

Annual Report

Maricopa County Office of the Public Defender

2013-2014

MARICOPA COUNTY OFFICE OF THE PUBLIC DEFENDER

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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. 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

In addition to pursuing the numerous evidence-based initiatives referenced in last year's Report, in the past fiscal year the MCPD has focused a number of efforts on reducing costs by using in-house resources. To this end, we (1) created a position-specific training program to increase the pool of qualified mitigation specialists that can be hired by the staffed offices; (2) conducted an analysis of our paralegal program to enhance support services and improve staffing efforts; (3) expanded use of paralegals through a series of hands-on training sessions focused on optimizing their talents; and (4) initiated a project for reducing our reliance on computer forensic experts and associated costs.

We also took a number of steps to address our responsibilities with immigration-related issues. Although the Office of the Public Defender trains all new attorneys regarding the immigration consequences of criminal convictions, the complexity and constantly changing nature of immigration law make it very difficult for criminal defense attorneys to provide up-to-date, accurate advice regarding this area of law, described as a "labyrinth," "second only to the Internal Revenue Code in complexity." *Castro-O'Ryan v. U.S. Dep't of Immigration & Naturalization*, 847 F.2d 1307, 1312 (9th Cir. 1987). In the past, an immigration consultant was available to defenders of the indigent throughout the State of Arizona to assist them in providing advice regarding the immigration consequences of criminal convictions. Since the elimination of that position, the Office of the Public Defender has made efforts to fill this void. During this fiscal year, the Office of the Public Defender sent an attorney supervisor with knowledge and experience related to immigration consequences of criminal convictions to a "Train the Immigration Trainer" seminar where the supervisor joined immigration point people from public defender offices throughout the country and learned about model criminal-immigration programs. The supervisor conducted trainings targeted to attorneys' specific area of criminal practice, including RCC, EDC, and trial group practice. The supervisor also developed an "Immigration Web Portal" available to the entire office with current information regarding the immigration consequences of criminal convictions.

Finally, we continued to hone evidence-based initiatives in Maricopa County's Problem Solving Courts. The Specialty Court Group worked with the Judiciary and Probation Department to target the right behaviors and give appropriate incentives and sanctions to higher risk probationers. In Drug Court there was a complete overhaul in their approach to high, medium and low sanctions. Similar modifications occurred in the Juvenile Transfer Offender Program as well as Domestic Violence Court.

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 further State and County budget issues, as well as a decrease in PDTF funding, MCPD continued to operate with several fiscal constraints. We used limited funds for both out-of-state travel and in-state training. Our conservative approach resulted in a training reserve of \$228,583 at the end of the fiscal year, which helps us start the new year on a strong footing.

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

We also train attorneys who have two to three years of experience by providing two courses that develop trial advocacy techniques: Spring and Fall Trial Colleges.

Spring Trial College is a two-day course that focuses on cross-examination, witness control, evidence, objections, impeachment, and motive and bias. We continued the money saving practice of using attorneys within the office to present short lectures and act as mentors. The participants met in small groups to apply the techniques learned. They cross examined, controlled, impeached, and showed motive and bias of witnesses. The witnesses were played by paid actors. Participants received feedback from mentor attorneys from our office, other indigent defense offices, and private practice.

Fall Trial College is a two-day course that focuses on Developing a Theme and Theory, Opening Statement, Jury Selection, and Closing Argument. It is taught by nationally known speaker Ira Mickenberg. Participants meet in small groups, bring a case of their own, and develop a theme through which to tell their clients' story of innocence in opening statement. They practice asking voir dire questions to expose jurors least open to believing their clients' innocence. Attorneys practice tying in the evidence and applicable law to support a legal theory of innocence in closing argument.

This year, we added two new multi-day courses to our curriculum: Sex Crimes College and Capital Mitigation Training.

Sex Crimes College is a fifteen-hour course for attorneys with at least a year of experience. Topics include understanding and protecting clients accused of sex crimes, explaining the elements and defenses to different types of sex crimes, practicing pretrial litigation, preparation for trial, conducting the trial, preparing for sentencing, making effective arguments concerning sex offender probation and registration, and understanding the collateral consequences faced by clients after a sex crime conviction. This course was taught by three experienced trial group supervisors from our office.

Capital Mitigation Training is a two-day course focused on the nuts and bolts of capital mitigation practice, as well as the practical application of capital mitigation theory. We brought in Lori James-Townes, Chair of the National Alliance of Sentencing Advocates and Mitigation Specialists, as our

keynote speaker. The course was attended by current mitigation specialists and possible future mitigation specialists, including students of Social Work and Psychology.

We supplement this training with the Arizona Public Defender Association (APDA) Annual Conference (which the MCPD 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 trainings on capital appeals and post conviction relief proceedings. The trainings have been well attended and received.

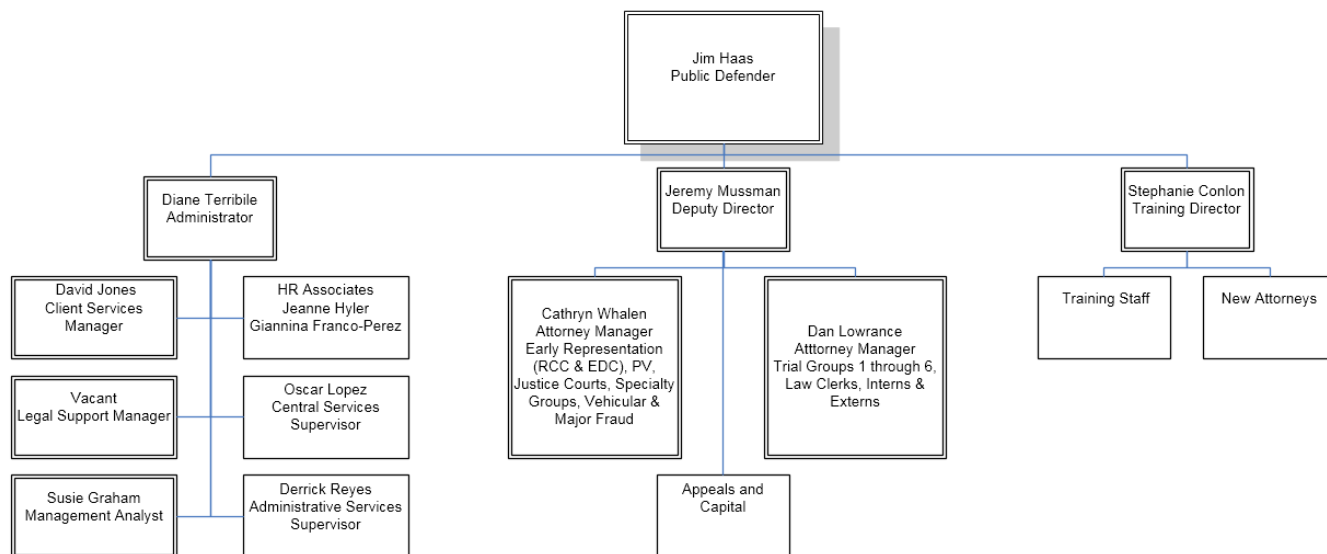
In summary, the Public Defender Training Fund remains a cost-effective and dynamic tool for training public defenders and staff.

Training Events Summary

TITLE OF CONFERENCE/ TRAINING	DATE(S)	# OF ATTENDEES
Adobe Professional Hands-On Class	October 30, 2013	10
ADP Timecard Training for Supervisors	July 17, 2013	19
Advanced Issues in Defending Employment Identity Theft Cases	December 6, 2013	20
Aggressive Defense of the Accused Impaired Driver 2014	May 16, 2014	19
APDA 12th Annual Conference	June 25-27, 2014	330
Arizona Secretary of State Notary Refresher	April 1, 2014	10
Arizona Veterans Stand Down	February 7, 2014	55
Arizona Veterans Stand Down (Make-Up Training)	February 12, 2014	11
Automatic Call Distribution Training	June 11, 2014 - June 20, 2014	89
Benefits Overview	April 15, 2014 - April 24, 2014	101
Capital Defense Webinar - Persuading Jurors that Mitigation Matters	July 16, 2013	18
Capital Direct Appeals and PCR Training	October 3, 2013	51
Capital Mitigation Training	April 14-15, 2014	72
Cold Expert Rebuttal Tools (Cert)	January 17, 2014	36
Criminal E-Filing Training	December 26, 2013	4
Death Penalty Conference	December 11-13, 2013	269
Defending the Guilty Except Insane Case	August 23, 2013	43
Deferred Compensation	January 24, 2014	7
Deferred Compensation Plan	April 9, 2014	9
Demonstration and Explanation of Ignition Interlock Device	March 28, 2014	28
DSM V Training	February 21, 2014	30
Dsm-5: Comparison And Implications For Addiction Professionals	July 31, 2013	0
Early Release For Non-Violent Offenders	October 1, 2013	10
Early Release For Non-Violent Offenders	October 25, 2013	32
Efiling In The Court Of Appeals With Bookmarks & Hyperlinks	September 25, 2013	26
Ethics As Applied To The High Volume Courts	June 4, 2014	27
Ethics As Applied To The High Volume Courts	June 12, 2014	9
Expanding Treatment: Affordable Care Act Can Impact Criminal Justice	July 29, 2013	12
Fall Trial College	November 21, 2013	31
GC-Fid Blood Testing For Alcohol	June 13, 2014	20
Guilty Except Insane for New Attorneys	February 11, 2014	8
I Have an iPhone 5.... What Happens Now	October 23, 2013	22
ICIS View Only for Public Defenders	July 11, 2013 - August 7, 2013	11
Immigration Consequences	May 8, 2014	6
Immigration Consequences	May 20, 2014	8
Interstate Compact	March 20, 2014	9

TITLE OF CONFERENCE/ TRAINING	DATE(S)	# OF ATTENDEES
Interstate Compact	March 21, 2014	10
Interview Techniques Part 1: Interviewing Witnesses, Victims and Civilians	November 7, 2013	23
Interview Techniques Part 2: Interviewing Police	October 22, 2013	25
Introduction Into JustWare for Attorneys	November 4 -8, 2013	169
Introduction Into JustWare for Records Staff	October 29, 2013 - November 7, 2013	45
Introduction Into JustWare for Staff	October 29, 2013 - November 1, 2013	133
iPhone Recording, Editing and Transcribing	January 16, 2014	16
IRIS - Adding Other Case People	August 27, 2013	1
IRIS - Case Management	July 10, 2013 - August 6, 2013	11
IRIS - Time Sheets	September 3, 2013	1
IRIS Potential Conflicts Process	September 10, 2013	24
JTOP Overview	December 3, 2013 - March 17, 2014	23
JustWare Hands On Class for Initial Services	December 4, 2013	10
JustWare Hands On Classes for Attorneys, Paralegals & Mitigation Specialists	February 12, 2014 - March 11, 2014	47
JustWare Hands On Classes Overview	February 26, 2014	9
JustWare Hands On Closing Cases	November 14, 2013	8
JustWare Hands On Conflicts Checks for Investigators	December 3-5, 2013	28
JustWare Hands On Opening and Closing Cases	November 5, 2013 - December 3, 2013	26
JustWare: Hands On Classes Opening and Closing Cases Refresher	March 11-13, 2014	37
JustWare: Time Tracking (Capital Attorneys)	February 3-10, 2014	11
JustWare: Time Tracking (Capital Mitigation Specialists)	January 16, 2014	9
JustWare: Time Tracking (Capital Paralegals)	January 15, 2014	7
Mexican Independence Day Diversity Event	September 17, 2013	0
New Attorney Training #1: Intro to Criminal Defense	July 22, 2013 - June 9, 2014	55
New Attorney Training #2: Pretrial Practice	August 27, 2013 - April 22, 2014	38
New Attorney Training #3: Trial Skills	July 15, 2013 - May 19, 2014	41
New Employee Computer Training / Scanners & ASRS Enrollment	July 11, 2013 - August 7, 2013	11
Professionalism Course	April 18, 2014	37
Public Defender New Employee Training	July 8, 2013 - June 10, 2014	47
Real Colors Fundamentals	September 24, 2013	21
Sex Crimes College Session A	February 28, 2014	43
Sex Crimes College Session B	March 7, 2014	43
Sex Crimes College Session C	March 14, 2014	31
Spring Trial College	April 3-4, 2014	38
Ten Ideas to Increase Productivity of Criminal Settlement Conferences	April 3, 2014	33
Third Annual Justice Court Training	August 16, 2013	24
Transitioning To WestlawNext	July 30, 2013	8
Victim Date of Birth Issues	April 8, 2014	18
Victim Date of Birth Issues	April 14, 2014	8
Victim's Compensation	November 1, 2013	19
Voir Dire	November 14, 2013	32
Westlaw Next Training	May 8, 2014 - February 19, 2014	36
Workforce Development and Community Services	May 28, 2014	11
Workplace Violence and Personal Safety	May 6, 2014	21

Organizational Chart



Managing for Results, Statistics and Budgeting

Managing for Results (MFR) 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). In FY14, the Public Defender's office converted to New Dawn's JustWare Defender case management system. The new system replaced the Indigent Representation Information System (IRIS), which was running on an outdated platform and had become structurally unstable. Reports generated from JustWare now enable the department to provide quality control checks during the statistical compilation process, thus resulting in cleaner and more reliable data reporting.



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 attorneys' cases, help ensure workloads are not excessive for any particular attorney. They also help inform supervisors which attorneys might have the ability to take additional cases.

Lastly, the Public Defender's Office came in under budget in FY14 despite several financial set-backs. Increasing expert witness fees referenced in last year's report continued to impact the Office despite the fact that an increase in funding was received for such expenses. In addition to expert witness fees, there was an unanticipated need related to the receipt of electronic discovery. The County

Attorney's Office determined that they would provide case-related documents and media (i.e., discovery) to defense attorneys electronically. This change in process created a need for additional staff, equipment, and supplies to print, sort, and deliver the electronic documents within compressed timeframes to ensure timely and effective legal representation. We are hopeful that budget issues will stabilize in FY15 and the office will be able to remain within established budget appropriations.

Budget Abstract

ACCOUNT	EXPENDITURES
SALARIES & BENEFITS	\$35,724,852.85
GENERAL SUPPLIES	\$405,336.53
FUEL	\$10,892.98
NON-CAPITAL EQUIPMENT	\$6,094.00
LEGAL SERVICES	\$1,614,945.74
OTHER SERVICES	\$458,519.57
RENT & OPERATING LEASES	\$80,530.77
REPAIRS AND MAINTENANCE	\$119,398.33
INTERNAL SERVICE CHARGES	\$661,575.07
TRAVEL	\$49,897.04
EDUCATION	\$103,793.64
POSTAGE/FREIGHT/SHIPPING	\$39,977.80
CAPITAL EQUIPMENT	\$0.00
VEHICLES	\$0.00
DEBT SERVICES (Technology Financing)	\$0.00
TOTAL EXPENDITURES	\$39,275,814.32

APPROPRIATIONS	AMOUNT
GENERAL FUNDS	\$37,560,850.00
TRAINING SPECIAL REVENUE FUND	\$550,697.00
FILL THE GAP SPECIAL REVENUE FUND	\$1,564,045.00
DEA GRANT	\$303,237.00
TOTAL APPROPRIATIONS	\$39,978,829.00

Statistical Abstracts

Cases Assigned

History of Cases Assigned by Case Categories FY10-FY14 Cases Assigned ^{1,2}					
Case Type	FY10	FY11	FY12	FY13	FY14
Capital	8	13	9	15	9
All other Homicide	126	129	151	128	125
Class 2-3 Felony	5,292	5,272	5,322	4,449	4,177
<i>Class 2-3 Felony - RCC/EDC</i>	2,579	2,191	1,996	1,715	1,659
<i>Class 2-3 Felony - Non RCC/EDC</i>	2,713	3,081	3,326	2,734	2,518
DUI	2,052	1,960	1,521	1,426	1,328
<i>DUI - RCC/EDC</i>	1,310	1,236	1,006	958	893
<i>DUI - Non RCC/EDC</i>	742	724	515	468	435
Class 4-6 Felony	14,279	13,574	13,206	13,429	13,650
<i>Class 4, 5, & 6 Felony - RCC/EDC</i>	11,344	10,269	9,751	10,163	10,044
<i>Class 4, 5, & 6 Felony - Non RCC/EDC</i>	2,935	3,305	3,455	3,266	3,606
Violation of Probation	12,216	12,259	13,358	13,922	14,000
Misdemeanor	2,896	2,763	2,157	2,329	2,261
Trial Division Total	36,869	35,970	35,724	35,698	35,550
Mental Health Total³	3,572	3,521	0	0	0
Appeals (includes Capital)	467	380	272	224	301
Plea PCR (Appeal PCR)	374	191	175	168	135
Trial PCR (PCR)	133	75	78	72	59
Juvenile Appeal	23	1	0	0	0
Appeals Division Total	997	647	525	464	495
Total of Above	37,866	36,617	36,249	36,162	36,045

¹ Data after 2007 is updated as information available. Previous year's 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 FY10-FY14 Cases Resolved ^{1,2}					
Case Type	FY10	FY11	FY12	FY13	FY14
Capital	21	10	4	8	5
All other Homicide	88	63	65	66	85
Class 2-3 Felony	3,929	3,342	3,409	2,756	2,633
<i>Class 2-3 Felony - RCC/EDC</i>	1,533	1,277	1,070	981	720
<i>Class 2-3 Felony - Non RCC/EDC</i>	2,396	2,065	2,339	1,775	1,913
DUI	1,738	1,588	1,275	1,034	1,004
<i>DUI - RCC/EDC</i>	1,091	957	736	648	503
<i>DUI - Non RCC/EDC</i>	647	631	539	386	501
Class 4-6 Felony	12,968	12,096	11,449	11,306	10,562
<i>Class 4, 5, & 6 Felony - RCC/EDC</i>	9,933	9,318	8,420	8,651	7,184
<i>Class 4, 5, & 6 Felony - Non RCC/EDC</i>	3,035	2,778	3,029	2,655	3,378
Violation of Probation	11,783	11,236	11,952	12,826	12,894
Misdemeanor	2,726	2,381	1,993	2,033	1,924
Trial Division Total	33,253	30,716	30,147	30,029	29,107
Mental Health^{3,4}	3,510	1,110	0	0	0
Appeals (includes Capital)	441	379	310	270	225
Plea PCR	223	176	213	146	161
Trial PCR	64	61	41	23	34
Juvenile Appeals	41	5	1	0	0
Appeals Division Total	769	621	565	439	420
Total of All Above	37,532	32,447	30,712	30,468	29,527

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

²Case 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).

³Beginning 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.

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