Valley's community since 1920. This organization has dedicated itself to strengthening individuals and families through opportunities for self-improvement. The early beginnings of the agency began in the roaring 1920's just prior to the Great Depression. Friendly House assisted immigrants more specifically those who traveled here from our neighbor to the south, Mexico. At the time immigrants were becoming "Americanized" to assimilate with others in their new country.

The agency's goal is to build success and independence through innovative training, education, and social service support programs. They still celebrate their long Hispanic tradition and have created even more services to reach their goals. The following is a brief summary of the services offered.

Youth Services: Includes early childhood development, keeping kids in school, post-secondary family support, after school programs, cultural and language enrichment, mentoring, tutoring, and a summer math and science program. Director – Teresa Pena.

Academina del Pueblo: A school that serves the academic, social, and individual needs of the students where ethnic diversity is recognized, appreciated, and celebrated. The faculty encourages and appreciates students who are bilingual and to take pride in citizenship and character building. Principal – Desiree Castillo.

Immigration Services: Assists individuals and families with the immigration process. Services included are: court representation, naturalization, family petitions, adjustment of status, as well as information and referral. Director – Marianne Gonko.

Adult Education and Workforce Develop: Program prepares individuals and families to become successful and independent through Education, Job Placement, and Training. Director – Luis Enriquez.

Home Care for Elderly and Disabled: Services are provided to address the needs of this population for personal care, respite, and companionship. Director – Leslie Lory.

Family Services: Multifaceted, bilingual program helps clients improve parenting skills, learn the value of proper childhood development, and appropriate parent-child relationships. There is special assistance for those who are in need of behavioral health attention. Director – Rita Santa Maria. ✨



## ***Continued from When the Indictment Says Nothing p. 2***

sufficiently informed of the nature and specifics of the charges via the accompanying grand jury testimony or other initial discovery. *State v. Cutshaw*, 7 Ariz. App. 210, 215-16, 437 P.2d. 962, 967-968 (1968). Modern rules of practice do not supplant constitutional guarantees to be informed of the charges in plain and understandable language. *Id.* at 216, 437 P.2d at 968. See also *State v. Bailey*, 125 Ariz. 263, 266, 609 P.2d. 78, 81 (App. 1980) (the court noted that in *Cutshaw*, as in the present case, there “were several possibilities and the critical acts were not specified” regarding the basis of the prosecution).

The comment to Rule 13.2 makes the same point. It states that:

The charging document need not contain allegations of time, place, value, price, ownership, intent, means of commission, nor need it characterize the commission of the offense as “willful” or “felonious”, **except where necessary to give adequate notice of the charges.**<sup>4</sup> (emphasis added)

In *Russel v. United States*, the Court said:

[I]t is an elementary principle of criminal pleading, that where the definition of an offense, whether it be at common law or by statute, ‘includes generic terms, it is not sufficient that the indictment shall charge the offence in the same generic terms as in the definition; but it must state the specifics, -- it must descend to particulars.

369 U.S. at 765, (quoting *United States v. Cruikshank*, 92 U.S. 542, 558). A similar point was made in *State v. Mauro*, where the Arizona Supreme Court stated, “[W]hat is required to make a ‘fair presentation’ to the grand jury . . . will vary from case to case.” 139 Ariz. 422, 424, 678 P.2d 1378, 1388.

Due process demands that the accused be informed of the charges he faces. This does not mean telling him that, sometime in the last four years, he, or someone he was associated with, did something “bad.” Attacking overly vague indictments is proper and invariably productive. Make the prosecutor go on the record and give at least some inclination of the state’s real case. Then, if the state tries to go in a completely different direction, you can make the appropriate variance motion under Rule 13.5.

This is not easy. You have to master the transcripts and discovery. You have to walk the judge through the counts, pointing out in detail the insufficiencies of the charging document. Always attach a copy of the grand jury transcript to your motion -- make the judge’s life easy. Attach a copy of an indictment that does spell out the allegations. Federal indictments are good examples. Make sure you tell the judge of the various problems she is going to have conducting the trial if the charges remain vague. Motions in limine, 404(b) motions, rule 20 motions, basic relevancy objections all become very thorny when the allegations are overly vague. Point out that you are going to make sure the appellate record reflects the vagueness of the charges and also supports in detail how your case was prejudiced by the state’s deliberate attempt to hide the ball.

Eventually, when enough defense attorneys complain long and hard, the Arizona appellate courts are going to revisit the concept of “notice pleading” in complicated cases and realize that it inevitably violates due process. Or, perhaps they will just reintroduce the Star Chamber and the point will be moot. Until then, go on the offensive and challenge the vague charge. Demand to know the details.

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(Endnotes)

1. The Fifth Amendment of the United States Constitution states that:  
No person shall be held to answer for a capital, or otherwise infamous crime, unless on a

presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. The Sixth Amendment to the United States Constitution states that:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

2. Article 2 § 24 of the Arizona Constitution states that, "In criminal prosecutions, the accused shall have the right to . . . demand the nature and cause of the accusation against him. . . ."

3. "The extreme technical precision of pleading in criminal cases has long been unnecessary in this state." *State v. Purcell*, 111 Ariz. 418, 419, 531 P.2d. 541, 542(1975) (defendant was charged with loitering in municipal court). "Arizona law only requires that the indictment be a plain, concise statement of the facts sufficiently definite to inform the defendant of the offense charged." *State v. Arnett*, 158 Ariz. 15, 18, 760 P.2d. 1064, 1067(1988) (defendant charged with murder). If the transcripts provide "facts sufficiently definite to inform (defendant) of the offense charged, the failure of the indictment to allege specific facts is not a basis to dismiss the case. *State v. O'Brien*, 123 Ariz. 578, 582, 601 P.2d. 341, 345 (App. 1979). An important point to remember when reading the cases on notice pleading is that this theory was developed prior to the Victims' Bill of Rights. Much of the logic beneath notice pleading is no longer sound given that the defense counsel cannot interview the alleged victims.

4. The comment refers to Form 1 in the forms appendix to the rules. In each of the counts of the form at least some details of the allegation are given.



## Writers' Corner

### Garner's Usage Tip of the Day:



Editors' Note: Bryan A. Garner is a best selling legal author with more than a dozen titles to his credit, including *A Dictionary of Modern Legal Usage*, *The Winning Brief*, *A Dictionary of Modern American Usage*, and *Legal Writing in Plain English*. The following is an excerpt from Garner's "Usage Tip of the Day" e-mail service and is reprinted with his permission. You can sign up for Garner's free Usage Tip of the Day and read archived tips at [www.us.oup.com/us/apps/totd/usage](http://www.us.oup.com/us/apps/totd/usage). Garner's *Modern American Usage* can be purchased at bookstores or by calling the Oxford University Press at: 800-451-7556.

#### effect; affect.

"Effect" (= to bring about) is often misused for "affect" (= to influence, have an effect on). The blunder is widespread -- e.g.:

- "Opponents say it would effect [read 'affect'] only a small number of people -- in New York an estimated 300 criminals a year -- and would have little effect on the causes of crime." Ian Fisher, "Why '3-Strike' Sentencing Is a Solid Hit This Year," *N.Y. Times*, 25 Jan. 1994, at A16.
- "It would also effect [read 'affect'] pensions tied to the rate of inflation and union contracts with automatic adjustments based on inflation." Adam Clymer, "As Parties Skirmish Over Budget, Greenspan Offers a Painless Cure," *N.Y. Times*, 11 Jan. 1995, at A1.
- "So far, 63 buildings in downtown Boston and the suburbs have been effected [read 'affected'] this week by the strike." Dina Gerdman, "Janitors' Strike Spreads into Quincy," *Patriot Ledger* (Quincy, Mass.), 3 Oct. 2002, News §, at 1.
- "The fallout has effected [read 'affected'] young men already worried about keeping their college football dreams alive." David Wharton, "Hitting the Books," *L.A. Times*, 11 Oct. 2002, Sports §, pt. 4, at 16.

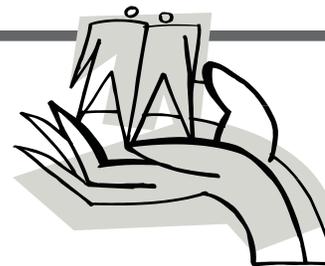
It could be that the widespread misuse of "impact" as a verb is partly an attempt to sidestep the problem of how to spell "affect."



# A New and Improved Resource

Lodestar Day Reporting Center

By Rebecca Lukasik, Mitigation Specialist



## Lodestar Day Reporting Center

1125 W Jackson  
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A valuable new service in the community for our homeless clients is the Day Reporting Center (DRC). This facility opened its doors to the public in November of 2005. The center provides a safe environment, away from the streets, where homeless individuals can sit and relax as they work on the development of their individual case plan. The DRC facilitates a seamless transition for homelessness to permanent housing with wrap around services for the client.

The Day Resource Center is designed to be the hub of the Human Services Campus, which also consists of the Central Arizona Shelter Services (CASS) and a dental clinic. Since the pilot program began in April of 2004, over 300 homeless individuals have been placed in permanent housing.

Any of our homeless clients, including sex offenders, can enter the facility Monday through Friday between the hours of 7:30am to Noon and 1:00 pm to 4:00 pm. Clients will receive an intake interview with a service coordinator to develop an individualized program plan. After the interview process, the clients can be directed to various service agencies at the center.

There are representatives from the following agencies at DRC:

- Maricopa County Health Care for the Homeless – provides a health care clinic and outreach for the homeless.
- Department of Economic Security – assists with eligibility and enrollment services for AHCCS, food stamps, and general cash assistance.
- Southwest Behavioral Health – provides outreach, triage and case management for the chronically homeless.

- Value Options – obtains behavioral health evaluation, case management and crisis intervention.
- Community Bridges – provides substance abuse evaluation and outpatient group treatment.
- Housing Support Services – establishes general housing assistance and advocacy for clients who are ready and prepared for permanent housing.
- St. Joseph the Worker – assists clients with job development, employment search, interviewing skills, and employment follow-on program.
- Care Directions – outreach services for the homeless population with HIV/AIDS.
- Native American Connections – case management, outreach, and triage for homeless Native Americans.
- CASS Temporary Employment – assists with temporary and temporary-to-permanent job services.
- Ecumenical Chaplaincy – provides pastoral counseling, assistance with obtaining legal documents for identification, rehab programs and family reconnection.

Future Plans include adding representation from the following:

- Homeless Court – Beginning in 2006, the DRC will host a homeless court that will provide legal mediation for clients who have outstanding warrants for non-violent misdemeanor offenses.
- General Education Services – Beginning in 2006, education services and assessments will be provided by Maricopa County Workforce Development and Maricopa County Probation Department. 

# Initial Services Requests - First Contact

By Sylvia A. Lucio, Initial Services Lead

The Initial Services Unit was established within the Public Defender's Office over 20 years ago. We provide a service to the attorneys and support staff by establishing initial communication with clients on behalf of attorneys. We explain court procedures and do an initial interview which will provide the attorney with background information, third party information, a client assessment for mitigation purposes, and information on "holds" such as immigration and probation. Initial Services staff make daily visits to all the Maricopa County Jails and conduct a large number of initial interviews.

A committee was formed which included several managers and administrators to develop a list of appropriate requests for Initial Services. When it is consistent with their interview schedule, the Initial Services staff may:

- Deliver police reports or audiotapes for in-custody clients to read or listen to while the Initial Services Assistant is attending to other visits.
- Obtain signatures on completed medical release forms.
- Deliver or pick-up other case related materials including a receipt to in-custody clients.
- Translate written documents up to 3 pages and interpret conversations for up to 15 minutes. (IS staff should not be used as a substitute for OCI).

Initial Services does not provide the following services:

- Translate written documents of significant legal importance, "official documents," or documents which involve the forfeiture of rights.
- Ask client questions needed to complete medical releases.
- Pick-up or deliver personal or non-case related materials.
- Read documents to clients (unless client is deemed illiterate and then only documents not of legal significance) and then staff may only read text and not answer questions about what the text "means."
- Notarize documents for in-custody clients.
- Sit with clients while they complete psychological instruments. ✨



# Jury and Bench Trial Results

## February 2006

### Public Defender's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
<b>Group A</b>						
2/14 - 2/16	<b>De La Torre</b> Page Armstrong	Akers	Vaitkus	CR05-130897-001DT Burglary 1°, F2D Aggravated Assault, F3D	Guilty of lesser included Burglary 2°, non-dangerous, probation eligible; Not Guilty of Aggravated Assault	Jury
2/15 - 2/21	<b>Griffin</b> Hales Curtis	Gama	Shipman	CR05-011205-001DT Felony Flight, F5	Not Guilty	Jury
2/22 - 2/23	<b>Farney</b>	Hauser	Fuller	CR05-009643-001DT Aggravated Assault, F3D	Guilty - Tried in absentia.	Jury
<b>Group B</b>						
1/24 - 2/2	<b>Doyle/Beck</b> Ashmore Landau	Holt	Kirka	CR05-125190-001DT Unlawful Imprisonment, F2 Threat-Intimidate, M1 Assault, M1	Guilty	Jury
2/1 - 2/2	<b>Barraza/Blieden</b>	Hick	Grimsman	CR05-125920-001DT Agg. Assault, F4	Pled guilty 2nd day of trial - Agg Assault, F4	Jury
2/9 - 2/16	<b>Doyle/Bradley</b> Ashmore Landau	Cole	Mayer	CR05-122683-001DT 3 Cts. Armed Robbery Dangerous, F3 TOMT, F3	Guilty	Jury
2/13 - 2/16	<b>Dominguez</b> Robinson McDonald	Blakey	Steinberg	CR05-126627-001DT Agg. Assault, F3D Assault, M2	Not Guilty-Agg. Assault Guilty - Misd. Assault	Jury
2/23 - 3/1	<b>Doyle/Jakobe</b> Landau	Blakey	Basta	CR05-132280-001DT Armed Robbery, F2 TOMT, F3 Resisting Arrest, F6	Guilty	Jury

# Jury and Bench Trial Results

## February 2006

### Public Defender's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
<b>Group C</b>						
1/18 - 1/30	<b>Quesada</b> Salvato	Udall	Borges	CR04-041659-001SE Agg. Assault, F5 Escape 3rd Degree, F6	Hung Jury	Jury
2/3 - 2/3	<b>Quesada</b>	Johnson	Harris	CR05-083201-001MI DUI, M1	Not Guilty of impairment Guilty BAC more than .08	Jury
2/14 - 2/14	<b>Jones</b>	Talamante	Giordano	CR05-119784-001SE Agg. Assault, M1 Assault Touched to Injure, M3	Guilty - Agg. Assault  Assault to injure - Not Guilty	Bench
2/14 - 2/21	<b>Sheperd</b>	Dairman	Harbulot	CR05-123558-001SE Armed Robbery, F2D	Not Guilty	Jury
<b>Group D</b>						
2/6 - 2/6	<b>M. Cain</b>	Steinle	Bonaguidi	CR05-007952-001DT Resist Arrest, M1 POM, M1 PODP, M1	Guilty	Bench
2/7 - 2/10	<b>Z. Cain</b> O'Farrell	Mahoney	Duvall	CR05-128577-001DT Agg Assault, F3D	Hung Jury	Jury
2/9 - 2/13	<b>Sitton</b> Charlgon	Gottsfeld	Dahl	CR05-012656-003DT 2 cts. Agg Assault, F6 Resist Arrest, F6 Disorderly Conduct, M1	Not Guilty - 2cts. Agg Assault Guilty - Resist Arrest Guilty - Disorderly Conduct	Jury
2/24 - 2/28	<b>M. Cain</b>	Cole	Bonaguidi	CR05-121685-001DT Unlawful Discharge of Firearm, F6D	Guilty	Jury
2/27 - 2/28	<b>Knost</b>	Hauser	Porrello	CR05-008582-001DT TOMOT, F3	Guilty	Jury

# Jury and Bench Trial Results

## February 2006

### Public Defender's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
<b>Group E</b>						
2/7 - 213	<b>Roskosz</b>	Granville	Vick	CR04-135724-001DT Burglary 1, F2D Armed Robbery, F2D 3 cts. Kidnapping, F2D 2 cts. Agg. Assault, F3D Att. 1st Degree Murder, F2	Guilty - Burglary 1 Armed Robbery Kidnapping Agg. Assault Att. 2nd Degree Murder (lesser offense)	Jury
<b>Vehicular</b>						
1/31-2/2	<b>Iniguez</b>	Anderson	Rothblum	CR05-124404-001DT 2cts. AGG DUI, F4ND	Guilty	Jury
2/2-2/7	<b>Mais</b>	Anderson	Foster	CR03-030930-001DT PODP, F6 Marijuana Violation, F6 2 cts. Agg. DUI, F4	Not Guilty Not Guilty Guilty	Jury
2/15-2/22	<b>Sloan</b>	Anderson	Foster	CR05-032039-001 DT 4cts. Agg. DUI, F4ND	Hung	Jury
2/16-2/22	<b>Bergman</b>	Anderson	Rothblum	CR04-042818-001 SE DUI, F4 Agg. DUI, F4	Not Guilty Guilty	Jury
<b>Homicide</b>						
11/8 - 02/06	<b>Brown/Stein</b> Ames Southern	Talamante	Martinez	CR2001-092032 1 ct. Murder 1st Degree, F2D 1 ct. Kidnap, F2D 1 ct. Armed Robbery, F2D 1 ct. Burglary 1st Degree, F2D	Guilty - Murder (Capital) on Aggravating Factors	Jury
1/10 - 2/2	<b>Liles/Simpson</b> Brazinskas Oliver	Hauser	Grimsmen	CR2003-022186-001DT 1 ct. Murder 1st Degree, F1N 1 ct. Child/Vulnerable Adult Abuse, F2N 1 ct. Child/Vulnerable Adult Abuse, F4N	Not Guilty on All Counts	Jury

# Jury and Bench Trial Results

## February 2006

### Legal Defender's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
1/31-2/17	<b>Jolly</b>	Gordon	Steuebner	CR2005-124416-002 Theft Mns. Trnsprtn., F3 Burglary Tool Possess., F6	Mistrial / Hung Jury	Jury
2/6-2/9	<b>Schaffer</b>	Trujillo	Letellier	CR2004-015709 Agg Asslt, F-3 Dangerous; Agg Asslt, F-6	Guilty	Jury
2/22-2/22	<b>Kolbe</b>	Araneta	V. Levin	JD505983 Dependency Trial	Dependency Found	Bench

### Legal Advocate's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
2/1 - 2/7	<b>Schmich/ Mullavey</b> Brauer, Prieto	Donahoe		CR2004-022883-001-DT 3 Cts. of Agg. Ass. Dangerous, F3	Guilty	Jury
2/15 - 3/1	<b>Schmich/ Mullavey</b> Brauer, Prieto	Donahoe		CR2004-133696-001-DT 1st Deg Murder; Class 1 Agg. Ass., F3	Not Guilty of 1st Deg Murder; Guilty of 2nd Deg. Murder; Guilty on Agg. Ass.; F3	Jury
2/7 - 2/10	<b>Glow</b> Stovall, Prieto	Gama		CR2005-007386-001-DT DD-Poss/Sale, F2	Hung Jury	Jury
2/7 - 2/14	<b>Peterson</b> Mullavey	Hauser		CR2002-015499 Ct.1-Drive By Shooting, F2 Cts. 2&3-Agg Ass (2 Cts), F3 Ct. 4-Agg Ass (Dangerous) and (Dangerous Crime Against Children), F2 Ct. 5-Miscon. Involv. Weapon, F4 Ct. 6-Forgery, F4	Guilty on Cts. 1, 2, 3 and 5. Not Guilty on Ct. 4 and Ct. 6	Jury
2/15 - 2/16	<b>LeMoine</b> Prieto, Stovall	Hauser		CR2005-006013-001-DT Agg Ass., F5	Guilty	Jury

## New Attorney Class - February 2006



Pictured from left to right: Mark Ciafullo, Charles Kozelka, Zacharay Manty, Brian DeLaTorre, Vanessa Smith, Jesse Turner, Matthew Baker, Norma Martens, John Sullivan, Christina Scott.

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C

P

D

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### 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.