

Annual Report

Maricopa County Office of the Public Defender

2012-2013

MARICOPA COUNTY OFFICE OF THE PUBLIC DEFENDER
620 W. Jackson Street, Suite 4015, Phoenix, AZ 85042
(602) 506-7711
pdinfo@mail.maricopa.gov

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Mission

The mission of the Office of the Public Defender is to provide quality legal representation to indigent individuals assigned to us by the court, thus safeguarding the fundamental legal rights of each member of the community.

Goals

The Maricopa County Public Defender's Office provides tremendous value to the community by serving an important public safety function. We seek effective dispositions for addressing the underlying problems that contribute to our clients' criminal behavior, thus providing them with their best chance to become productive and law-abiding individuals. Our goals are:

- To protect the rights of our clients, to guarantee that clients receive equal protection under the law, regardless of race, creed, national origin or socioeconomic status, and to ensure that all ethical and constitutional responsibilities and mandates are fulfilled;
- To obtain and promote dispositions that are effective in reducing recidivism, improving clients' well-being, and enhancing quality of life for all;
- To work in partnership with other agencies to improve access to justice, develop rational justice system policies, and maintain appropriate caseload and performance standards;
- To enhance the professionalism and productivity of all staff; and
- To perform our obligations in a fiscally responsible manner including maintaining cost effectiveness by limiting the percentage of increase in the annual cost per case to no more than the percentage of increase in the overall annual funding of the County's criminal justice group.

DEFEND ~ PROTECT ~ ENHANCE ~ PROMOTE ~ IMPROVE ~ ENSURE ~

PARTNER ~ RESPOND ~ PRODUCE ~ RESOLVE ~ ACHIEVE ~ REPRESENT ~ LEAD

Department Initiatives

During the last fiscal year, the MCPD continued expansion of evidence-based initiatives focused on reducing recidivism. An essential aspect of addressing root causes of criminal behaviors is crafting effective dispositions whenever possible. To this end, MCPD has taken a leading role in coordinating a highly effective Settlement Conference Committee, comprised of leaders from the prosecution, bench, and defense. This committee provided two presentations to the Bench in the Spring of 2013 and has addressed a number of common-ground needs to the betterment of the criminal justice system as a whole. MCPD has also been integrally involved in a number of evidence-based efforts with its partners on the Maricopa County Jail to Community Reentry Council, including proposals for expanded diversion programs for eligible low risk offenders, greater use of risk assessments in evidence-based release decisions, and incentivizing in-custody defendants to engage in enhanced jail programming. We also continue to focus efforts on the needs of Veterans through the Veterans Court, Regional Homeless Court, and annual Veterans' Stand-down, which was expanded to address the legal needs for over 300 veterans with cases in the Maricopa County Superior and Justice Courts during the March 2013 event.

In addition, we played a key role in changes to the Rules of Professional Conduct and Rules of Criminal Procedure, including strengthening standards requiring attorneys to come forward with exculpatory information, clarifying the language in plea agreement avowals for defense counsel, and modifying procedures regarding plea cutoff deadlines. Further, we were leaders in a number of substantive legal battles regarding victims' date of birth and witnesses dates of birth as part of our ongoing effort to handle cases more effectively and efficiently.

Finally, MCPD's Juveniles in Adult Court Unit (JAC) continues to engage in cutting-edge, innovative programming targeting at-risk youth. In addition to the efforts discussed in last year's Report, JAC is expanding its involvement with Maricopa County Education Service Agency's (MCESA) Transforming Juveniles through Successful Transition (TJST) planning committee to direct and guide the work of Transition Facilitators. Our attorneys communicate with these facilitators and probation officers in a joint effort to reduce recidivism among this population.

Training Activities

The Public Defender Training Fund (PDTF) continues to be vital to the Office's mission. It enables the Office to provide high-quality training for our employees, giving them the necessary resources and tools to provide effective representation. Further, the PDTF enables the Office to serve as a leader and primary sponsor for several statewide indigent defense training programs.

In anticipation of ongoing State and County budget issues, as well as a decrease in PDTF funding, the Office continued to operate with several fiscal constraints. We maintained our moratorium on out-of-state travel (with limited exceptions) and restrictions on in-state training. Our conservative approach resulted in a training reserve of \$227,440 at the end of the fiscal year, which helps us start the year on a strong footing.

Training new public defenders from around the state remains a high priority. During the first year of employment, attorneys attend a three part training regiment including Introduction to Criminal Defense, Pretrial Practice, and Trial Skills. First year attorneys also attend the State Bar Professionalism Course.

We also train attorneys with more than a year of experience by providing trial advocacy technique courses. Our Fall Trial College focuses on case themes and theory, opening statements, jury selection, and closing argument. It is taught by nationally known speaker Ira Mickenberg. Participants met in small groups, brought a case of their own, and developed a theme through which to tell their client's story of innocence in opening statement. They practiced asking voir dire questions to expose jurors least open to believing their clients' innocence. Attorneys practiced tying in the evidence and applicable law to support a legal theory of innocence in closing argument.

Spring Trial College focuses on cross-examination, witness control, evidence, objections, impeachment, and motive and bias. Attorney supervisors from our trial groups presented short lectures. The participants met in small groups to apply the techniques learned. They cross examined, controlled, impeached, and showed motive and bias of witnesses played by actors. Participants received valuable feedback from mentor attorneys.

We supplement this training with the APDA Annual Conference (which the Office co-sponsors), the Annual Death Penalty Conference, bi-monthly brown-bag lectures, technology training, and publication of our Office newsletter for The Defense. We continue our partnership with the Federal Defender's Capital Habeas Division to offer quarterly trainings on Capital Appeals and Rule 32 proceedings. The trainings have been well attended and received.

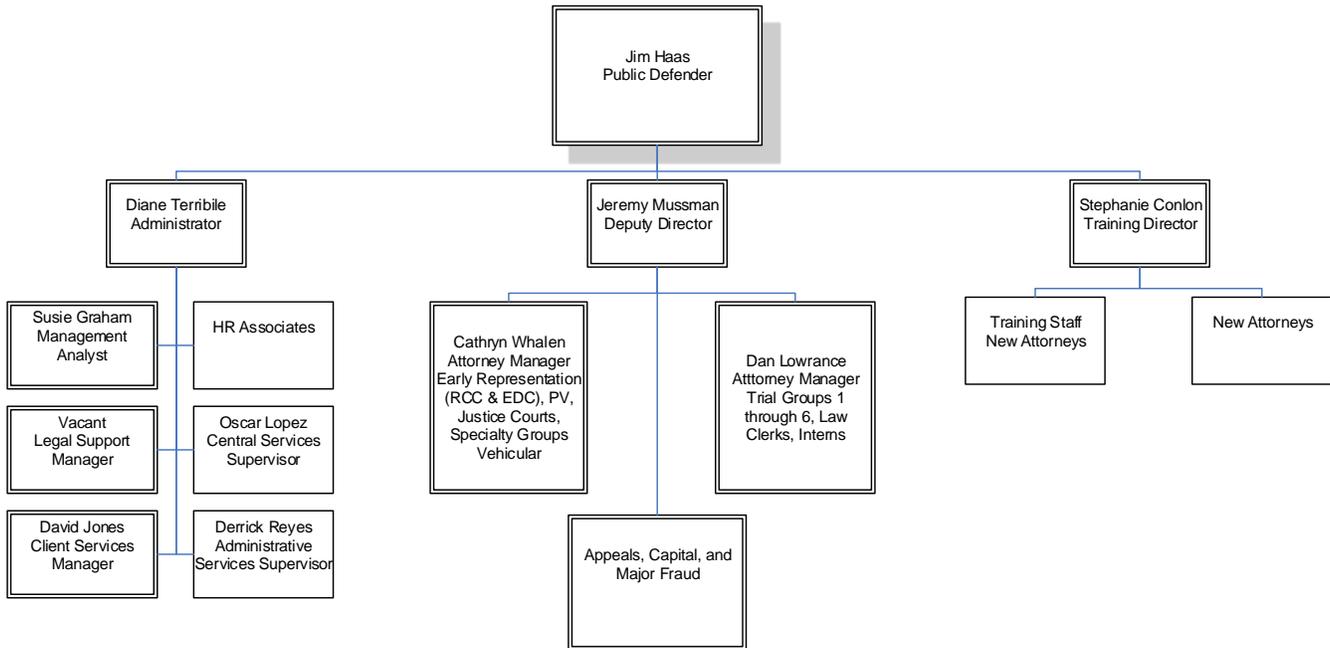
In summary, the Public Defender Training Fund remains a cost-effective and dynamic tool for training public defenders and staff.

Training Events Summary

Title Of Conference/Training	Date(s)	# of attendees
Advocacy's Hidden Risk	September 26, 2012	40
APDA	June 26, 2013-June 28, 2013	330
Assault on a Health Care Worker And MH Updates	April 19, 2013	11
Best Practice Tips on Immigration Issues	July 20, 2012	30
Capital Direct Appeals and PCR Training	August 31, 2012	22
Capital Direct Appeals And PCR Training	January 24, 2013	43
Capital Mitigation Workshop	October 5, 2012	14
CHS, CEP and RTC	May 8, 2013	37
Community Bridges: Drug Trends and Street Slang	August 22, 2012	30
Community Bridges: Programs	August 28, 2012	26
County Open Enrollment Overview	April 24, 2013	19
Creating Forms in Word 2007	December 11, 2012	9
Criminal E-Filing Training	August 9, 2012	17
Death Penalty	December 5, 2012	108
Deferred Compensation Overview	August 1, 2012	9
Disability Law	July 17, 2012	18
DOC: Classification and Programs	August 17, 2012	38
DUI Refresher RCC DT	March 29, 2013	16
Excel 101 - Part 1	November 27, 2012	17
Fall Trial College	November 29, 2012	21
Firearms Familiarization	October 18, 2012	32
Flex Schedule Overview	November 6, 2012	37
Forensic DNA Evidence	March 28, 2013	36
Gideon V. Wainwright	March 20, 2013	95
iCIS View Only for Public Defenders	July 1, 2012-June 30, 2013	82
Immigration Consequences of Conviction - Part 1	May 10, 2013	25
Immigration Consequences of Conviction - Part 2	May 24, 2013	11
Interstate Compact	May 17, 2013	37
Interview Tips and Techniques	October 24, 2012	27
IRIS - Adding Other Case People	July 24, 2012	7
IRIS - Case Initiation	November 13, 2012	4
IRIS - Case Management	July 1, 2012-June 30, 2013	77
IRIS - Case Management & Conflicts Checks	October 22, 2012	5
IRIS - Records Management - Case Initiation	April 2, 2013	1
IRIS - Records Management - Updating and Closing	April 8, 2013	1
IRIS - Time Sheets	July 1, 2012-June 30, 2013	9
IRIS - Updating and Closing Cases	November 14, 2012	3

Title Of Conference/Training	Date(s)	# of attendees
Jail Visitation Overview	March 12, 2013	40
Justice Court Training	August 24, 2012	12
Life Care Planning	August 10, 2012	22
Making Sense of Medical Records	February 20, 2013	29
Microsoft Office 2007 Word	February 27, 2013	1
Microsoft Office 2007 Word & Outlook	March 20, 2013	1
Mitigation 101	July 13, 2012	25
Mitigation: Improving Your Skills	July 13, 2012	14
New Attorney Training #1: Intro To Criminal Defense	August 13, 2012- May 3, 2013	48
New Attorney Training #2: Pretrial Practice	October 9, 2012-June 7, 2013	46
New Attorney Training #3: Trial Skills	July 24, 2012-May 23,2013	42
New CRO Law / Mesa RCC	March 26, 2013	11
New Employee Computer Training / Scanners	July 1, 2012-June 30, 2013	78
Nuts And Bolts: Veterans Stand Down	March 5, 2013	59
Offender Screening Tool (OST)	October 5, 2012	37
Plotter Presentation	January 15, 2013	13
Professionalism in the Workplace	July 31, 2012	22
Public Defender New Employee Orientation	July 1, 2012-December 6, 2012	30
Public Defender New Employee Training	December 10, 2012-June 10, 2013	45
Real Colors	October 23, 2012	40
SCT: Courtroom Computer System Demo	September 27, 2012	12
Search and Seizure	November 2, 2012	45
Spring Professionalism Course	March 22, 2013	33
Spring Trial College 2013	March 14, 2013	25
Understanding Blood Discovery	August 24, 2012	13
Webinar: Using Evidence Based Practices in Pretrial Decision Making	October 26, 2012	8
Westlaw Training Ethics Database	December 11, 2012	2
Work Furlough and Reach Out Programs	September 6, 2012	15

Organizational Chart



Managing for Results, Statistics and Budgeting

Managing for Results (MFR) has been in place for thirteen years. It continues to be the primary means of reporting Public Defender financial and statistical information to taxpayers and County management. MFR data reported includes projections and historical actuals for: case assignments (demand), case resolutions (output), expenses by case type (efficiency), and measures geared for demonstrating effectiveness and/or efficiency (result). As previously reported, the Office did revamp our MFR measures in 2010. The data trends resulting from the modified measures continue to be used in our ongoing efforts to monitor the quality of our representation. The ability to establish and monitor such trends proved critical in FY13. It enabled the Office to identify a dramatic increase in non-capital felony case demand along with a reduction in resolutions. As a result, we were able to justify a request for ten additional attorney positions.

Along with MFR, the Public Defender also uses a fifteen criteria case-weighting system. This additional system has been in use since FY10. Reports generated from this system provide department-wide and individual attorney reports to Office management and supervisors. These figures, used in conjunction with the supervisors' more-detailed understanding of their attorney's cases, help ensure workloads are not excessive for



any particular attorney. They also help inform supervisors which attorney(s) might have the ability to take additional cases.

Lastly, the Public Defender’s Office came in under budget in FY13. Although within budget, there was a continual struggle with the erratic nature of public defense representation. Throughout the fiscal year, the Office was plagued with increasing expert witness expenses and staffing issues. The dramatic demand increase referenced above created additional expert expenses. Further, higher hourly rates were increasingly requested by expert witness providers. Additional funds for expert witness expenses were requested for FY14 based on the trending increases. The Office also experienced increased turnover, coupled with salary compression issues that made it difficult to find, hire, and retain staff. Several initiatives were set in motion during the latter half of FY13 to alleviate the aforementioned staffing issues. We are hopeful that staffing/turnover levels will even out in FY14 as a result of these initiatives.

Budget Abstract

ACCOUNT	EXPENDITURES
SALARIES & BENEFITS	\$31,492,648.23
GENERAL SUPPLIES	\$377,359.25
FUEL	\$11,566.83
NON-CAPITAL EQUIPMENT	\$57,796.11
LEGAL SERVICES	\$1,585,434.56
OTHER SERVICES	\$408,133.71
RENT & OPERATING LEASES	\$65,422.34
REPAIRS AND MAINTENANCE	\$166.05
INTERNAL SERVICE CHARGES	\$583,132.88
TRAVEL	\$35,658.58
EDUCATION	\$102,267.26
POSTAGE/FREIGHT/SHIPPING	\$40,733.27
CAPITAL EQUIPMENT	\$0.00
VEHICLES	\$0.00
DEBT SERVICES (Technology Financing)	\$0.00
TOTAL EXPENDITURES	\$34,760,319.07

APPROPRIATIONS	AMOUNT
GENERAL FUNDS	\$33,395,940.00
TRAINING SPECIAL REVENUE FUND	\$479,705.00
FILL THE GAP SPECIAL REVENUE FUND	\$1,827,065.00
DEA GRANT	\$408,499.00
TOTAL APPROPRIATIONS	\$36,111,209.00

Statistical Abstracts

Cases Assigned

History of Cases Assigned by Case Categories FY08-FY12 Cases Assigned ^{1,2}					
Case Type	FY09	FY10	FY11	FY12	FY13
Capital	7	8	13	9	15
All other Homicide	160	126	129	151	128
Class 2-3 Felony	6,352	5,292	5,272	5,322	4,449
<i>Class 2-3 Felony - RCC/EDC</i>	2,835	2,579	2,191	1,996	1,715
<i>Class 2-3 Felony - Non RCC/EDC</i>	3,517	2,713	3,081	3,326	2,734
DUI	2,331	2,052	1,960	1,521	1,426
<i>DUI - RCC/EDC</i>	1,659	1,310	1,236	1,006	958
<i>DUI - Non RCC/EDC</i>	672	742	724	515	468
Class 4-6 Felony	16,776	14,279	13,574	13,206	13,429
<i>Class 4, 5, & 6 Felony - RCC/EDC</i>	13,061	11,344	10,269	9,751	10,163
<i>Class 4, 5, & 6 Felony - Non RCC/EDC</i>	3,715	2,935	3,305	3,455	3,266
Violation of Probation	15,235	12,216	12,259	13,358	13,922
Misdemeanor	3,176	2,896	2,763	2,157	2,329
Trial Division Total	44,037	36,869	35,970	35,724	35,698
Mental Health Total^{3,4}	3,453	3,572	3,521	0	0
Appeals (includes Capital)	371	467	380	272	224
Plea PCR (Appeal PCR)	243	374	191	175	168
Trial PCR (PCR)	70	133	75	78	72
Juvenile Appeal	38	23	1	0	0
Appeals Division Total	722	997	647	525	464
Total of Above	44,759	37,866	36,617	36,249	36,162

¹ Data after 2007 is updated as information available. Previous years data may not match older reports.

² Total cases opened minus cases closed during the time period with the following dispositions: no complaint, administrative transfer, and workload withdrawal cases.

³ Effective FY12 the Mental Health unit was transferred to the Office of the Public Advocate

Cases Resolved

History of Cases Resolved by Case Categories FY09-FY13 Cases Resolved ^{1,2}					
Case Type	FY09	FY10	FY11	FY12	FY13
Capital	8	21	10	4	8
All other Homicide	106	88	63	65	66
Class 2-3 Felony	4,276	3,929	3,342	3,409	2,756
<i>Class 2-3 Felony - RCC/EDC</i>	1,496	1,533	1,277	1,070	981
<i>Class 2-3 Felony - Non RCC/EDC</i>	2,780	2,396	2,065	2,339	1,775
DUI	2,007	1,738	1,588	1,275	1,034
<i>DUI - RCC/EDC</i>	1,266	1,091	957	736	648
<i>DUI - Non RCC/EDC</i>	741	647	631	539	386
Class 4-6 Felony	15,282	12,968	12,096	11,449	11,306
<i>Class 4, 5, & 6 Felony - RCC/EDC</i>	11,175	9,933	9,318	8,420	8,651
<i>Class 4, 5, & 6 Felony - Non RCC/EDC</i>	4,107	3,035	2,778	3,029	2,655
Violation of Probation	14,132	11,783	11,236	11,952	12,826
Misdemeanor	2,827	2,726	2,381	1,993	2,033
Trial Division Total	38,638	33,253	30,716	30,147	30,029
Mental Health ^{3,4}	3,358	3,510	1,110	0	0
Appeals (includes Capital)	334	441	379	310	270
Plea PCR	329	223	176	213	146
Trial PCR	47	64	61	41	23
Juvenile Appeals	22	41	5	1	0
Appeals Division Total	732	769	621	565	439
Total of All Above	42,728	37,532	32,447	30,712	30,468

¹ Data after 2007 is updated as information available. Previous years data may not match older reports.

² Case resolutions are total cases closed during the fiscal year, minus cases closed during the fiscal year that were not resolved by the office directly (i.e., reduced by cases in which no complaint is filed, private counsel is retained, conflict withdrawals, workload withdrawals, and transfers to another IR department).

³ Beginning FY09, Mental Health case assignment methodology was revised. In prior years, a new case was created in the event of Judicial Reviews, Annual Reviews or Review Status Hearings. The revised process and procedures have been changed so that when such events occur, the original case is reactivated instead of creating a new case in IRIS.

⁴ Effective FY12 the Mental Health unit was transferred to the Office of the Public Advocate.