

# for The Defense

Training Newsletter of the Maricopa County Public Defender's Office

James J. Haas, Maricopa County Public Defender

Volume 20, Issue 3

SPECIAL ISSUE: HELPING MENTALLY ILL CLIENTS

August - October 2010



*Delivering America's  
Promise of Justice for All*

for The Defense

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## How to Help Someone with a Mental Illness

By Tammy Wray and Fredrica Strumpf, Defender Attorneys

1. Be mindful: Mental illness is a disease, just like any other.
2. Language: Words can be damaging. Using words like “psycho” and “schizo” increases stigma.
3. Educate yourself: Learn about what the person may be experiencing, including symptoms and side effects from medications.
4. Don't be part of the problem: Instead of forwarding that email poking fun at those with mental illness, be a voice for those challenged by the disease.
5. Acknowledge: Don't avoid conversation, eye contact, etc. It can be a bit uncomfortable at first, especially when someone's very symptomatic, but consider how you'd feel if no one ever made eye contact with you or asked you how you were doing.
6. Patience: Symptoms and side effects from medications may mean you need to repeat yourself or wait for an answer – their illness does not impact their intellect, it may mean they just need a little bit longer to process your question.
7. Ditch the stereotypes: People with mental illness are mothers, husbands, friends, daughters, brothers, teachers, neighbors, co-workers, etc. They can be anything you are, including educated, athletic, musical, artistic, compassionate, dependable...
8. It's a disease: Just like heart disease, you can't look at someone and say “Focus, try harder not to be sick.” If someone is depressed or exhibiting other signs of mental illness, they can't “try harder” to make it go away.



9. Realize that the stigma your clients have endured can be as paralyzing as their symptoms: Even if they were to wake up tomorrow symptom-free and remain well for the remainder of their lives, they may still struggle with recovering their self-esteem.
10. Encourage them to reach their goals, not yours: Just because working, owning your own home, or going to school is your goal, it may not necessarily be theirs. Help them know what their options are and what resources are available for reaching their goals, but make sure they are their goals.
11. People are people, they aren't their disease: For example, they have a bipolar disorder, they aren't bipolar.
12. Recognize a person's right not to disclose: Like any other medical diagnosis, mental illness is protected health information. A person may choose not to disclose.
13. Listen: Provide emotional support when needed.
14. Don't judge: Unless you share their diagnosis, medical history, familial situation, etc., you don't know what they are going through.
15. Help with resources: Inform your clients of local support groups, substance abuse recovery groups/programs, etc. Also providing information about mortgage assistance and other financial resources will help to reduce financial burdens, which can increase symptoms.
16. Walk a mile in their shoes: Seem impossible? "Hearing Voices That Are Distressing" is a training offered by Triple R Behavioral Health that simulates the voice-hearing experience. For more information, call (602) 995-7474.
17. People have rights: You want to help and you want your clients to be safe, but unless they are a danger to themselves or others, they have the right to make their own health-care decisions. You can offer assistance or advice. And, if you have maintained a positive relationship, they'll be more likely to listen to you.
18. Don't ignore behaviors: If you recognize cyclical behaviors, you can typically see when someone's mental illness is surfacing if you know that individual well. Addressing it early may help to keep someone out of the hospital, from undergoing major medication changes, or even from dealing with the justice system.
19. Encourage good physical health: For in-custody clients, assist them in seeking treatment from CHS when needed.
20. Be culturally competent: Recognize that culture, religion, ethnicity, age, etc. may play a role in the types of treatment a person may be willing to participate in, the kind of support that family and/or community will give, etc.
21. Recognize triggers: Weather changes, holidays, events, stressors, etc. may exacerbate someone's symptoms.
22. Learn more: Join NAMI or MHA. Participate in a Family 2 Family class through a local NAMI affiliate; or google illnesses, symptoms, etc. to provide informed support.

[www.namiaz.org](http://www.namiaz.org)

[www.mhaarizona.org](http://www.mhaarizona.org)

# Juvenile Mental Competency

## Different Standards May Help Juveniles Facing Criminal Prosecution

By Chris Phillis, Director, and Suzanne Sanchez, Supervisor, Maricopa County Juvenile Public Defender's office

### Different Standards

The definition of an incompetent child is significantly broader than the definition of an incompetent adult. It can be argued that the broader, juvenile definition of incompetence should apply to juveniles facing criminal prosecution.

### Due Process

Juveniles are entitled to due process of law pursuant to the Sixth Amendment to the United States Constitution and Article 2, §§ 4 and 24 of the Arizona Constitution. *See, e.g., In re Timothy M.*, 197 Ariz. 394, 398, ¶ 16, 4 P.3d 449, 453 (App. 2000). Thus, the juvenile court's "jurisdiction must be exercised in accordance with due process standards." *In re Richard M.*, 196 Ariz. 84, 86-87, ¶ 11, 993 P.2d 1048, 1050-51 (App. 1999). It violates due process for an incompetent person to participate in proceedings designed to determine whether such person engaged in unlawful conduct. *Bishop v. Superior Court*, 150 Ariz. 404, 406, 724 P.2d 23, 25 (1986). Therefore, "[a] juvenile shall not participate in a delinquency, incorrigibility or *criminal* proceeding if the court determines that the juvenile is incompetent to proceed." A.R.S. § 8-291.01(A) (emphasis added).



### Separate Provisions

Juvenile delinquency proceedings differ fundamentally from criminal proceedings. *In re Themika M.*, 206 Ariz. 553, 555, ¶ 13, 81 P.3d 344, 346 (App. 2003) (citing *Maricopa County Juv. Action No. JV-508488*, 185 Ariz. 295, 299, 915 P.2d 1250, 1254 (App. 1996)). Generally, then, the Rules of Criminal Procedure do not apply to juvenile delinquency proceedings. *Maricopa County Juv. Action No. JV-508488*, 185 Ariz. at 299, 915 P.2d at 1254. Exceptions to this general rule are made to protect constitutional rights, such as the right to due process of juveniles. *Id.* at 299-300. 915 P.2d at 1255. For example, in *State ex rel. Dandoy v. Superior Court*, Rule 11 of the Rules of Criminal Procedure was applied to juvenile delinquency proceedings in order to protect the due process rights of juveniles. 127 Ariz. 184, 187, 619 P.2d 12, 14 (1980). At the time that *Dandoy* was decided, there existed no provision applicable in juvenile delinquency proceedings for determination of mental competency. *Id.* Therefore, Rule 11 of the Rules of Criminal Procedure was applied to juvenile delinquency proceedings in order to protect the due process right of juveniles to mental competency determinations. *Id.* However, after *Dandoy* was decided, the Arizona legislature enacted A.R.S. § 8-291 et seq. This statutory scheme governs mental competency determinations in juvenile delinquency proceedings. Hence, it no longer is necessary or appropriate to apply Rule 11 to juvenile delinquency proceedings.

### Broader Definition of Incompetence

An adult is incompetent if, "as a result of a mental illness, defect, or disability, the person is unable to understand the proceedings against him or her or to assist in his or her own defense." Rule

11.1, Rules of Criminal Procedure. However, a juvenile is incompetent if he or she “does not have sufficient present ability to consult with the juvenile’s lawyer with a reasonable degree of rational understanding or who does not have a rational and factual understanding of the proceedings against the juvenile.” A.R.S. § 8-291(2). Thus, a juvenile can be incompetent even if he or she does not suffer from a mental illness, defect, or disability. *In re Hyrum H.*, 212 Ariz. 328, 332, ¶ 23, 131 P.3d 1058, 1062 (App. 2006).

A juvenile cannot be found incompetent solely because he or she is very young. “Age alone does not render a person incompetent.” A.R.S. § 8-291(2). However, mental and emotional maturity is different from age and thus can contribute to a juvenile’s incompetence.

### **Argument for Application of Juvenile Definition to Juveniles in Criminal Proceedings**

The idea that a person can be incompetent due to an impairment other than a mental illness, defect, or disability is not unique to Arizona and has been applied to adults in criminal proceedings. *See, e.g., Dusky v. United States*, 362 U.S. 402 (1960) (An incompetent criminal defendant is one who lacks “sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and [lacks] a rational as well as a factual understanding of the proceedings[.]”).

Brain development seldom is complete at age eighteen. Instead, brain development continues into adulthood and sometimes is not complete until age twenty-five. Beyer, *Recognizing the Child in the Delinquent*, Kentucky Children’s Rights Journal, Vol. VII, No. 1, Spring 1999, 45, 55. “As a result, although today’s teens mature physically at younger ages than their parents, and although they take on many of the behavioral trappings of adulthood, ‘that does not mean that they understand the full implications of their behavior.’” Begley, *Mind Expansion: Inside the Teenage Brain*, Newsweek, May 8, 2000, 68 (quoting psychologist Deborah Yurgelun-Todd). “Both the pattern of brain use and the structure of brain regions change through the teen years.” *Id.* Thus “the brain regions that teens use for several tasks differ from the regions adults use.” *Id.* This explains why younger people often have trouble managing emotions, understanding others, and using good judgment. *Id.* Moreover, “[p]rogress toward completion of cognitive and moral development stages can be detoured or delayed by cultural, intellectual, and social disadvantages.” Grisso, *Society’s Retributive Response to Juvenile Violence: A Developmental Perspective*, Law and Human Behavior, Vol. 20, No. 3, 1996, 229, 233.



Incomplete brain development impairs the ability to assist counsel. A study funded by the MacArthur Foundation contains findings that a significant portion of juveniles aged fifteen years and younger who are not mentally ill and not mentally retarded lack the capacity to understand criminal court process and to meaningfully consult with an attorney. Grisso, et al, *Juveniles’ Competence to Stand Trial: A Comparison of Adolescents’ and Adults’ Capacities as Trial Defendants* (2003). The study was the first-ever, large-scale study inquiry into whether youths can be incompetent due merely to intellectual and emotional immaturity. More than 1,400 youths between 11 and 24 years old participated in the study. Very few had serious mental disorders. The authors of the report of the findings that resulted from the study concluded that

[q]uestions about how minors function as criminal defendants compared to adults go beyond those that are captured by the narrow focus of the ordinary competency inquiry. ... [T]hose who deal with young persons charged with crimes – particularly their attorney – should be alert to

the impact of psychosocial factors on youths' attitudes and decisions, even when their understanding and reasoning appear to be adequate. Deficiencies in risk perception and future orientation, as well as immature attitudes toward authority figures, may undermine competent decision making in ways that standard assessments of competence to stand trial do not capture.

*Id.* at 37-38.

Clearly, competency requires more than parroting information. However, many youths cannot think hypothetically. Beyer at 53. Moreover, "as decision-making skills emerge in adolescence, they are manifested earlier or later in different task domains." Grisso, *Society's Retributive Response*, at 234.

The United States Supreme Court has recognized that teenagers do not have fully developed brains. *Graham v. Florida*, \_\_\_\_ U.S. \_\_\_\_, 120 S.Ct. 2011 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005). In *Roper*, the court held that capital punishment of a person younger than eighteen at time of the offense is unconstitutional. 543 U.S. at 568. The court in *Roper* reasoned that youths are less mature and not fully developed, and thus are less culpable. *Id.* at 569-70. In *Graham*, the court held that it is unconstitutional to imprison for life without the possibility parole a person younger than eighteen at time of an offense other than a homicide. \_\_\_\_ U.S. at \_\_\_\_, 120 S.Ct. at 2030. The court in *Graham* noted that "developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds." *Id.* at \_\_\_\_, 120 S.Ct. at 2026.

Due to the fact that the juvenile mind is still developing, mental illnesses cannot be diagnosed until age eighteen. Hence, a teenager who shows multiple symptoms of a serious mental illness such as schizophrenia, and is unable to understand the proceedings and assist counsel because of those symptoms, cannot be diagnosed with schizophrenia. In other words, such a teenager clearly is incompetent, but cannot be diagnosed with a mental illness. It would be an obvious due process violation to criminally prosecute this youth in juvenile or criminal court. A youth's ability to comprehend the proceedings and assist counsel does not change simply because he has crossed from juvenile to criminal court.

### **Insanity Defense**

Finally, in addition to the right to not participate in proceedings if incompetent, a juvenile accused of a delinquent act has the right to assert an insanity defense and to be found delinquent except insane. *In re Natalie Z.*, 214 Ariz. 452, 153 P.3d 1081 (App. 2007). The standard is the criminal one: A person is guilty except insane if the defense proves by clear and convincing evidence that, due to a mental disease or defect, the person did not know that the unlawful act was wrong. *Id.* at 455-56, ¶¶ 7, 11, 153 P.3d at 1084-85; A.R.S. § 13-502(A),(C). What is not clear in juvenile court is the fate of a child found delinquent except insane. The court did not decide the issue in *Natalie Z.* because the child in that case was not legally insane.

What is clear is that a child found guilty except insane would not be sentenced to the presumptive term and ordered hospitalized, as would an adult pursuant to A.R.S. § 13-502(D). Juveniles are not sentenced, but rather receive dispositions pursuant to A.R.S. § 8-341(A). The juvenile statute contains neither presumptive terms nor any set terms of incarceration. Instead, a child committed to the Arizona Department of Juvenile Corrections ("ADJC") remains incarcerated until reaching age eighteen or until ADJC determines that he or she has been sufficiently rehabilitated. Hence, while the court may order a minimum amount of incarceration pursuant to A.R.S. § 8-341(L), the maximum amount of incarceration is determined not by the court, but by ADJC. Furthermore, in juvenile court, probation is a separate disposition rather than a suspended prison sentence. A.R.S. § 8-341(A)(1); see also *Maricopa County Juv. Action No. JV-500210*, 177 Ariz. 3, 5, 864 P.2d 560, 562 (App. 1993) (Juveniles do not have the right to reject probation). Therefore, it is unclear what mental health treatment could be ordered for a child found guilty except insane.

Maricopa County Offices of the Public Defender and Legal Advocate,  
Office of the Federal Public Defender-Capital Habeas Unit and Arizona  
Post-Conviction Relief Public Defender  
*Present*

## Capital Direct Appeals and Post-Conviction Relief Training

This two-day training is intended for attorneys who currently handle  
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want to start...

May qualify for up to 12.5 hours CLE

### November 4, 2010

8:00am—8:30am Check In

8:30am— 12:00pm

#### Capital Direct Appeals

- Reviewing the Record
- Writing the Opening and Reply Briefs

1:30pm—5:00pm

#### Direct Appeals and Capital

#### Post-Conviction Relief

- Mental Health and Competency Issues
- Ray Krone— Establishing a Good Relationship with your Client

### November 5, 2010

8:00am—8:30am Check In

8:30am— 4:30pm

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Phoenix, AZ

Parking: Open visitor lot is located at Madison and 5th Ave - lot opens at 8:00am. In addition, there is open parking near 7th Ave and Jackson.

This training is open to the defense community. No fee for Public Defender, Legal Defender or Legal Advocate Attorneys; a \$20.00 registration fee is required for Private and Contract Counsel. Please register by October 27, 2010.

Please register with Celeste Cogley by email at [cogleyc@mail.maricopa.gov](mailto:cogleyc@mail.maricopa.gov) or by phone at 602-506-7711 X37569.

# What is a Continuity of Care Plan and What Should I do With it?

By Tammy Wray and Fredrica Strumpf, Defender Attorneys

The ideal of “continuity of care” is for various health-care providers to be able to provide seamless and continuous service and treatment to patients through integration, coordination, and sharing of information. We are concerned with it because the probate and mental health court has designed a system where different providers of service to our clients share critical information with us that we can use to obtain favorable release conditions, better plea offers, mitigation, appropriate terms of probation, or even a better transfer of care to DOC.

Every Tuesday and Thursday, the Honorable Rosa Mroz, Presiding Probate Judge, meets with representatives from Correctional Health, Magellan, Veterans’ Services, Pretrial Services, and Adult Probation, and they provide information to each other and to the Public Defenders’ Office. Generally, this meeting will take place before a “not guilty” arraignment or a preliminary hearing. It is documented in iCIS under “hearings and events” and a minute entry is generated. The Court then provides a “Continuity of Care Plan” to our office for dissemination to the assigned attorney.

## What kind of client will have a continuity of care plan?

If the client has been designated SMI by the regional behavioral health authority (RBHA) – in Maricopa County, it’s Magellan – or if the client has been identified as a veteran, then the court should provide a continuity of care hearing and plan.

Generally, everyone knows what a veteran is – anyone who has served in our military and may be eligible for service and support from the VA. SMI isn’t as clear-cut. SMI stands for Seriously Mentally Ill. If a client has this designation, it means he/she has asked for and been extended a government-sponsored benefit because he/she has a qualifying mental illness and because such illness incapacitates him/her to the point of needing assistance to function in the community.

## What information is included on the continuity of care plan?

The information that is easy to understand is logistical: case number, next court date, custody status and location, booking number. Here is a list of the rest of the information and how you can use it:

- **Currently Rule 11** – if they are Rule 11 in another ongoing case, then you will, of course, immediately refer the current case to Rule 11.
- **Probate Case Number** – A probate case may have been initiated if your client ever has been so incapacitated that a court finds that they need someone to manage their money or make other decisions for them. If there is a probate number listed, it gives you an indication that your client has some serious issues. You may be able to talk to family members or support people and find out the basis, or you may be able to get a release of information (ROI) signed and ask the court to open the record for you.
- **Legal Guardian Name and Number** – if, through a probate case, your client has a legal guardian appointed, you will find that information here. The legal guardian will be the one to sign ROIs and may help your client make decisions about his case. If you see this, you’re going to want to consider pursuing a dismissal on lower-level cases or at least looking at Rule 11 or a GEI defense. Also, there are likely to be supportive services for your client in the community. You’re going to want to find out about what those may be to help argue for release, mitigation, etc.

- **Clinical Liaison** – If the court has found that your client has a mental health condition that needs to be carefully managed to prevent deterioration, it will appoint a clinical liaison to monitor his care. The clinical liaison can really be an ally in making sure your client is being seen by CHS and is getting appropriate medication and care. The liaison can tell you if the client is being cooperative, is taking medications as prescribed, and is faring well in the jail. If someone is stable and cooperative in the jail, you could use that to argue for release or probation, as it is an indication that he or she also will be cooperative in the community.
- **Mental Health #** – If your client has previously had a court-ordered evaluation (COE) and/or order for mandatory mental health treatment (COT), they will have an MH case number. Again, this can just be an alert to look out for Rule 11 and GEI issues and it could mean that your client has some community resources to explore.

In Arizona, our version of “committing” a mentally ill person (like in *One Flew Over the Cuckoo’s Nest* or *Girl Interrupted*) is a for a witness, typically a friend or family member to petition the court under title 36 for a mandatory mental health evaluation (COE). If, after evaluation by doctors the person meets the criteria, then the court will enter a “Court Order for Treatment” (COT) and the person can be involuntarily hospitalized or forcibly given medication. The standards for a court order vary – one can be found a danger to themselves (DTS), a danger to others (DTO), or to be persistently and acutely disabled (PAD) or gravely disabled (GD).

Ideally (but not always), this process will trigger a finding by the RHBA (Magellan) that the person is SMI and he/she will qualify for a variety of supportive community services. A COT can last 6 to 12 months. At any point during the order, if the person does not cooperate with the mental health treatment, and his/her condition deteriorates as a result, he or she can be re-hospitalized against his/her will.

- **COT** – If there is a current order, that number will appear here. Also, the number of hospital days remaining on the order will be listed.
- **Previous COT** – If there is an earlier, expired order, it will appear here. If you look under “related cases” in the drop-down menu on iCIS, previous and current Mental Health and Probate cases should appear. We don’t have direct access to those cases, but we can get the records opened, via court order, if need be.
- **Case Manager (MH)** – If the client has a COT but has not been found to be SMI (don’t try to figure it out, it just will make your head hurt), the case manager’s name and number will appear here. Case managers help their clients “manage” their mental health needs. These folks are eligible for a more limited range of services than those who have been found SMI. They can get<sup>1</sup> access to medication, counseling, and treatment groups to address various needs they may have. They do not have a housing benefit. Again, this is valuable information for mitigation and release conditions.
- **RHBA Enrolled** – Have they applied for and been accepted into or have they been court-ordered into services from Magellan? There are different levels of care:
  - **General Mental Health (GMH)** – These folks have been found to have mental health needs, but not so much that their daily functioning is impacted. If clients have AHCCCS and any level of mental health needs, they can be referred to a community provider (like Terros, Southwest, Jewish Family, etc.) and get counseling, treatment groups, and medications. If they have AHCCCS, then it’s fully covered, if not, services are provided on a sliding fee scale.
  - **Pregnancy and Addiction** – Pretty self-explanatory. If a client is pregnant and she has applied for services, she can get substance-abuse treatment, supported housing, parenting classes, and even transitional care for up to a year.

- **SMI** – If clients have a qualifying diagnosis and the requisite functional deficits, they get this designation. Whether or not they have AHCCCS determines the level of care they will receive. If no AHCCCS, then they only get monthly psychiatric appointments and a limited, formulary, medication benefit. If they have AHCCCS, they get a huge array of services including one-to-one counseling, various treatment and support groups, housing, residential treatment, vocational rehabilitation, medication management, activity groups, day programs, and other community assistance.
- **In County** – If the client is RHBA enrolled in Maricopa County, this will be checked “yes.” If enrolled in another county, he/she still is eligible for services, just in the other county. The contact should be listed here. The attorney can explore either a release to the client’s home county or a possible transfer of services to Maricopa County.
- **Case Manager (CM) name and contact – This is the person you should make friends with. If they are responsive and helpful, they can make your job a lot easier.** The case manager’s name, clinic, contact number, and fax number appear here. If your client has a case manager, have the client sign a Magellan ROI, call the clinic, and talk to the CM. Verify the fax number and fax the ROI directly to the clinic so the CM will talk to you. CMs can give you a wealth of information – where your client was living, family contacts, involvement in treatment, client's stability when arrested, whether client was taking medication as prescribed, etc. If the client was homeless, this should be addressed ASAP with the CM. The instability of being homeless is stressful for anyone; with a mentally ill person, it can be completely incapacitating. Unless the client is one of those who just won’t stay in one place, the CM should be actively working on housing a homeless client. If the client has a drug problem, the CM should be making great efforts to engage him/her in treatment.

These types of issues can be HUGE mitigating factors. Our state provides these services because there has been a determination that these folks cannot be expected to function in the community without them. If clients were not getting the services they need, the services they are entitled to, the state has failed in its duty to them. Then trying to prosecute them for being criminally involved is just a further failure of the system. It’s not quite that clear-cut, but it can be a powerful argument. And if we can advocate for them with their treatment provider and with the court, not only can we get better outcomes in the current case, but maybe we can be part of helping them not to re-offend.

- **Clinical Coordinator (CC) name and contact** – The CC is the CM’s boss. If you’re not getting any love from the CM, call the CC. And remember the “more flies with honey” thing. These folks have really stressful jobs, a lot of very difficult clients, and have recently had huge budget and staffing cuts. They are very overworked and extremely underpaid.

If you’re getting nowhere with the CM and the CC, then try:

Stan Alexander  
 Court Advocacy Liaison  
 Court Advocacy and Jail Diversion Team  
 Magellan Health Services  
 4129 E. Van Buren Street  
 Suite 250  
 Phoenix, AZ 85008  
 Office 602-652-5920  
 Cell 480-285-5145  
 Fax 1-800-424-4280  
 email: [SEAlexander@magellanhealth.com](mailto:SEAlexander@magellanhealth.com)

- **Homeless or Employed prior to arrest** – This is self-explanatory. Use this information just as you would for any other client. No one wants to lose their job or their home because they are in jail or because they have a pending criminal case. But again, for these clients the support is even more critical, and if they lose a home or job, they are much less likely than the average person to get it back. And it is even more important for them as it contributes to the stability of their mental health.
- **Family support** – If the client has family, the contact info should be listed here.
- **Engaged in MH services prior to arrest** – If the answer is “yes,” I would want to know what wasn’t being provided that should have been provided. If the answer is “no,” I would want to know what was being done to engage them.
- **Title 19** – Title 19 and AHCCCS eligibility are synonymous. See SMI section above for the difference in available services.
- **SSI** – Does the client receive an income (albeit very small) from Social Security? If so, how much? I would want to know who is managing the money – maybe the client, maybe a payee – and for what kinds of things are they paying? The money is supposed to be used to support the client in the community, but sometimes it gets sapped by friends or family members, particularly if the client is very vulnerable.
- **Military Service** – Again, self-explanatory. If someone is a vet, you should have him/her sign the VA ROI and, to see what supportive community services your client may be entitled to, contact:

Penny Miller, LMSW  
 Veterans Justice Outreach Specialist  
 Phoenix VA Medical Center  
 650 E. Indian School Rd.  
 Phoenix, AZ 85012  
 P: (602) 717-6785  
 F: (602) 200-2324  
[penny.miller2@va.gov](mailto:penny.miller2@va.gov)

- **Unwilling to accept services** – In order to get SMI or Vet services, the client, in most cases, must be cooperative and actually want the services. A lot of folks, however, just don’t want the government or any authority figure in their lives at all. And, unless they do so badly on their own that someone tries to get a Title 36 COE/COT, there is no way to force them to accept the help.
- **Notes** – Extra information that doesn’t fit anywhere else goes here.
- **PSA** – If the client is on pre-trial services release, that information will appear here, along with the PSA officer’s name and contact information. Usually it will be Ryan Valley, [valley@apd.maricopa.gov](mailto:valley@apd.maricopa.gov). He is very helpful and very good at working with these clients.
- **Probation** – If your client is currently on probation or has been in the past, then the APO contact information will appear here. It’s always worth a try to contact the APO and engage him/her in discussion about your client. Be careful though, if it’s someone who hasn’t had a lot of contact with defense attorneys – or maybe had the wrong kind of contact – he/she might be very cautious about talking to you or giving you information. An APO can be a valuable source of information. Was your client doing well in the community? Was the new arrest/charge a surprise? Does he/she think the client needs or “deserves” prison? Is he/

she willing to continue to work with your client? Most likely, this is the person who will be writing the pre-sentence report. If he or she is not sympathetic toward your client, you can get a chance to change that. Or, if the APO likes your client, you can enlist their assistance with the state and with the court.

- **SMI caseload** – If your client was previously on probation and was supervised by an SMI officer, that information will appear here. It could be a good thing or a bad thing. On the upside, these APOs are generally really great with their clients; they really will bend over backwards to help the client succeed and will give a good recommendation. On the other hand, if your client is on the last nerve of one of these folks, you're going to have a hard time convincing the court not to follow the recommendation.

If the client is SMI (through the RHBA) but has not been on SMI probation before, that is a powerful argument that he/she may need extra support and supervision in the community, but that the client can be functional and successful. To be eligible for SMI probation, the court must order, under term 25 special terms, mental health terms. The court also should direct the client to be screened for SMI probation.

**If you need extra assistance on any of these issues, contact someone in the Criminal Mental Health Unit:**

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**Linda Shaw, mitigation specialist**  
[shaw@mail.maricopa.gov](mailto:shaw@mail.maricopa.gov)

**Ed Hall, assistant**  
 602-506-7711, xt 3-7928  
[halle@mail.maricopa.gov](mailto:halle@mail.maricopa.gov)

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(Endnote)

1. They can only get access if they qualify for AHCCCS.



# How to Work Up an Aggravated Assault on a Health-Worker Case

By Tammy Wray and Fredrica Strumpf, Defender Attorneys

If your client is charged with aggravated assault on a health-care worker, pursuant to A.R.S. §13-1204(A)(8)(e), or if prior to 2008, then A.R.S. §13-1204(A)(13), you may have a viable statutory defense.

## **§13-1204(A)(8)(e) provides:**

**A.** A person commits aggravated assault if the person commits assault as prescribed by §13-1203 under any of the following circumstances:

**8.** If the person commits the assault knowing or having reason to know that the victim is any of the following:

**(e)** A health care practitioner who is certified or licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the person's professional duties. This subdivision does not apply if the person who commits the assault is seriously mentally ill, as defined in § 36-550, or is afflicted with Alzheimer's disease or related dementia.

The intent of the statute is to recognize the significantly reduced culpability of mentally ill persons in a psychiatric facility, but it's applied in a much broader fashion. The assault is excused, based on the client's SMI (seriously mentally ill) status, regardless of his/her stability at time of incident, intoxication, or whether or not he/she was in a psychiatric facility at the time. It can apply to assaults in an ER, doctor's office, or even in a home or elsewhere if the victim is a licensed professional engaged in his/her duties or a person summoned by a licensed professional. Technically, these types of assaults should not be a felony, no matter what, but be prepared for the state to fight you when the facts are bad.

§13-1204 refers us to §§ 36-550 and 36-501 for definitions of SMI and mental disorder. In Maricopa County, a person who meets SMI criteria can receive treatment and support services through a local agency: Magellan (previously Value Options, Comcare, Codama). If the client is designated SMI and receiving full services from Magellan, that is dispositive that he/she is SMI for our purposes under §13-1204. The agency and the statute rely on same criteria to determine eligibility. If a person is receiving Magellan services, this is often the easiest way for us to prove up SMI status.

People who are not SMI with Magellan may actually meet the criteria under §36-550 but lack the "designation" for a number of reasons: they were never diagnosed, they did not seek services, or they were evaluated but found ineligible for SMI services due to immigration status, too much income, having private insurance, or even testing positive for illegal drugs at the time of the evaluation.

## **§36-550(4) provides the definition of seriously mentally ill:**

"Seriously mentally ill" means persons, who as a result of a mental disorder as defined in § 36-501 exhibit emotional or behavioral functioning which is so impaired as to interfere substantially with their capacity to remain in the community without supportive treatment or services of a long-term or indefinite duration. In these persons, mental

disability is severe and persistent, resulting in a long-term limitation of their functional capacities for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment and recreation.

### **§36-501(26) defines mental disorder:**

**26.** “Mental disorder” means a substantial disorder of the person’s emotional processes, thought, cognition or memory. Mental disorder is distinguished from:

**(a)** Conditions that are primarily those of drug abuse, alcoholism or mental retardation, unless, in addition to one or more of these conditions, the person has a mental disorder.

**(b)** The declining mental abilities that directly accompany impending death.

**(c)** Character and personality disorders characterized by lifelong and deeply ingrained antisocial behavior patterns, including sexual behaviors that are abnormal and prohibited by statute unless the behavior results from a mental disorder.

§13-1204 states that it does not apply if individual “is” SMI. What is “is”? Does it mean as of now, at the time of charging, at the time of incident? SMI status usually is a permanent condition. If the designation pre-dates the incident and is still in place, then there’s no issue. However, if the designation was made after the incident, then the State will require that you demonstrate serious mental illness as of the date of the incident. Sometimes, they will be satisfied with supporting records and sometimes you may have to have the client evaluated.

Look at the charging document. Aside from the aggravator (the fact it was against a health-care worker), what is the nature of the offense under §13-1203? Is it M1, M2, or M3? This is important. If the matter proceeds to trial, and you can prove up SMI status, the applicable misdemeanor is the lesser included of which your client could be found guilty. So, if the lesser included is an M3, don’t plead your client to an M1. At worst, the plea should match the lesser included. That said, with the obvious mitigation, the plea should be better than the likely trial outcome and, in most cases, you should get an outright dismissal.

### **§13-1203 Assault**

**A.** A person commits assault by:

- 1.** Intentionally, knowingly or recklessly causing any physical injury to another person; or
- 2.** Intentionally placing another person in reasonable apprehension of imminent physical injury; or
- 3.** Knowingly touching another person with the intent to injure, insult or provoke such person.

**B.** Assault committed intentionally or knowingly pursuant to subsection A, paragraph 1 is a class 1 misdemeanor. Assault committed recklessly pursuant to subsection A, paragraph 1 or assault pursuant to subsection A, paragraph 2 is a class 2 misdemeanor. Assault committed pursuant to subsection A, paragraph 3 is a class 3 misdemeanor.

Also review §13-1204 to determine if the matter could be charged under another subsection, typically as a more serious felony. An example would be if a client is charged with assaulting a

nurse, using a stick, and breaking her arm. He may be currently charged only as a class 6 under §13-1204(A)(8)(e), but he could also be charged as a 2 or 3 because of serious physical injury and/or with a dangerous instrument. Since these are more serious, you may want to consider a misdemeanor or even the current plea offer. Weigh the risks and use your best judgment. Talk it over with a supervisor or a criminal mental health attorney.

### **The Client Interview**

Be sensitive to how the client is doing now. Possibly he/she is doing really well and it could be an easy interview. Possibly, he/she is still very ill and/or angry or uncommunicative, and it could be more difficult.

The best thing to do is ask the client if they get SMI services from Magellan. If so, ask which clinic he/she goes to, if he/she has a case-manager, and if he/she knows the phone number. Get a Magellan Release of Information (ROI) signed and be prepared to give a copy to the case manager or fax it to the clinic before anyone will speak with you. All ROIs are available on the S drive, in the Rule 11 folder, under releases. Ideally, case-managers will come to court with their clients, but you can't always rely on that. Call the clinic and ask for the case-manager first. If that person is not available, ask for the clinical liaison. As a last resort, ask for the "blue dot." That's their coverage person. A list of the clinics with addresses and phone and fax numbers is on the S drive, in the Rule 11 folder, under Magellan. You also can contact Stan Alexander, a Magellan court liaison, and he can give you information. He is very nice and very helpful. His contact information is:

Stan Alexander  
 Court Advocacy Liaison  
 Court Advocacy and Jail Diversion Team  
 Magellan Health Services  
 4129 E. Van Buren Street  
 Suite 250  
 Phoenix, AZ 85008  
 Office 602-652-5920  
 Cell 480-285-5145  
 Fax 1-800-424-4280  
 email: [SEAlexander@magellanhealth.com](mailto:SEAlexander@magellanhealth.com)

Once you verify that the client is SMI with Magellan, clue the case-manager or court liaison in on the situation, and be very clear about what you need and how quickly you need it. Ask for a letter, signed by the psychiatrist, verifying a diagnosis, that the client is seriously mentally ill, and that he/she received services from Magellan and/or its predecessors for x number of years. That should be sufficient for the state.

If clients are not with Magellan, you should inquire if they are regularly seeing a psychiatrist, doctor, or counselor. If so, what agencies do they use? Do they take prescription medication? What is it for? If in custody, are they getting the correct medication? If none of these things are going on now, have they happened in the past? Have they been to prison? Did they take medications or see a doctor there? Have ROIs signed by the clients and then request records from any doctor, counselor, provider, hospital, etc., that they mention.

Finally, bear in mind that this article is just an overview. You may have other issues arise that we haven't mentioned. For example, the case may be charged as a more serious assault even though the victim is a health-care worker; the client may have non-psychiatric disorders that otherwise fit the fact pattern; or the client may refuse to come to court or sign releases. If you need assistance with any of these issues, talk to your supervisor or contact Fredrica Strumpf [strumpf@maricopa.gov](mailto:strumpf@maricopa.gov), or Tammy Wray [wray@mail.maricopa.gov](mailto:wray@mail.maricopa.gov), or assistant Ed Hall [halle@mail.maricopa.gov](mailto:halle@mail.maricopa.gov) by e-mail or by phone at 3-7928.

Maricopa County Offices of the Public Defender, Legal Defender and  
Legal Advocate; and Office of the Federal Public Defender-Capital Habeas Unit  
*Present*



# *The Fight for Life: Moving Forward*

## *Death Penalty 2010 Annual Seminar*

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

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***Pre-Conference Sessions—AZ Death Penalty Essentials***

Death Penalty Process  
Death Penalty Statute  
Introduction to Mental Health and Capital Investigations

***December 1, 2010 Half-Day***

12:00pm—1:00pm Registration  
1:00pm—4:30pm

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***Death Penalty Conference 2010***

Session Topics include:  
Prosecutorial Misconduct  
Male Rage as Mitigation  
Race, Class and Gender as Mitigation  
Battling Victim Impact Evidence  
Creative Responses to Juror Questions, and more...

***December 2, 2010 Full-Day***

8:30am—Check-in/Continental Breakfast  
9:00am—4:30pm

***December 3, 2010 Half-Day***

8:30am—Check-in/Continental Breakfast  
9:00am—12:00pm

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

Maricopa County Offices of the Public Defender, Legal Defender and  
Legal Advocate; and Office of the Federal Public Defender-Capital Habeas Unit  
*Present*

# The Fight for Life: Moving Forward Death Penalty 2010

**December 1—3, 2010**

**Phoenix Convention Center, South Building (off Jefferson)  
33 South Third Street, Phoenix**

## Registration Form

Please return forms and payment by 11/19/10 *(No Refunds after 11/29/10)*  
*For Defense Community Only*

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

**Pre-Conference December 1, 2010, Afternoon Only**

**No Fee** Federal, County Public Defender, Legal Defender and Legal Advocate  
**\$25.00** Court-Appointed/Contract Counsel; City Public Defenders  
**\$50.00** Other/Private

**Conference December 2, 2010, Full-Day and December 3, 2010, Morning Only**

**No Fee** Federal, County Public Defender, Legal Defender and Legal Advocate  
**\$75.00** Court-Appointed/Contract Counsel; City Public Defenders  
**\$150.00** Other/Private

Total Cost \$ \_\_\_\_\_ **\$ 15.00** Late Fee (Postmarked after November 19, 2010)

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

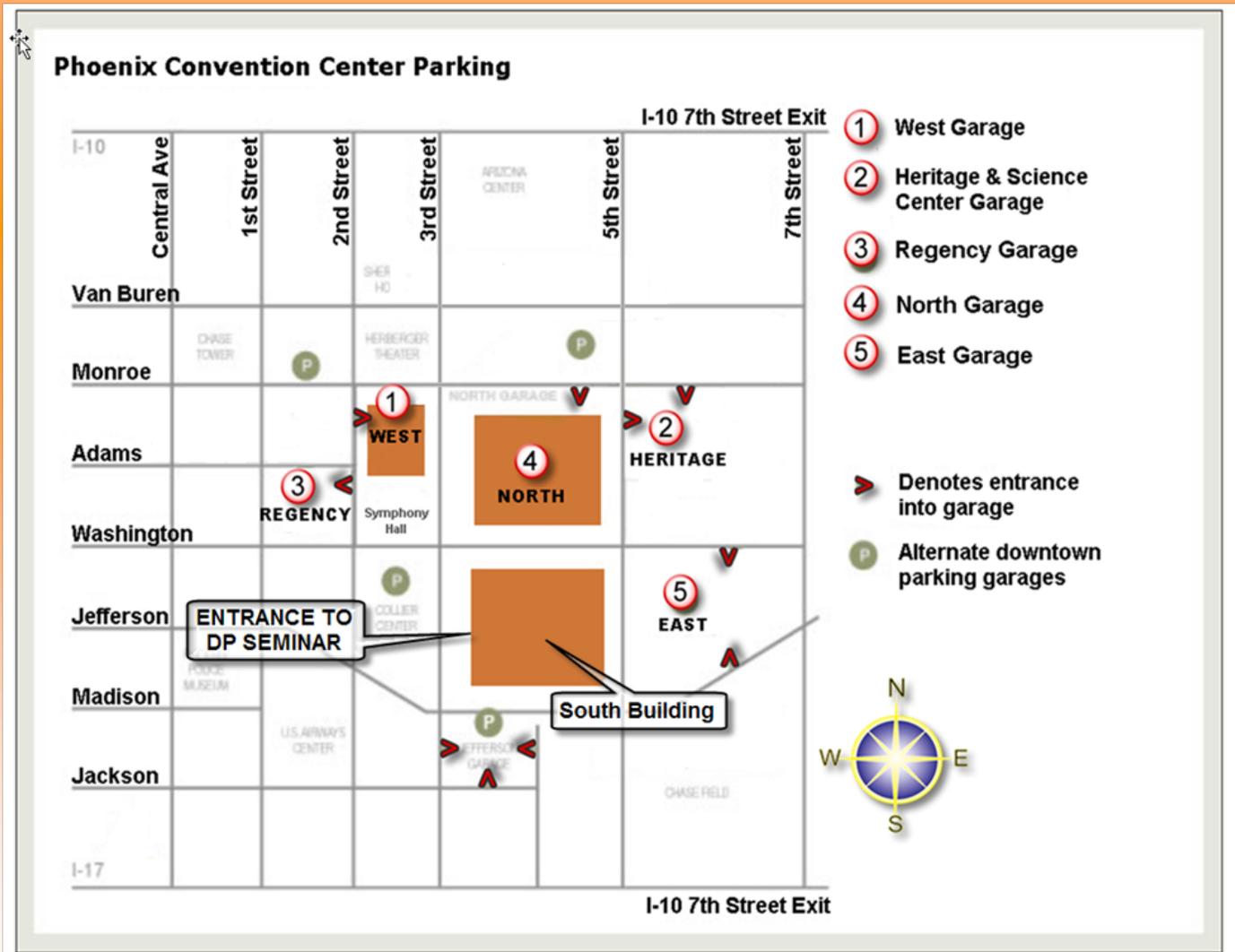
**If you have questions or need ADA accommodations, please contact  
Celeste Cogley at 602-506-7711 X37569**

## DEATH PENALTY PRE-CONFERENCE & CONFERENCE

All sessions will be held in the **South Building (off Jefferson)**  
**Use the South Building entrance off Jefferson and 3rd Street.**

### PARKING—\$10.00 ALL-DAY PARKING

- The **Convention Center East Garage** is located at 5th Street and Jefferson — just east of the Conference Center South Building (#5)
- The **North Garage** is located in the North Building / 5th Street and Monroe (#4)
- The **Heritage & Science Center Garage** is located off 5th Street and Monroe — just one block east of the North Building (#2)
- Alternate downtown public parking garages **P**



# Jury and Bench Trial Results

## June 2010 – August 2010

### Public Defender's Office – Trial Division

Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(S)	Counts	Result
<b>Group 1</b>					
7/1/2010	<b>Reece Leigh</b>	Hannah	2004-136360-001 Aggravated Assault, F3 Aggravated Assault, F2	1 1	Jury Trial-Guilty Lesser/Fewer
7/1/2010	<b>Hann</b>	Mahoney	2009-168808-001 Misconduct Involving Weapons, F4 Misconduct Involving Weapons, M1 Dangerous Drug-Poss/Use, F4	1 1 1	Jury Trial-Guilty As Charged
7/15/2010	<b>Mullins Schreck Salvato</b>	Lynch	2009-175916-001 Aggravated Assault, F6 Aggravated Assault, F3	1 1	Jury Trial-Not Guilty
7/27/2010	<b>Martin Sain Baker</b>	Passamonte	2010-100215-001 Resisting Arrest, F6	1	Court Trial-Guilty Lesser/Fewer
8/27/2010	<b>Sitver Rankin Leigh</b>	Stephens	2010-102913-001 Molestation of Child, F2 Sexual Conduct With Minor, F2	2 3	Jury Trial-Guilty As Charged
<b>Group 2</b>					
6/3/2010	<b>Turley</b>	Vandenberg	2009-007935-001 Assault-Intent/Reckless/Injure, M1 Aggravated Assault, F3	1 1	Jury Trial-Not Guilty
6/3/2010	<b>Covil Munoz Browne</b>	Passamonte	2009-164923-001 Taking Identity of Another, F4 Forgery, F4	1 1	Jury Trial-Guilty Lesser/Fewer
6/4/2010	<b>Fischer</b>	Hannah	2008-175422-003 Dang Drug-Transp and/or Sell, F2 Dangerous Drug-Poss For Sale, F2	1 1	Jury Trial-Guilty As Charged
6/15/2010	<b>Farney</b>	Spencer	2009-136973-001 Theft-Means of Transportation, F3	1	Jury Trial-Guilty As Charged

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7/21/2010	<b>Traher</b> Munoz Browne	Mahoney	2009-171925-001 Misconduct Involving Weapons, F4	2	Jury Trial-Guilty As Charged
7/23/2010	<b>Rosales</b> Salvato Ralston Gebhart	Contes	2009-005038-001 Manslaughter, F2 Misconduct Involving Weapons, F4	1 1	Jury Trial-Guilty Lesser/Fewer
8/17/2010	<b>Baker</b>	Lynch	2006-129219-001 Theft-Means of Transportation, F3	1	Jury Trial-Guilty As Charged
8/26/2010	<b>Farney</b> Brazinskas Menendez	Pineda	2009-165927-001 Theft-Means of Transportation, F3	1	Jury Trial-Guilty As Charged
<b>Group 3</b>					
6/21/2010	<b>Corbitt</b>	Lynch	2009-144295-001 Sexual Assault, F2 Aggravated Assault, F3 Burglary 2nd Degree, F3 Kidnap, F2 Assault-Intent/Reckless/Injure, M1 Assault-Touched To Injure, M3	8 2 1 1 1 1	Jury Trial-Guilty Lesser/Fewer
6/23/2010	<b>Baker</b>	Spencer	2009-125734-001 Narcotic Drug Violation, F4, Attempt To Commit	1	Jury Trial-Guilty As Charged
7/13/2010	<b>Corbitt</b>	Passamonte	2008-172475-001 Theft, F3	1	Jury Trial-Guilty As Charged
<b>Group 4</b>					
6/1/2010	<b>Naegle</b> Meginnis	Brnovich	2009-007464-001 Kidnap, F2 Sexual Assault, F3, Attempt To Commit Assault, M1	1 1 1	Jury Trial-Not Guilty

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6/22/2010	<b>Engle</b> <i>Meginnis</i> <i>Kunz</i>	Kreamer	2009-169850-001 Burglary 3rd Degree, F4	1	Jury Trial-Guilty As Charged
6/24/2010	<b>Sturgell</b> <i>Meginnis</i> <i>Kunz</i>	Whitten	2009-005152-002 Armed Robbery, F2 Kidnap, F2 Misconduct Involving Weapons, F4 Burglary 1st Degree, F2	3 6 1 1	Jury Trial-Guilty Lesser/Fewer
6/30/2010	<b>Stanford</b> <i>Hagler</i> <i>Curtis</i>	Whitten	2010-109454-001 Resisting Arrest, F6	1	Court Trial-Guilty Lesser/Fewer
7/19/2010	<b>Cooper</b> <i>Curtis</i>	Blomo	2006-011448-001 Narcotic Drug Violation, F2	1	Jury Trial-Guilty Lesser/Fewer
7/23/2010	<b>Gaziano</b> <i>Kunz</i>	Verdin	2006-166112-001 Misconduct Involving Weapons, F4	1	Jury Trial-Guilty Lesser/Fewer
7/23/2010	<b>Gaziano</b> <i>Kunz</i> <i>Austin</i>	Verdin	2008-111440-001 Dangerous Drug-Poss/Use, F4	1	Jury Trial-Guilty Lesser/Fewer
7/28/2010	<b>Cooper</b> <i>Hagler</i> <i>Curtis</i>	Spencer	2010-005396-001 Organized Retail Theft, F4 Drug Paraphernalia-Possess/Use, F6 Shoplifting, F4	1 1 1	Jury Trial-Guilty As Charged
8/2/2010	<b>Engle</b> <i>Meginnis</i>	Roberts	2009-159253-001 Aggravated Assault, F3	1	Court Trial-Guilty Lesser/Fewer
8/5/2010	<b>Gaziano</b>	Brnovich	2009-147455-001 Harassment, M1 Disorderly Conduct, M1 Crim Tresp 1st Deg-Res Struct, F6	1 1 1	Court Trial-Guilty Lesser/Fewer

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# Jury and Bench Trial Results

## June 2010 – August 2010

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Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(S)	Counts	Result
8/16/2010	<b>Tivorsak</b>	Whitten	2009-172558-001 Trafficking In Stolen Property, F3 Theft, F3	1 1	Jury Trial-Guilty As Charged
8/18/2010	<b>Tivorsak</b>	Svoboda	2009-172849-001 Aggravated Assault, F6	1	Court Trial-Guilty Lesser/Fewer
8/18/2010	<b>Tivorsak</b> <i>Flannagan</i>	Whitten	2010-103728-001 Burglary 2nd Degree, F3	1	Jury Trial-Not Guilty
<b>Group 5</b>					
6/7/2010	<b>Dehner</b>	Chiles	2008-173875-001 DUI W/Bac of .08 or More, M1 DUI-Liquor/Drugs/Vapors/Combo, M1	1 1	Jury Trial-Guilty As Charged
6/8/2010	<b>Aguirre</b> <i>Romani</i> <i>Ralston</i>	Newell	2009-166968-001 Burglary 2nd Degree, F3	1	Jury Trial-Guilty Lesser/Fewer
6/17/2010	<b>Smith</b>	Roberts	2008-171374-001 Marijuana Violation, F6	1	Court Trial-Guilty Lesser/Fewer
6/18/2010	<b>Jackson</b> <b>Rosell</b> <i>Meginnis</i> <i>Browne</i>	Anderson	2007-157013-001 Murder 2nd Degree, F1	1	Jury Trial-Guilty As Charged
6/18/2010	<b>Blackwell</b> <i>Romani</i> <i>Jarrell</i>	Gottsfield	2009-134188-001 Threat-Intimidate, F3 Street Gang, F3	1 1	Jury Trial-Guilty Lesser/Fewer
6/25/2010	<b>Blackwell</b> <i>Romani</i> <i>Shaw</i>	Newell	2009-141996-001 Aggravated Assault, F3	1	Jury Trial-Guilty As Charged

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7/30/2010	<b>Alagha</b>	Lynch	2009-155829-001 Trafficking In Stolen Property, F2 Shoplifting, F4	1 1	Jury Trial-Guilty As Charged
7/30/2010	<b>Alagha</b>	Stephens	2010-104272-001 Criminal Damage, M1 Aggravated Assault, F6 Resisting Arrest, F6	1 2 1	Jury Trial-Guilty Lesser/Fewer
8/25/2010	<b>Akins</b>	Davis	2010-111266-001 Misconduct Involving Weapons, F4 Drug Paraphernalia Violation, F6 Marijuana Violation, F2	5 2 1	Jury Trial-Not Guilty
<b>Group 6</b>					
6/2/2010	<b>Fritz</b>	Welty	2007-103825-001 Drive W/Lic Susp/Revoke/Canc, Mi Dangerous Drug Violation, F4 Drug Paraphernalia Violation, F6	1 1 1	Jury Trial-Guilty Lesser/Fewer
6/7/2010	<b>Ramos</b> <i>Souther</i> <i>Farrell</i>	Rea	2009-174987-001 Unlaw Use of Means of Transp, F5	1	Jury Trial-Not Guilty
6/21/2010	<b>Steinfeld</b> <i>Reilly</i> <i>Springer</i>	Welty	2009-136484-001 Burglary 2nd Degree, F3 Threat-Intimidate, M1	1 1	Jury Trial-Guilty As Charged
6/28/2010	<b>Kirchler</b> <b>Roach</b> <i>Hagler</i> <i>Curtis</i>	Davis	2008-162645-001 Burglary 2nd Degree, F3 Murder 1st Degree, F1	1 1	Jury Trial-Guilty As Charged
7/12/2010	<b>Dapkus</b>	Newell	2009-159599-001 Marijuana Violation, F6 Drug Paraphernalia Violation, F6	1 1	Court Trial-Guilty Lesser/Fewer

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Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(S)	Counts	Result
7/15/2010	<b>Steinfeld</b> <i>Brunansky</i> <i>Springer</i>	Svoboda	2009-155103-001 Forgery, F4 Taking Identity of Another, F4	1 1	Jury Trial-Guilty As Charged
7/21/2010	<b>Sheperd</b>	Spencer	2009-121990-002 Marijuana Violation, F6 Misconduct Involving Weapons, F4	1 1	Jury Trial-Guilty Lesser/Fewer
8/13/2010	<b>Sheperd</b> <i>Thompson</i> <i>Otteson</i>	Contes	2007-134222-001 Misconduct Involving Weapons, F4	1	Jury Trial-Guilty As Charged
8/13/2010	<b>Sheperd</b>	Contes	2008-031235-001 Armed Robbery, F2 Kidnap, F2 Misconduct Involving Weapons, F4	6 6 1	Jury Trial-Guilty As Charged
8/24/2010	<b>Fritz</b> <i>Farrell</i>	Harrison	2009-164389-001 Burglary Tools Possession, F6 Burglary 2nd Degree, F3	1 1	Jury Trial-Guilty As Charged
<b>Capital</b>					
6/26/2010	Nurmi	Sanders	2005-032079-001 Sexual Conduct With Minor, F2 Child Abuse, F2	2 1	Jury Trial-Guilty Lesser/Fewer
7/21/2010	<b>Stazzone</b> <b>Bevilacqua</b> <i>Carson</i> <i>Ericksen</i> <i>Sims</i>	Kemp	2003-022049-001 Armed Robbery, F2 Murder 1st Degree, F1 Theft-Means of Transportation, F3 Burglary 2nd Degree, F3	13 1 1 1	Jury Trial-Guilty Lesser/Fewer
<b>Juveniles in Adult Court</b>					
6/16/2010	<b>Duncan</b> <i>Charlton</i> <i>Hart</i> <i>Velting</i>	Verdin	2009-007728-001 Aggravated Assault, F3	2	Jury Trial-Guilty Lesser/Fewer

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8/13/2010	<b>Bradley Coward Johnson</b>	Newell	2009-117257-001 Murder 2nd Degree, F1	1	Jury Trial-Guilty As Charged
<b>RCC</b>					
6/14/2010	<b>Griffin</b>	Mcmurry	2010-109147-001 DUI-Liquor/Drugs/Vapors/Combo, M1	1	Jury Trial-Not Guilty
6/18/2010	<b>Braaksma</b>	Rogers	2008-171797-001 DUI W/Bac of .08 or More, M1 DUI-Liquor/Drugs/Vapors/Combo, M1	1 1	Jury Trial-Guilty As Charged
6/24/2010	<b>Peterson Coward</b>	Gottsfeld	2008-155999-001 False Report To Law Enforce, M1 Aggravated Assault, F3	1 2	Jury Trial-Guilty As Charged
6/28/2010	<b>Griffin</b>	Williams	2009-176874-001 Interfer W/Judicial Proceeding, M1	1	Jury Trial-Guilty As Charged
6/30/2010	<b>Antonson</b>	Whitten	2008-159761-001 Sexual Conduct With Minor, F2 Sexual Abuse, F3 Molestation of Child, F2	16 2 2	Jury Trial-Guilty Lesser/Fewer
7/1/2010	<b>Braaksma</b>	Ore	2009-161377-001 DUI/Drugs/Metabolite, M1 DUI-Liquor/Drugs/Vapors/Combo, M1	1 1	Jury Trial-Guilty As Charged
7/8/2010	<b>Peterson</b>	Kemp	2009-030254-001 Aggravated Assault, F2	1	Jury Trial-Guilty As Charged
7/28/2010	<b>Primack Brunansky</b>	Jayne	2010-065238-001 Fail To Comply-Court Order, M1	1	Court Trial-Not Guilty

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# Jury and Bench Trial Results

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### Public Defender's Office – Trial Division

Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(S)	Counts	Result
8/2/2010	<b>Braaksma</b>	Frankel	2010-116611-001 Assault-Intent/Reckless/Injure, M1 Disorderly Conduct-Fighting, M1	1 1	Court Trial-Guilty As Charged
8/9/2010	<b>Braaksma</b>	Frankel	2010-114052-001 Drive W/ Lic Susp Due to DUI, M1	1	Court Trial-Guilty As Charged
8/27/2010	<b>Vincent</b>	Pearce	2010-108116-001 DUI W/Bac of .08 or More, M1 DUI-Liquor/Drugs/Vapors/Combo, M1	1 1	Jury Trial-Guilty As Charged
8/30/2010	<b>Braaksma</b>	Frankel	2010-122189-001 DUI-Liquor/Drugs/Vapors/Combo, M1 DUI W/Bac of .08 or More, M1 Extreme DUI-Bac .15 -.20, M1	1 1 1	Jury Trial-Guilty As Charged
8/31/2010	<b>Vincent</b>	Chiles	2010-117058-001 Assault-Intent/Reckless/Injure, M1	1	Court Trial-Guilty As Charged
<b>Training</b>					
7/19/2010	<b>Roth Jarrell</b>	Passamonte	2009-175820-001 Marijuana Violation, F6	1	Jury Trial-Not Guilty
7/27/2010	<b>Roth</b>	Spencer	2009-166615-001 Marijuana Violation, F6	1	Court Trial-Guilty Lesser/Fewer
7/29/2010	<b>Roth</b>	Passamonte	2010-102250-001 Marijuana Violation, F6	1	Court Trial-Guilty Lesser/Fewer
<b>Vehicular</b>					
6/2/2010	<b>Crawford</b>	Welty	2009-165136-001 Burglary 2nd Degree, F3	1	Jury Trial-Not Guilty
6/2/2010	<b>Whitehead Casanova Hagler</b>	Passamonte	2008-161105-001 Agg DUI-Lic Susp/Rev for DUI, F4	2	Jury Trial-Guilty As Charged

\*Defined as the date the defendant was sentenced or case was dismissed.

# Jury and Bench Trial Results

## June 2010 – August 2010

### Public Defender's Office – Trial Division

Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(S)	Counts	Result
6/7/2010	<b>Sloan</b>	Svoboda	2008-177889-001 Agg DUI-Lic Susp/Rev for DUI, F4 Aggravated Dui, F4	1 1	Jury Trial-Guilty As Charged
6/22/2010	<b>Iniguez</b>	Svoboda	2009-133169-001 Agg DUI-Lic Susp/Rev for DUI, F4	2	Jury Trial-Guilty As Charged
6/23/2010	<b>Iniguez</b>	Svoboda	2009-138951-001 Agg DUI-Lic Susp/Rev for DUI, F4	2	Jury Trial-Guilty As Charged
7/12/2010	<b>Sloan</b> <i>Renning</i>	Harrison	2010-100701-001 Agg DUI-Lic Susp/Rev for DUI, F4	2	Jury Trial-Guilty As Charged
7/30/2010	<b>Sloan</b> <i>Hagler</i> <i>Renning</i>	Passamonte	2008-168943-001 Agg DUI-Lic Susp/Rev for DUI, F4	2	Jury Trial-Guilty As Charged
8/26/2010	<b>Brink</b> <i>Brunansky</i> <i>Beatty</i>	Hamblen	2009-161791-001 DUI W/Bac Of .08 or More, M1 Extreme DUI-Bac .15 or More, M1 DUI-Liquor/Drugs/Vapors/Combo, M1	1 1 1	Jury Trial-Guilty Lesser/Fewer



\*Defined as the date the defendant was sentenced or case was dismissed.

# Jury and Bench Trial Results

## June 2010 – August 2010

### Legal Defender's Office – Trial Division

Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(S)	Counts	Result
6/18/2010	<b>Ivy</b> <i>Rangel</i>	Roberts	2008-177450-001 Aggravated Assault, F3	1	Jury Trial-Guilty As Charged
6/30/2010	<b>Lee</b>	Roberts	2009-121098-001 Armed Robbery, F2	1	Jury Trial-Guilty As Charged
7/2/2010	<b>Tate</b>	French	2009-150281-001 Theft-Means of Transportation, F3 Unlaw Flight From Law Enf Veh, F5 Aggravated Criminal Damage, F6	1 1 1	Jury Trial-Guilty As Charged
7/2/2010	<b>Phillips</b>	Spencer	2009-171581-001 Burglary 2nd Degree, F3	1	Jury Trial-Guilty As Charged
7/7/2010	<b>Collins</b> <i>Baker</i>	Harrison	2009-110104-001 Dangerous Drug Violation, F2	4	Jury Trial-Guilty Lesser/Fewer
7/8/2010	<b>Collins</b>	Passamonte	2009-171909-001 Aggravated DUI-Third DUI, F4 Aggravated DUI - Interlock, F4 Agg Dui-Lic Susp/Rev For DUI, F4	2 2 2	Jury Trial-Guilty As Charged
7/15/2010	<b>Collins</b>	Harrison	2010-101734-001 Burglary 2nd Degree, F3 Aggravated Criminal Damage, F4 Resisting Arrest, F6 Drug Paraphernalia Violation, F6	1 1 1 1	Jury Trial-Guilty Lesser/Fewer
7/21/2010	<b>Bevilacqua</b>	Kemp	2003-022049-001 Armed Robbery, F2 Burglary 2nd Degree, F3 Theft-Means of Transportation, F3 Murder 1st Degree, F1	15 1 1 1	Jury Trial-Guilty Lesser/Fewer
7/22/2010	<b>Garner</b>	Gottsfield	2009-159303-003 Dangerous Drug Violation, F2 Narcotic Drug Violation, F2 Misconduct Involving Weapons, F4 Drug Paraphernalia Violation, F6	1 1 1 1	Jury Trial-Guilty Lesser/Fewer

\*Defined as the date the defendant was sentenced or case was dismissed.

# Jury and Bench Trial Results

## June 2010 – August 2010

### Legal Defender's Office – Trial Division

Closed Date*	Attorney <i>Investigator Paralegal Mitigation</i>	Judge	CR Number and Charge(S)	Counts	Result
7/26/2010	<b>Collins</b>	Lynch	2009-170589-001 Dschg Firearm at a Structure, F3 Dschrg Firearm in City Limit, F6	1 1	Jury Trial-Guilty Lesser/Fewer
7/30/2010	<b>Ivy</b>	Passamonte	2008-168943-001 Agg DUI-Lic Susp/Rev For DUI, F4	2	Jury Trial-Guilty As Charged
8/9/2010	<b>Babbitt</b>	Blomo	2007-167235-003 Kidnap, F2 Theft by Extortion, F2	1 1	Jury Trial-Guilty As Charged
8/27/2010	<b>Jakobe</b>	Contes	2009-153109-002 Dangerous Drug Violation, F4 Drug Paraphernalia Violation, F6	1 1	Jury Trial-Guilty As Charged
8/31/2010	<b>Beck</b>	Martin	2010-103217-002 Burglary 3rd Degree, F4	2	Jury Trial-Guilty Lesser/Fewer

### Legal Defender's Office – Dependency

Last Day of Trial	Attorney <i>Case Manager</i>	Judge	Case Number and Type	Result	Bench Or Jury Trial
7/22	<b>Sanders</b>	Blakey	JD17326 Severance Trial	Severance Granted	Bench
8/17	<b>Sanders</b>	Bergin	JD17513 Severance Trial	Severance Granted	Bench
8/25	<b>Gaunt</b>	Coury	JD18235 Severance Trial	Severance Granted	Bench

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# Jury and Bench Trial Results

## June 2010 – August 2010

### Legal Advocate's Office – Trial Division

Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(S)	Counts	Result
6/7/2010	<b>Centeno-Fequiere Garcia Joseph</b>	Jones	1996-011714-001 Murder 1st Degree, F1	1	Court Trial-Guilty As Charged
7/29/2010	<b>Koestner Reinhardt</b>	Barton	2008-106570-001 Murder 1st Degree, F1	1	Court Trial-Guilty As Charged

### Legal Advocate's Office – Dependency

Last Day of Trial	Attorney CWS	Judge	Case Number and Type	Result	Bench Or Jury Trial
6/2/2010	<b>Owsley Marrero</b>	Brodman	JD15982 Termination of Parental Rights	Granted	Bench
6/4/2010	<b>Todd Stocker</b>	Udall	JD508427 Dependency	Dependency Found	Bench
6/15/2010	<b>Todd Stocker</b>	Aceto	JD508136 Severance	Granted	Bench
6/7/2010	<b>Russell Miller</b>	Norris	JD19167 Temporary Custody	Granted	Bench
7/15/2010	<b>Smith Contreras</b>	Brain	JD16189 Severance	Severance Granted	Bench
7/14/2010	<b>Todd Stocker</b>	Udall	JD507692 Termination	Termination Granted	Bench
8/18/2010	<b>Konkol</b>	Coury	JD15745 Dependency	Dependency Found	Bench
8/19/2010	<b>Youngblood Armbrust</b>	Brain	JD15080 Severance	Severance Granted	Bench

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# Upcoming Training

To view future training classes, please visit our training website at:

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*for The Defense*

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