

# for The Defense



Volume 7, Issue 11 ~ November 1997

The Training Newsletter for the Maricopa County Public Defender's Office ~ Dean Trebesch, Maricopa County Public Defender

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## THE TOP TEN JUVENILE APPELLATE QUESTIONS

By Joel Glynn  
Deputy Public Defender

As many of you may know, I was assigned to do juvenile appeals, effective June 1, 1996. Since then, I have had three staples in my life: 1) A steady diet of juvenile appeals; 2) The Letterman Show every week-day night; and 3) A wave of questions from the private and public sectors about juvenile appellate-procedure. I think it's time, ladies and gentlemen, for "Joel's Top Ten" questions about juvenile appeals. I promise there will be no questions about Madonna.

**#TEN: I know that a juvenile has fifteen (15) days after the disposition hearing to file a Notice of Appeal. When does that 15-day period begin to run?**

A juvenile's right to appeal is authorized under Rule 25, Arizona Rules of Procedure for the Juvenile Court ("RPJC"). A Notice of Appeal must be filed within 15 days after the final order of the juvenile court is filed by the clerk. RPJC 25(a). The "final order" for purposes of RPJC 25(a) is the disposition order, because it is the "one that disposes of all issues. . . before the juvenile court." *In re Maricopa County Juvenile Action No. J-74222*, 20 Ariz. App. 570, 571, 514 P.2d 741, 742 (1973). The "final order" must be in writing and signed by the judicial officer. The "final order" may be in the form of either a minute-entry or separate written order prepared by counsel. RPJC 25(a). The significant date is not the day that the judge or commissioner signs the order. Rather, the important event is the filing date that appears on the final order. Therefore, the juvenile court's "final order" does not become appealable until it is 1) reduced to writing, in the form of either a minute-entry or order, 2) is signed by the judge, and 3) is filed-stamped by the clerk of juvenile court. For example, if the juvenile court judge signs the minute-entry or order on December 10, 1997, but the clerk does not file it until December 13, 1997, the juvenile has 15 days from December 13, 1997 or until December 28 to file a timely Notice of Appeal.

**#NINE: What happens if I don't file the Notice of Appeal until after the 15-day period has run? Can I ask for a delayed-appeal and where do I file my pleading?**

If you're late, you can still ask for a delayed appeal in juvenile court. However, you'll have to do some extra work.

The post-conviction relief procedures, a-la PCR (See, Rule 32.1(f), Arizona Rules of Criminal Procedure), are not available to your client in juvenile court, because

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the Arizona Rules of Criminal Procedure do not apply to juvenile proceedings. *State v. Berlat*, 146 Ariz. 525, 707 P.2d 303 (1985); *In re Appeal in Maricopa County Juvenile Action No. 86715*, 122 Ariz. 300, 594 P.2d 554 (App. 1979); *In re Appeal in Yavapai County Juvenile Action No. 7707*, 25 Ariz.App. 397, 543 P.2d 1154 (1975). Similarly, Rule 60(c), Ariz.R.Civ.P., does not govern a juvenile's right to a delayed appeal. *State v. Berlat*, 146 Ariz. at 508, fn. 1, 707 P.2d at 306, fn. 1. RPJC 25(a) and 29(b) now provide a procedure whereby an appeal that appears clearly untimely can be quickly referred to the Court of Appeals for consideration.

As soon as you discover that a Notice of Appeal was not filed, quickly file one with the Clerk in juvenile court. Contemporaneously file a Motion to Excuse Untimely Notice of Appeal, or its equivalent, and a Designation of Transcript and Record form with the clerk of juvenile court. Attach an affidavit to the motion, explaining why the failure to file a timely Notice of Appeal was the result of "excusable neglect." RPJC 29(b). You must also demonstrate due diligence.

"Excusable neglect" has been defined as "reasonable and foreseeable neglect or inadvertence." A.R.S. 12-821(A); *Pritchard v. State*. 161 Ariz. 450, 778 P.2d 1346 (App. 1989). The standard for determining whether conduct is "excusable" is whether the neglect or inadvertence is such as might be the act of a reasonably

prudent person under the same circumstances. *City of Phoenix v. Geyler*, 144 Ariz. 323, 697 P.2d 1073 (1985); *Coconino Pulp and Paper Company v. Marvin*, 83 Ariz. 117, 317 P.2d 550 (1957). What are those standards?

Arizona appellate courts have found excusable neglect: 1) where the attorney had been using established office procedures designed to ensure a timely response, "but was deflected by one of the many interruptions that beset practitioners in modern legal practice" (*Addison v. Cienega, Ltd*, 146 Ariz. 322, 705 P.2d 1373 (App. 1985)); or 2) where the "mistake or neglect . . . was a type of clerical error which might be made by a reasonably prudent person who attempted to handle the matter in a prompt and diligent fashion." *City of Phoenix v. Geyler*, *supra*.

**Arizona courts have been historically unforgiving, however, when faced with an attorney's legal error in reading the statutes and case law.**

Arizona courts have been historically unforgiving, however, when faced with an attorney's legal error in reading the statutes and case law. See generally, *Ellman Land Corporation v.*

*Maricopa County*, 180 Ariz. 331, 340, 884 P.2d 217, 226 (App. 1994). Don't hold your breath if your only excuse is that you waited to receive the court's signed minute-entry or order before you filed your client's Notice of Appeal. In *M & M Auto Storage Pool, Inc. v. Chemical Waste Management, Inc.*, 164 Ariz. 139, 791 P.2d 665 (App. 1990), M & M's attorney claimed "excusable neglect" because he thought he could rely on receipt of the trial court's minute-entry. The Arizona Court of Appeals rejected that argument, holding that "We do not view counsel's reliance on a minute entry and failure to obtain a final resolution of the special action for almost two months as excusable neglect for purposes of Rule 60(c)(1) [A.R.C.P.]." 164 Ariz. at 142, 791 P.2d at 668.

You're not dead in the water, however, if you claim that you never received the court's signed minute-entry or written order. The Arizona Supreme Court in *Park v. Strick*, 137 Ariz. 100, 669 P.2d 78 (1983) held that where an aggrieved party shows that he had no knowledge that judgment had been entered and asserts additional reasons that are "so extraordinary as to justify relief," the trial court may vacate judgment in a civil case and re-enter a new judgment in order to allow that party to file a delayed appeal. However, that same party may not be entitled to relief, if the *only* complaint is that counsel did not get the form of notice to which a party is entitled by the rule requiring the clerk to mail copies of minute-entries to all parties (Rule 77(g), Ariz.R.Civ.P.).

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*for The Defense* is the monthly training newsletter published by the Maricopa County Public Defender's Office, Dean Trebesch, Public Defender. *for The Defense* is published for the use of public defenders to convey information to enhance representation of our clients. Any opinions expressed are those of the authors and not necessarily representative of the Maricopa County Public Defender's Office. Articles and training information are welcome and must be submitted to the editor by the 10th of each month.

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In my judgment, the court's reasoning was sound:

" . . . an attorney has a duty to insure that 'matters subject to prescribed time limits are acted upon within those limits, or that other appropriate action is taken to preserve [a] client's rights.' *Kiefer v. May*, 22 Ariz.App. 567, 569, 529 P.2d 721, 723 (1974). Rule 77(g) clearly implies that a party has the duty to take legal steps to protect his or her interests and cannot simply rely on the court to provide notice."

137 Ariz. at 104, 669 P.2d at 82.

"[In instances] where the complaint is only that the party did not have or get formal notice to which a party is entitled by Rule 77(g), the relief is not available."

(Id.).

What are these additional "extraordinary" reasons that justify a delayed appeal? In order to prevail, you must show that you exercised due diligence and that you made some effort to find out if the juvenile court issued the signed minute-entry or order. For example, you must show that you regularly contacted the clerk's office to determine the status of the case (*Buckeye Cellulose Corp. v. Braggs Electric Construction Co.*, 569 F.2d 1036 (8th Cir. 1978)); or repeatedly searched for, or reviewed the court file (*Davis v. Davis*, 143 Ariz. 54, 691 P.2d 1082 (1995)); or regularly contacted the court's judicial assistant to determine if the minute-entry or order had been signed and filed by the clerk. Simply put, you will not be granted a delayed appeal if you were careless and took no action to see if the juvenile court issued a signed minute-entry or order.

The Presiding Juvenile Court Judge will transfer your Motion to Excuse Untimely Notice of Appeal (with attachments) and the State's response, if any, to the Arizona Court of Appeals for consideration. With the permission of the Juvenile Court Judge, the clerk of juvenile court will forward to the clerk of the Court of Appeals, an abbreviated record consisting solely of certified copies of the order from which the appeal was taken, the Notice of Appeal, and an index identifying such items by filing date. RPJC 25(a). The Court of Appeals will either rule on the pleadings, or stay the appeal and

remand your case to the Presiding Juvenile Court Judge for a hearing on the issue of whether or not your failure to file a timely Notice of Appeal was the result of "excusable neglect." The Court of Appeals may also direct the presiding judge to refer his/her written findings to that court by a specific date for purposes of ruling.

**# EIGHT: Is it the clerk's responsibility or the counsel's responsibility to include the transcripts of reported proceedings in the record on appeal?**

Currently, it is the responsibility of counsel.

No later than five (5) days after the filing of the Notice of Appeal, appellant shall file and serve on the court reporter or word processing personnel of the juvenile court (if the proceedings were tape-recorded), a Designation of Transcript form. The Designation of Transcript " . . . shall specifically identify the proceedings constituting the presumptive transcript by date or dates. . ." RPJC 25(e). The presumptive transcript in a delinquency case includes the adjudication and disposition hearings (RPJC 25(d)(1); and the probable cause and transfer phases of the transfer hearing in a transfer appeal. (Id.). If a transcript of other proceedings is deemed necessary for the appeal, you may include those transcripts in the record on appeal by specifically listing the date or dates of the additional proceedings on the Designation of Transcript form. RPJC 25(e).

**Simply put, you will not be granted a delayed appeal if you were careless and took no action to see if the juvenile court issued a signed minute-entry or order.**

You can comply with the service requirement of RPJC 25(e) by mailing a copy of the Designation of Transcript form to the court reporter(s). RPJC 29(a); Rule 5(c), Ariz.R.Civ.P.. The Designation of Transcript should also identify the name and address of the court reporter(s) and the date of mailing on a certificate of mailing attached to the Designation of Transcript. Alternatively, counsel should send a cover letter and the Designation of Transcript form to the court reporter(s), 1) requesting the court reporter(s) to prepare and file the transcript(s) and 2) directing the court reporter(s) to deliver a copy to counsel at a referenced address.

The court reporter has 30 days to prepare the transcript after service of a Designation of Transcript form. RPJC 25(c).

Be sure to file the Designation of Transcript and cover letter, if one is sent, with the clerk of the juvenile court. You will protect the record, and something else, if you take the time to file these important forms with the

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clerk. You can demonstrate that you complied with the Rules of Procedure for the Juvenile Court and satisfied your professional obligation by directing the court's attention to this paper trail in the appellate record, if a problem ever occurs.

**# SEVEN: Is the juvenile's Red File or Social File a part of the presumptive record on appeal?**

The juvenile's Social File is also called the Red File, because all the reports that constitute the Social File are actually housed in a file that is red in color. The Social File is different from the Legal File. The Social File contains the disposition report(s), written reports of any psychological examination(s) conducted on the juvenile, counseling reports, school records, and any related correspondence. The Legal File includes all motions, pleading, minute-entries, and court orders filed in the case.

The juvenile's disposition report is the functional equivalent of a pre-sentence report in adult court. The disposition report is prepared by the juvenile's assigned probation officer. Currently, the Social File is NOT part of the presumptive record on appeal. Put another way, it is not automatically included in the record on appeal. If you want to include the Social File in the record on appeal (because you have an issue regarding the disposition (sentence) imposed on your client), you must designate the Social File in the Designation of Record form.

The Designation of Record form must be filed with the clerk of juvenile court no later than five (5) days after the Notice of Appeal is filed. RPJC 26(a). What do you do, however, if the initial Designation of Record form did not include the Social File and the five (5) day deadline has already passed? I have seen two different but successful approaches taken to cure this problem: 1) Immediately file an Amended Designation of Transcript with the clerk of juvenile court, designating the inclusion of the juvenile's Social File; or 2) Immediately file a Motion to Supplement the Record on Appeal with the clerk of the court of appeals, indicating that the Social File was not included in the record on appeal, that a prospective issue on appeal involves the disposition imposed on your client, and that the Social File is an "additional document. . . or item. . . actually considered by the juvenile court." (Id.).

**# SIX: If I discover that a designated transcript was not filed with the clerk of the Court of Appeals and my Opening Brief is now due within 20 days, do I file a Motion to Vacate Notice of Completion of Record with the clerk of the Court of Appeals?**

No. Pursuant to amended RPJC 26(f) and (g), it is the service of a Designation of Transcript that imposes on the court reporter the duty to prepare, file, and distribute the designated transcript within thirty (30) days of service. A court reporter on whom no Designation of Transcript form has been served has no such obligation under the Rules.

After the appeal has been docketed, the clerk of the Court of Appeals will file the record as received and immediately mail notice to all parties of the date on which the appeal was docketed. RPJC 26(c). Appellant's Opening Brief must be filed with the Clerk of the Court of Appeals within twenty (20) days after the mailing of this notice required by RPJC 26(c). RPJC 27(b).

The notice contemplated by RPJC 26<sup>®</sup> merely notifies counsel that the record has been filed, not that it is "complete." The running of the 20-day period for filing Appellant's Opening Brief in the Court of Appeals is not affected by the lateness or absence of a transcript. See, Rule 27(b), *supra*<sup>1</sup>.

If a transcript is missing when the Opening Brief is due, do not file a Motion to Vacate Notice of Completion of Record. Rather,

immediately contact the court reporter, discuss the missing transcript(s), and determine when the court reporter can file the original transcript with the Court of Appeals and deliver a copy to you. If the court reporter can not file the original transcript and deliver a copy to you before the Opening Brief is due, you can file a Motion for Extension of Time to file the Opening Brief with the clerk of the Court of Appeals. RPJC 27(b). Pursuant to policy (effective December 7, 1995), however, Division One of the Court of Appeals will grant one extension of time for

**If you want to include the Social File in the record on appeal . . . you must designate the Social File in the Designation of Record form.**

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<sup>1</sup>In this regard, the Rules of Procedure for the Juvenile Court (as amended effective June 1, 1996) differ from Rule 31.10, *Arizona Rules of Criminal Procedure*. Unlike RPJC 26(c), Rule 31.10, *supra*, requires the "clerk of the appellate court . . . to immediately give notice to all parties of the date on which the *record is complete*."

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good cause. You should therefore advise the court of appeals in your Motion for Extension of Time that you filed and served a copy of the Designation of Transcript on the court reporter (remember, I told you to file this form and the certificate of mailing with the clerk of the juvenile court so that it would become a part of the record); that you discussed the matter with the court reporter, and that the court reporter advised you that the transcript would be filed with the clerk and a copy delivered to you (counsel) by a specific date. This approach will show due diligence on your part, constitute good cause, and increase the prospect that your Motion for Extension of Time will be granted.

Remember, the Court of Appeals may issue appropriate orders or impose sanctions against a non-complying court reporter or word processing personnel of the juvenile court, if a transcript that is requested in a Designation of Transcript is not timely filed with the clerk of the Court of Appeals. RPJC 25(j). You may wish to remind the court reporter that this sanction exists.

**# FIVE: I know that my Opening brief is due within twenty (20) days after the Court of Appeals mails notice pursuant to RPJC 26(c). Do I get an extra five (5) days to file the Opening brief, because the court mailed the notice?**

No. The Opening brief must be filed with the clerk of the court of Appeals within 20 calendar days after the mailing of the notice required by RPJC 26(c). The twenty (20) day-deadline runs from the date of the Notice and not from the date on which counsel received the Notice. The 20-day deadline is not extended by five (5) days to compensate for the court's mailing of notice. If the twentieth day falls on either a week-end or legal holiday however, the Opening brief is due by the next business day.

**# FOUR: Do I continue to use the juvenile court docket number (e.g. JV-12345) as the caption of the appeal?**

No. RPJC 24(a) was amended on June 1, 1996 in order to facilitate remembering, citing, and discussing published opinions resolving juvenile appeals. If the Notice of Appeal was filed on or after June 1, 1996, the Notice of Appeal in a delinquency matter should be

captioned using the first name and the first letter of the juvenile's last name. For example:

**In Re: Madonna X. (Ooops!)**

**# THREE: At the conclusion of the disposition hearing, the judge placed the juvenile on probation and set a restitution hearing at a future date. Do I file one Notice of Appeal after the disposition hearing in order to appeal the adjudication and disposition orders and a second Notice of Appeal after the restitution hearing in order to appeal an adverse restitution order?**

No. A Notice of Appeal must be filed within 15 days after the final order of the juvenile court is filed by the clerk. RPJC 25(a). Again, the "final order" for purposes of RPJC 25(a) is the disposition order, because it is the "one that disposes of all issues . . . before the Juvenile Court." *In re Maricopa*

*County Juvenile Action No. J-7422*, 20 Ariz.App. 570, 571, 514 P.2d 741, 742 (1973). A Notice of Appeal filed within 15 days after the entry of the disposition order is timely as to both the adjudication order and the disposition order. ( *Id.* ). Because the order denominated "disposition" is interlocutory in nature when restitution remains an unresolved issue, a juvenile's disposition is not final until restitution has been considered and ruled upon. *In re Eric L.* , 241 Ariz. Adv. Rep. 8 (CA 1, 4/17/97). Consequently, when the issue of restitution remains an open question and/or a hearing on the issue of restitution is set at a future date, the final order for purposes of RPJC 25(a) is the restitution order. Therefore, no appeal can be taken until the restitution order has been entered. The Notice of Appeal should be filed within 15 days after the written restitution order is signed by the judicial officer and filed by the Clerk. If the Notice of Appeal is filed within 15 days after entry of the restitution order, it would be timely as to 1) the adjudication order, 2) the disposition order, and 3) the restitution order. *In re Eric L, supra*. This avoids piecemeal litigation on appeal. Cf. *In re Appeal in Maricopa County Juvenile Action No. 74222, supra*.

**# TWO: If the Court of Appeals renders a decision, affirming the orders of the juvenile court, can I file a Motion for Reconsideration in the Court of Appeals?**

No. A Motion for Reconsideration in a delinquency matter may not be filed in the Court of Appeals. RPJC 28(a). Filing a Motion for Reconsideration of the Court of Appeals' decision not only

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**Filing a Motion for Reconsideration of the Court of Appeals' decision not only violates the Rules, but also fails to toll the period of time to file a Petition for Review.**

violates the Rules, but also fails to toll the period of time to file a Petition for Review. If you disagree with the Court of Appeals' decision, your remedy is to file a Petition for Review of the case by the Arizona Supreme Court. (Id.). The Petition for Review should be filed with the clerk of the Court of Appeals within thirty (30) days "after the clerk of the court of appeals has given notice that a decision disposing of the appeal has been rendered." (Id.). In other words, the Petition for Review is due within 30 days of the date of the Court of Appeals' decision. Unlike the 20-day time period to file the Opening brief, the 30-day deadline to file the Petition for Review is extended by an extra five (5) days to compensate for the mailing of the Court of Appeals's decision.

**And now, Ladies and Gentlemen, the NUMBER ONE QUESTION about juvenile appeals is: Will next season's Fall line-up include a spin-off sitcom called "Married with Delinquents", starring Bud Bundy? ■**

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## **FROM THE CITY DESK. . . REINSTATEMENT OF LICENSE**

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**By Gary Kula, Executive Director  
City of Phoenix Public Defender  
Contract Administrator's Office**

**I**t has never been, and it never will be, easy for our clients to get their driving privileges reinstated following a period of revocation. Because it is a difficult process, your client cannot afford to wait until the end of the revocation period to start making plans for reinstatement. The best strategy is to advise clients up front, at the time of sentencing, what will be required in order for them to have a fighting chance at reinstatement. A reinstatement/investigation packet must be obtained from MVD and completed as part of the application process.

The threshold eligibility requirements and criteria which must be met in order for your client to submit a reinstatement application/investigation packet to MVD are:

- 1) The minimum revocation period has elapsed.

- 2) If your client's driving privileges were also suspended for a designated period, the suspension must have elapsed before the ending date of the revocation. If there is a judgment suspension outstanding, it must be satisfied prior to the submission of the application packet. If there is a current mandatory insurance or financial responsibility suspension, a reinstatement application may still be submitted. However, SR22 insurance will be required as a condition of reinstatement.

- 3) If your client's driving privileges are withdrawn in another state, they must first be reinstated. A letter of clearance from the licensing authority must be included in the reinstatement/investigation packet.

- 4) All warrants and pending traffic complaints/violations must be court-satisfied.

- 5) If your client was issued a citation for any traffic violation during the period of revocation, they may not apply for reinstatement until one year after the date of the violation. This is consistent with the "like period of revocation" which is stacked on for each violation of A.R.S. § 28-3173.

If your client meets all five of these criteria, they can apply for reinstatement, and begin the process of completing the three-part packet.

The first part of the packet is a court compliance letter which documents your client's completion of alcohol screening, as ordered as part of the sentence for the DUI conviction. This letter can be filled out by a court clerk, a parole officer, a probation officer, a judge or other official, as long as it documents completion of both the screening, and any required treatment or educational program.

The second part of the packet is an investigation affidavit which must be completed by your client. It includes a release of information form for your client's substance abuse counselor to divulge information to MVD as to screening results, treatment history, and prognosis. This section requires your client to list all alcohol and drug related offenses, DUIs, and all traffic citations or any violations which may have occurred during the period of revocation. The remaining questions in this section inquire about employment status, probation/parole status, whether your client has any medical conditions which affect their ability to safely operate a motor vehicle, and whether your

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client has driven a vehicle, and why, during the period of revocation. This section ends with two questions which are oftentimes the death knell of the application. The first question requires self-disclosure about the number times in the past twelve months your client has consumed alcohol and the explanation for that consumption. The second question asks about all instances of drug use in the past twelve months and the explanation for such use.

There is nothing in the reinstatement packet or in any of the MVD policy handbooks that states that total abstinence from alcohol is required for reinstatement. Your client should know, however, that they do not stand much of a chance of getting their driving privileges reinstated unless they can document either complete abstinence from alcohol or that their minimal consumption is limited to exceptional situations.

Once this client information/disclosure section is completed, a certification must be signed. The certification contains a warning that any false or misleading information in the application will not only result in a denial of reinstatement, but that such actions may also be punishable under one of the following statutes, A.R.S. § 28-471.4 (making false statement or committing fraud on application), A.R.S. § 28-472 (making a false affidavit, perjury), A.R.S. § 13-2407 (tampering with public record), A.R.S. § 13-2702 (perjury) and A.R.S. § 39-161 (presentment of false instrument for filing).

The final part of the packet requires an evaluation by a certified substance abuse counselor (A.R.S. § 28-448B). As part of this evaluation, your client will be required to complete two standardized testing instruments (Mortimore Filkins, SASSI, MAST, or the DRI). These tests are used to assess a number of factors related to dependency, stress, driving habits, personality traits, addiction, and the likelihood of relapses/recidivism. The counselor is also required to complete a diagnostic impression, an evaluation of the client's relapse history, and an overview of the client's family substance abuse history. The counselor must also include a summary of the client's substance abuse treatment and support group history. Once the testing is completed, background information compiled, and treatment needs assessed, the counselor will render an opinion as to prognosis and make a recommendation as to treatment, if any. This sets the groundwork for the final and most important part of the evaluation. The counselor must state their opinion as to whether your client's "condition" affects their ability to safely operate a motor vehicle. If the counselor answers in the affirmative, your client will not be reinstated. Your

client had better start some type of treatment program or support group, as noted in the counselor's recommendations, if they want to have any chance of reinstatement any time soon. If the counselor indicates that the condition does not affect your client's ability to safely operate a motor vehicle, the chances of at least a partial reinstatement (e.g. work permit) are quite favorable.

At the present time, the turn-around time for MVD to evaluate the reinstatement packet and inform your client of their decision is less than one week. If an order of denial is entered, your client should request a hearing with the Office of Administrative Hearings to contest that decision. At that hearing, your client will have an opportunity to present testimony, perhaps a reevaluation, letters, and any other evidence which demonstrates that their condition does not affect their ability to safely operate a motor vehicle. What you need to remember is that the key to the application process and the hearing, is the counselor's ultimate opinion as to your client's condition and ability to safely operate a vehicle.

**What you need to remember is that the key to the application process and the hearing, is the counselor's ultimate opinion as to your client's condition and ability to safely operate a vehicle.**

When you look at this whole process of requesting reinstatement, the best advice you can give your clients is to: 1) not get behind the wheel during the period of revocation, 2) complete the alcohol screening and any required education or treatment as soon as possible, and 3) refrain from alcohol use and become actively involved in some type of support group (e.g. Alcoholics Anonymous, Narcotics Anonymous). These actions will demonstrate to MVD and the substance abuse counselor that the mistakes made in the past will stay in the past. Clients who wait until a month before their revocation ends and then start a treatment program or a support group, will find that neither the substance abuse evaluators nor MVD will be convinced of rehabilitation, and that most likely, their application for reinstatement will be denied.

In summary, reinstatement following revocation is not easy, but it is possible. The entire process is workable, provided your client knows what to do and when to do it. ■

A graphic featuring a turkey head in a circular frame on the left, with the word "Happy" in a stylized font overlapping it. Below this, the word "Thanksgiving" is written in a large, bold, sans-serif font.

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## SELECTED 9<sup>TH</sup> CIRCUIT OPINIONS

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By Louise Stark  
Deputy Public Defender - Appeals

*Franklin v. Henry*, 122 F.3d 1270 (9th Cir. 1997)

Improper exclusion of evidence resulted in reversal of conviction. Defendant Franklin was accused of sexual abuse of a five year old girl. For 4 months he and his six year old daughter lived with the parents and three children who made up the victim's family. He was often alone with the victim and two male children. Eventually there was some tension among the adults, including the wife's parents, so he moved out. There was never any hostility or complaints from the children, and they missed him after he'd gone. The five year old girl believed she'd seen defendant kissing her mother, but this was denied all around. Five months after he left, the victim's mother reported the victim's accusation that Franklin made her engage in fellatio and cunnilingus. When the child would only say that Franklin did something "gross," they had the mother speak to her in private again. After 40 minutes the victim now said the licking happened many times, and added that he 'humped' her. A physical examination yielded results that one expert deemed evidence of injury by penetration, now healed. After two other experts deemed the physical findings normal, the first agreed.

Franklin proffered evidence that the victim once reported that her own mother "licked her private." He also wanted to introduce his own comment to police that if he'd "believed everything the kids said, [the mother/wife] would be in jail herself." Both statements were precluded.

In post trial proceedings it came out that: 1) the wife, who repeatedly interviewed the child and reported the statements, was a victim of child molestation, and sat in court as the victim testified, and 2) details of the child's allegations would change as the child witnessed her reactions and distress. The trial was a credibility contest between the victim and defendant. This court felt that the excluded evidence might have made a difference in the verdict and reversed.

*United States v. Soliz*, 1997 U.S. App. LEXIS 31788

Appeal from conviction for transporting illegal aliens. The search was not in violation of the Fourth Amendment but statements were obtained in violation of Miranda rights.

Border Patrol agents secured the chain-link fence and gated back driveway entrance to the suspect's property, which gave a full view of the open gravel parking area from the public alley. The property consisted of a two-story building at the front of the lot, and a open-story duplex in back, where the targeted apartment was, entirely surrounded by the chain link. Pedestrians had access from a gate on the street, which was broken and laying along the fence on the day of the arrest and search. There were no signs restricting or forbidding entry. While agents secured the alley others entered [apparently through the front gate] and headed to the rear apartments. In the parking area an agent saw three people inside the trunk of a car which Defendant began to close. After identifying himself and ordering Soliz to stop, the agent spoke with the three people and determined they were foreign nationals in this country illegally.

The 9th Circuit upheld the district court's denial of the motion to suppress evidence found at the property on the basis of a warrantless search in violation of the Fourth Amendment. The case reviews the four-factor factual test for whether the area was within the "curtilage" of the home where the resident may reasonably expect the area to be treated as the home itself for Fourth Amendment protections. The four factors are: 1) proximity to the home, 2) whether it is in an enclosure surrounding the home, 3) what type of activities or purposes occur on that area, 4) what steps are taken by the resident to protect the area from observation from outside the property. The Court of Appeals agreed with the trial court that the parking area was not "curtilage."

While in custody, agents asked Defendant if he wanted to make a sworn statement regarding his citizenship and nationality and his activity at the apartment. When he agreed he was advised of his Miranda rights, then again asked if he was willing to make a statement. This time he specifically agreed to talk only about his citizenship, which the court found to be a legitimate selective waiver of his Fifth Amendment rights and "an unequivocal invocation of [his] right to remain silent on all issues, except his citizenship." The officers told him they would question him about alien smuggling even after his limiting comment, and when he again limited the scope, the officer reminded Soliz that he'd been told they wanted to question him about activities at the apartment, and would ask those questions. Soliz then made admissions about his role in the transporting of illegal aliens, which the trial court refused to suppress. On that basis, the conviction is reversed.

*Mach v. Stewart*, 1997 U.S. App. LEXIS 30803.

(cont. on pg. 9) ¶¶

Arizona conviction for sexual conduct with a minor is the subject of this appeal from the federal district court's denial of habeas petition. The 9th Circuit reversed as error the district court's denial of the petition based on the claim that he was tried by a biased and tainted jury in violation of due process. This court reversed and remanded for a new trial in state court.

The first juror to be questioned in voir dire was a social worker for Az. CPS who said: 1) she would have a difficult time being impartial because of her work, 2) every report she'd seen of sexual assault was confirmed, 3) that in her work she'd never seen a case where a child lied about sexual abuse (stated at least three more times) and, 4) she'd had child psychology courses and worked extensively with psychiatrists and psychologists. When asked if she could determine whether or not defendant was guilty by looking by the evidence and arguments of counsel, she agreed that she "probably could." A defense motion for mistrial, based on the argument that the exchange tainted the entire panel, was denied. The juror was struck for cause. No other jurors responded when the court asked if anyone disagreed with the juror's opinions.

The 9<sup>th</sup> Circuit Court noted that the minimal action required by the trial court was further voir dire to see if the panel was tainted. Given the force and repetition of the juror's statements the court "presume[d] at least one juror was tainted and entered into jury deliberations with the conviction that children simply never lie about being sexually abused. This bias violated [the] right to an impartial jury." This was structural error, not subject to a harmless error analysis or standard, and required reversal.

*Corado-Durazo v. I.N.S.*, 123 F.3d 1322

Permanent resident alien was convicted of solicitation to possess cocaine in Arizona Superior Court. In an immigration hearing, the conviction was held to be a "deportable offense." The definition of "deportable offense used was: "a violation of (or a conspiracy or attempt to violate) any law or regulation relating to a controlled substance." Because only a completed, attempt or conspiracy drug offense was listed, and based on the elements of solicitation in our law, this was not a deportable offense under this section. The order of deportation was vacated. ■

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## THE COURTHOUSE EXPERIENCE

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Attorneys are needed to introduce young people throughout the Valley to the legal profession. Each year, the Superior Court sponsors an educational program called "The Courthouse Experience." This program pairs a 6th through 12th grade class with an attorney who provides the students with a guided tour of the courthouse. During the last seven years more than 29,800 students in Maricopa County have gained a better understanding of the courts, and the legal profession, through the Courthouse Experience.

Typically, the attorney will meet the class in the lobby of the Central Court Building and take them to observe a criminal morning calender. After court, the attorney holds a question and answer session. The time commitment is approximately two and a half hours. It is a wonderful opportunity to contribute to the next generation's education. The dates for participating will be worked out between the attorney and the classroom teacher so that there are no conflicts in scheduling. Attorneys who have participated in the program find it to be a positive and rewarding experience. If you are interested, all you have to do is fill out a postcard indicating your willingness to be involved. The postcards can be obtained from the Training Administrator, Lisa Kula. In past years, we have had great support for this worthwhile program, so let's continue this fine tradition. ■

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## BULLETIN BOARD

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### *Attorney Moves/Changes*

**Vernon Lorenz, Jr.**, Defender Attorney with Group C, left the office effective November 28.

**Chris Phillis**, Defender Attorney, transferred from SEF to the Dependency office on November 3.

**B. Scott Wolfram**, Defender Attorney with Group B, resigned from the office effective November 21.

### *New Support Staff*

**Jeffrey Force**, law clerk, will be arriving in Group D on December 10

(cont. on pg. 10) ☞

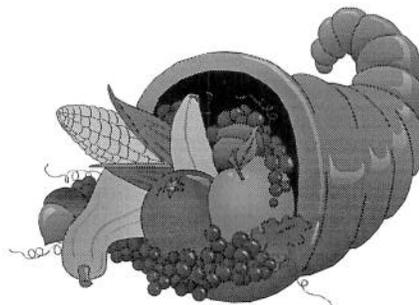
**Victoria Hernandez**, legal secretary, will be joining the office on December 1. She will be assigned to Trial Group A.

**Karen Jolley**, law clerk, will join the office on December 1. She has been assigned to Juvenile.

**Mike Skupin**, law clerk, will be joining the office in Group C, effective December 10.

#### *Support Staff Moves/Changes*

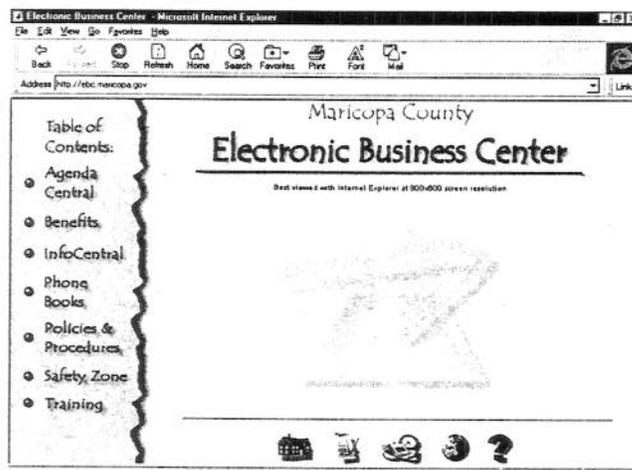
**Andrew Swierski**, Initial Services, left the office effective November 7. ■



## ***EBC.MARICOPA.GOV GOES LIVE!***

Experience the County's newest information resource using internet technology. All kinds of valuable information is now available at your fingertips --

WITH LOTS MORE TO COME!



Visit the SAFETY ZONE for safety information. INFOCENTRAL provides a variety of general County information, including a County organization chart, Board meeting dates, pay & holiday schedules and *Newsline*. Training catalogs and contacts are available at the TRAINING site. BENEFITS contains important info regarding current coverage plans and proposals for 1998. PHONE BOOKS hosts on-line, up-to-date telephone directories with employee and department numbers. You can search by first name, last name or even part of a name. A special telephone directory, WHO WHAT WHERE, presents the most sought after regional (county, city & state) contact information.

The EBC has been engineered to support the two most popular browsers on the market today: Internet Explorer 3.X and Navigator 3.X, both for Win 3.x, 95, and NT. If you currently have one of these browsers installed and configured on your computer, you are ready to begin exploring the EBC (recommended resolution 800X600). In the future, we will be implementing new features that leverage I.E.'s advanced capabilities. Therefore, we highly recommend using the I.E. browser - available at no cost to all County agencies. Contact Paul Allsing or Danica Bunjevic with comments/questions or use the EBC's Feedback feature.

## October 1997 Jury and Bench Trials

### Group A

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result: w/ hung jury, # of votes for not guilty/guilty	Bench or Jury Trial
10/09-10/20	Timmer/ Robinson	Dougherty	Hicks	CR 97-01890 3 Cts. Agg. Asslt/F2; 7 Cts. Endangerment/F2; Burg./F2; Res. Arrest; On probation with 2 priors/F6	Guilty on all counts	Jury
10/14-10/16	Rempe/ Robinson	Galati	McKessey	CR 97-02408 Burglary 2nd Degree/F3	Not Guilty	Jury
10/20-10/21	Farney/Neus	Sargeant	Georgelos	CR 97-03925 Agg. Asslt/F3; Kidnap/F4	Not Guilty	Jury
10/22-10/23	Passon & Timmer/ Neus	Skelly	Hernandez	CR 97-03285 POND with 2 alleageable priors/F4	Not Guilty	Jury
10/22-10/27	Tosto	Galati	Astrowski	CR 97-00568 3 Cts. Sex Conduct w/Minor/F2; 5 Cts. Child Molest/F2; Sex Abuse/F3; Indecent Exposure/F6; All dangerous crimes against children	Defendant pled no contest to 1 count-lifetime probation with no additional jail with state dismissing defendant's other 2 cases.	Jury
10/23-10/29	Porteous	Lewis	Lawritson	CR 96-00146 2 Cts. Agg. DUI/F4	Guilty	Jury
10/28-10/28	Green	Schwartz	Robinson	CR 97-03104 PODD/F4	Mistrial	Jury
10/30-11/4	Reece/Neus	Schwartz	Ryan	CR 97-04577 3 Cts. Agg. Asslt./F3D	Dismissal of 1 ct. Agg. Asslt Dang. Mistrial on remaining counts.	Jury

### Group B

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result: w/ hung jury, # of votes for not guilty/guilty	Bench or Jury Trial
9/26-10/2	Newhall	Hotham	Ditsworth	CR 96-07481 Manslaughter, Dangerous/F2	Not Guilty -- Guilty of lesser included Negligent Homicide	Jury
9/30-10/6	J. Brown	Martin	Granville	CR 95-03889B 7 Cts. Theft/F3 1 Ct. Conducting an Illegal Enterprise/F3	Guilty	Jury
10/1-10/8	Blieden	Hyatt	Boyle	CR 96-11907 Aggravated Assault, Dangerous/F3	Not Guilty	Jury

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result: w/ hung jury, # of votes for not guilty/guilty	Bench or Jury Trial
10/14-10/16	Kamin	McDougall	Pappalardo	CR 96-10938 Aggravated Assault while on release/F5	Defendant plead guilty to a Class 6 open prior to closing arguments.	Jury
10/15-10/21	Landry	Padish	Newell	CR 96-12384 2 Cts. Aggravated DUI/ F4	Count I - Mistrial (caused by prosecution witness) Count II - Directed Verdict	Jury
10/16-10/27	Lopez	Mangum	Morrison	CR 97-06524 Aggravated DUI/F4	Mistrial	Jury
10/20-10/20	Newhall/ Kasieta	Wilkinson	Droban	CR 97-01514 Selling Methamphetamines/F2	Mistrial	Jury
10/20-10/23	McCullough/ Kasieta	Hyatt	Gorman	CR 97-03897 Misconduct Involving Weapons/F4 Possession of Dangerous Drugs/F4 Possession of Marijuana/F6	Not Guilty - Possession of Dangerous Drugs and Possession of Marijuana Guilty - Misconduct Involving Weapons	Jury
10/20-10/30	Bublik	McDougall	Imbordino	CR 97-00382 Murder 1°/F1	Not Guilty -- Guilty of lesser included Murder 2°	Jury
10/21-10/22	Newhall/ Kasieta	Martin	Droban	CR 97-01514 Selling Methamphetamines/F2	Not Guilty	Jury
10/27-10/28	J. Brown	Hilliard	Davidon	CR 96-04198 2 Cts. Aggravated Assault/F3 1 Ct. Misconduct Involving Weapons/F4 1 Ct. Escape 2°/F5 1 Ct. Possession of Marijuana/F6	Not Guilty - Escape Guilty - 1 Ct. Aggravated Assault/Non-Dangerous Guilty - Possession of Marijuana 1 Ct. Aggravated Assault and Misconduct Involving Weapons dismissed before trial.	Jury
10/27-10/31	Siegel/ Castro	Stitch	Cappellini	CR 97-05124 Aggravated DUI/F4	Guilty	Jury
10/28-10/29	Navidad	Dougherty	Lynch	CR 97-06072 Misconduct Involving Weapons/F4 w/1 prior	Not Guilty	Jury
10/28-10/30	O'Donnell & Grant/ Kasieta	Skelly	Rea	CR 96-05989 Burglary 2°/F3 Theft/F3 Possession of Marijuana/F6 w/2 priors	Not Guilty - Burlary 2° Hung - Theft Guilty - Possession of Marijuana	Jury

## Group C

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result: w/ hung jury, # of votes for not guilty/guilty	Bench or Jury Trial
9/29 - 10/6	Gaziano	Araneta	Sukenic	CR 97-91497 Atmpt. to Comm Murder/F2D	Guilty	Jury
9/30 - 10/6	Stinson	Aceto	Schiffman (AG)	CR 97-90997 8 cts. Sale of ND/F2	Guilty on 8 counts	Jury
10/1 - 10/2	Mackey/ Breen	Galati	Vincent	CR 97-94088 Forgery/F4	Not Guilty	Jury
10/6 - 10/8	Mackey	Araneta	Goldstein	CR 97-91636 Theft/F6	Not Guilty of Felony Guilty of cl.1 Misdemeanor	Jury
10/6 - 10/8	Squires	Ishikawa	Woodburn	CR 97-90077 PODD/F4	Not Guilty	Jury
10/9 - 10/17	Coolidge/ Thomas	Hendrix	Gann	CR 97-90204 Agg DUI/F4 BAC over .10/F4	Guilty on both counts	Jury
10/23 -	Squires	Hendrix	Goldstein	CR 97-90047 Agg Aslt/F3 Miscond. w/wpn/F4	On-going	Jury

## Group D

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result: w/ hung jury, # of votes for not guilty/guilty	Bench or Jury Trial
9/29-10/16	Schreck	Katz	Sigmund	CR 97-05762 1Ct. Agg Aslt/F3D	Guilty	Jury
10/1-10/9	Mussman/ Bradley	Gerst	Amato	CR 95-09679 1Ct. Child Molest/F2; (dang. crime a/g children) 4Cts. Sex Conduct W/Mnr./F2 (dang. crimes a/g children); 1Ct. Agg Assault/F6; 1Ct. Child Abuse/F4	Guilty - 2Cts. Sex Conduct W/Mnr.; Directed Verdict - 1Ct. Sex Conduct W/Mnr.; Hung Jury on remaining 4Cts.	Jury
10/28-10/30	Willmott	Gerst	Ainley.	CR 97-97832 Flt Frm Pur Law Veh/F5; Dr Wh Lic Susp/Revkd/M1	Guilty	Jury
10/2-10/16	Carrion	Lewis	Rehm	CR 97-04376 1 Ct. Agg. DUI/F4	Guilty	Jury
10/7-10/24	Claussen & Huls	Kamin	Martinez	CR96-06030 2 <sup>nd</sup> Degree Murder	Guilty	Jury
10/8-10/8	Berko	Hancock	Scrambolis	TR 96-06108 2 Cts. DUI/M1	Guilty on both	Bench
10/20-10/28	Enos/ Bradley	Katz	Campagnolo	CR 97-05910 Burglary 3 <sup>rd</sup> Degree/F4 Sex Abuse Over 15/F5	Not Guilty	Jury

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result: w/ hung jury, # of votes for not guilty/guilty	Bench or Jury Trial
10/29-10/29	Jung	Hilliard	Rehm	CR 97-03934 Agg DUI/F4 Taking ID of Another/F5	Guilty on Both	Jury
10/9-10/21	Korbin	Gerst	Bustamante	CR 96-13530 Armed Robbery/F2	Not Guilty	Jury
10/30-10/30	Silva	Kamin	Williams,P.	CR 97-05004 Burglary/3F Sex Abuse Over 15/F5	Dismissed on Defense Motion Prior to trial	Jury

### Office of the Legal Defender

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result: w/ hung jury, # of votes for not guilty/guilty	Bench or Jury Trial
10/20-10/20	Vogel	Gutierrez	Arnwine	CR 97-01784 FE Carrying Concealed Weapon/M1 Assault/M1	Guilty Not Guilty	Bench
10/2-10/8	Steinle/Desanta	Hendrix	Charnell	CR 96-93812 Murder 1/F1D	Not Guilty Murder 1 Guilty Murder 2	Jury
9/22-10/9	Ivy/ Brandenberger	Grounds	Lowenthal	CR 95-11518 Ct.1: Kidnapping/F2D Cts.2-3: Agg.Asslt./F4 Ct. 4: Agg.Asslt./F3D Ct.6: PODD/F4	Guilty Kidnapping, PODD & 1 Ct. Agg.Asslt. Hung Jury on 2 Cts. Agg.Asslt, C4F.	Jury

# INSIDE ADDITION

The Insider's Monthly

November 1997

## A New Forum for Questions and Answers

Welcome to the INSIDE ADDITION! "Inside Addition" was developed with the goal of providing useful and interesting information to Public Defender staff. This is really an office collaboration. Future editions will include columns devoted to sharing information and the exchange of ideas. You are encouraged to contribute any hints or tips you've found that make your job easier or more effective. Personal news items such as marriage, births, degrees or certificates earned, volunteer work, or worthwhile accomplishments that deserve recognition, will be included. If there are any issues or topics you would like to see addressed, please forward them to Lisa Kula, Training Administrator.

### EMPLOYEE BENEFITS: TUITION REIMBURSEMENT

One of the many benefits being offered to Maricopa County employees is tuition reimbursement. This benefit program is designed to encourage and enable employees to participate in job-related educational classes. There are many post-secondary institutions in the Phoenix area, that offer classes that may be of interest to you. The following is a brief outline of the tuition reimbursement policy and a summary of the many educational opportunities that are available to you.

#### Eligibility

- ◆ You must be a regular full-time employee who is not on Leave of Absence status without pay, who has completed initial probation and was evaluated as at least a "full performer" on your latest performance evaluation.
- ◆ Classes must not conflict with work schedules or workloads.

- ◆ Employees who are receiving tuition reimbursement from another tax-funded source, such as veterans benefits are not eligible.

Courses must be offered from an accredited public or private college, university, community college, or technical school

#### Reimbursement

- ◆ Funding is on a first-come, first-served basis.
- ◆ Classes must have a clear and direct relationship to the employee's current work, profession or job effectiveness.

Tuition will be reimbursed as a percentage of cost, based on final grades:

- A - 100%
- B - 80%
- C - 60%
- Pass - 60%

D, F, Fail, Incomplete, Withdrawn, etc are not reimbursed.

For a complete copy of the policy, contact Lisa Kula at 63045 or send an e-mail.

#### Schools

The 10<sup>th</sup> floor Training Library has college catalogs, class schedules, and general information from a number of local, accredited schools, available for your review. While the sources are not exhaustive, they are extensive. If you are interested in pursuing these types of classes, please stop by and check them out. The following is a limited summary of schools and the relevant courses of study they offer.

SCHOOL  
ASU - Main  
Tempe

OFFERING  
B.S. - Justice Studies

ASU - West                      B.S. - Administration of Justice  
43rd Ave. & Thunderbird

**Academy of Business College**

2525 W. Beryl, Phoenix

Certificate of Completion:              Legal Assistant

Diploma Program:                              Legal Secretary

Associate of Applied Science:              Legal Assistant

Legal Secretary

**A.I.B.T.**

43<sup>rd</sup> Ave. & Bethany Home

75<sup>th</sup> Ave & Indian School

Southern & Gilbert

Associate of Applied Science:              Criminal Justice

Administration

Associate of Applied Science:              Correctional

Administration

**Denver Business College**

1457 W. Southern, Mesa

Associate of Applied Science:              Criminal Justice

**Maricopa County Community Colleges:**

Chandler/Gilbert

Estrella Mountain

Gateway

Glendale

Mesa

Paradise Valley

Phoenix

Rio Salado

Scottsdale

South Mountain

Classes must be paid for at the time you register. Your tuition reimbursement will be sent out, after you complete the course. If this arraignment poses a financial difficulty, you should speak with the college's financial aid office about loans, grants, or scholarships that are available. They may be able to provide funding that will enable you to pay for the course when you register, and then, after you receive your reimbursement, you can repay your loan. The reimbursement policy does not cover costs for text books and other related supplies or expenses.

If taking college courses doesn't fit into your plans, don't forget about the opportunities available in the County's Operational Planing and Training Catalog. There are a variety of courses to choose from, and most are free. If you do not have a copy of the catalog, one is available in Training. Please stop by for information or to discuss any educational opportunity that interests you.

**PERSONNEL PROFILE**

**Lisa Araiza**

**Lead Secretary, Group B**

When I first started working here, it took a great deal of time to learn about the office, its procedures, and the needs of the support staff. Whenever I had a question about any of these things, everyone consistently replied - "Go ask Lisa Araiza," she (pick one: "knows how," "can do that," "has a good example," "always does it right," etc...). So, when the time came to profile an employee for the first edition of "Inside Addition" I decided to take everybody's advice and "Go ask Lisa."

Lisa first became interested in working in the legal field back during her high school days in Flagstaff. In pursuit of her career, she left the ice and snow of her hometown and enrolled in Phoenix College. She earned her Associates Degree in Legal Secretary Science and was on her way.

Following graduation, she began her career with the AHCCCS program of Maricopa County. She soon saw the light and moved to the Public Defender's Office in 1986. Fortunately for Trial Group C (before the move to Mesa) she began her career path as a legal secretary with them. Her talents and abilities propelled her through the ranks. In 1995, she became the Lead Secretary for Group A. This past April, she moved to the 7<sup>th</sup> floor and assumed the responsibilities of Lead Secretary for Group B.

She feels the best way to get ahead and excel at your job is to ask questions! Her natural interest in the legal system led her to ask many questions. The answers provided her with the kind of knowledge that makes her the person staff turn to when they have questions. Lisa's experience, expertise, and willingness to help others makes her an invaluable office resource.

When asked what she liked best about her job, she replied without hesitation, "The people!" Dealing with the challenges of multi-tasking, office growth, and technological advances keeps her endlessly busy. She meets these challenges head on, and consistent with her positive attitude, feels they only add to the appeal of her job.

When queried about what she likes to do with her free time, she politely tried not to laugh too hard, and then asked "What free time?" Her daughter Olivia 7, keeps her on her toes. When she is able to sneak in a little free time,

she enjoys playing Bingo, accompanying her husband to his bowling league, and reading.

We are indeed fortunate to have Lisa in our office. Remember, when you have a question, need information or "a good example," . . . just ask Lisa Araiza.

## BRIGHT IDEAS!



When dealing with clients who are upset, Martha Lugo, legal secretary for Group D, offers these tips:

- 1) Help to calm them down. They are upset over something that is important to them. Assure them you are there to try to help them.
- 2) Get pertinent information from them. Find out who their attorney is, who they have already talked with, how many times they have called and where you can best direct an inquiry for them.
- 3) Stay with the client. Give them your name so they will know in the future who helped them so they don't have to repeat the story over and over. Let them know you are aware of their situation and will try to assist them, if you can, in the future.

If you have any hints or suggestions for accomplishing a task that you think others might benefit from, share them with us all!

## COMMUNITY BOARD

**Jim Wilson**, Defender Attorney with Group D, married Carmen Ararca on October 11. They were wed in Mt. Holly, NJ. Carmen is a native of Bolivia, but has been living in the United States for many years. She is an attorney who specialized in Immigration Law. She is currently a volunteer with Friendly House, a social service organization.

**Judi Bishop**, Administrative Coordinator, will wed Joel Wheeler on December 6. The couple are planning a Las Vegas wedding, including the possibility of "Elvis"

performing the ceremony. Joel is employed as an electrical contractor and the couple will make Phoenix their home.

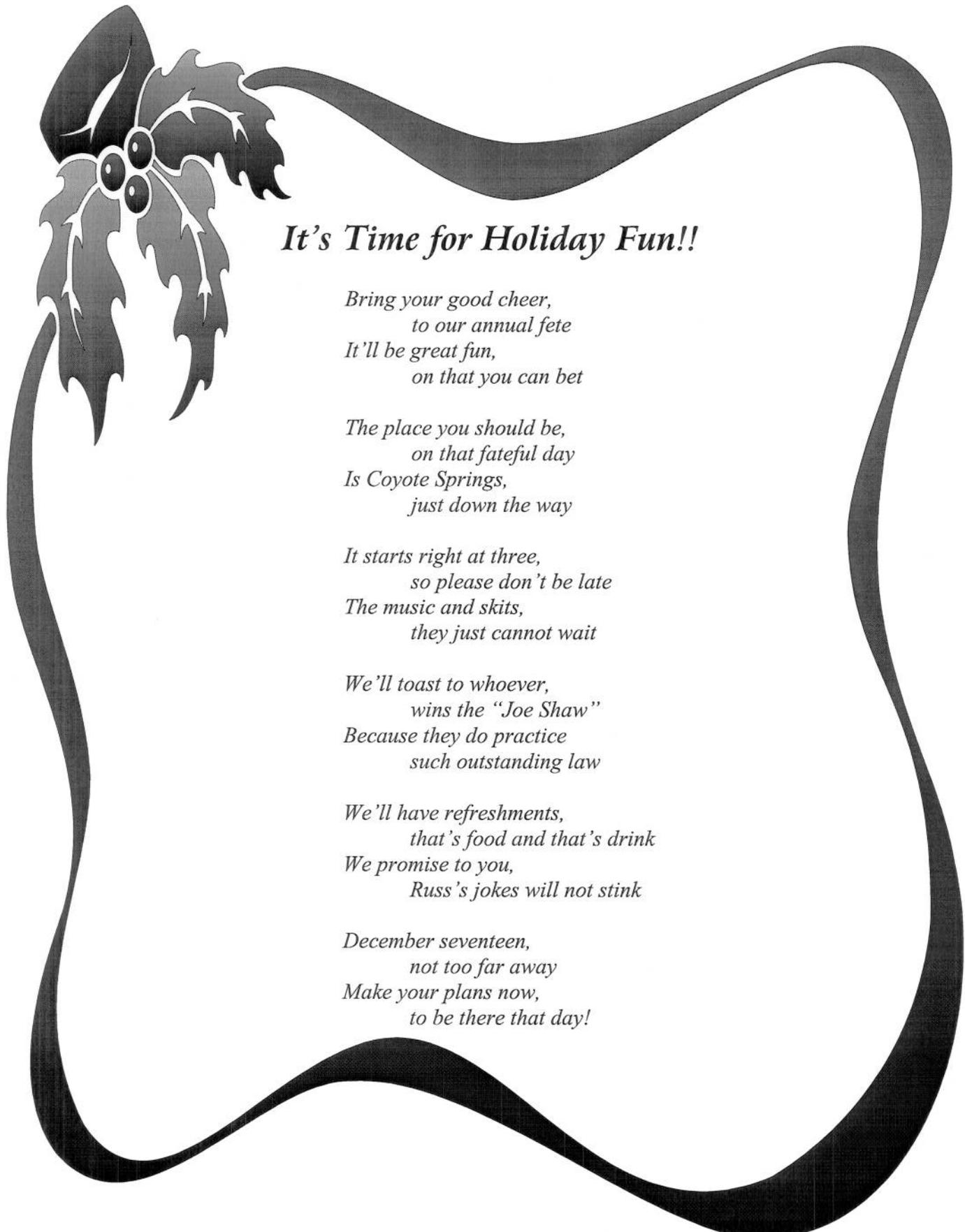
## THE LIGHTER SIDE

A young man was in court for stealing a boombox from an electronics store. He explained to the judge that it wasn't his intention to keep the radio. "I was just taking it for a joke, to see if he missed it," the teen said. "I wasn't really stealing it."

"Since you took it all the way home," said the judge, "I'm going to give you 30 days for carrying a joke too far."

### The Top Ten ways to get kicked off a jury:

10. When the prosecutor approaches the jury box, attempt to give him your drink order.
9. Snore so loud that it wakes the other jurors.
8. Ask for a conjugal visit with the judge's spouse.
7. When items are held up to be entered as evidence, shout out a bid.
6. Snicker loudly when witnesses swear to tell the truth.
5. Wear a rainbow wig and hold a JOHN 3:16 sign.
4. Leap from your seat and try to wrestle the service revolver from a court officer.
3. Show up three consecutive days with pie on your face.
2. Every time someone objects, knock back a Jell-O shot.
1. Refuse to remove your Walkman.  
- David Letterman's New Book of Top Ten Lists



## *It's Time for Holiday Fun!!*

*Bring your good cheer,  
to our annual fete  
It'll be great fun,  
on that you can bet*

*The place you should be,  
on that fateful day  
Is Coyote Springs,  
just down the way*

*It starts right at three,  
so please don't be late  
The music and skits,  
they just cannot wait*

*We'll toast to whoever,  
wins the "Joe Shaw"  
Because they do practice  
such outstanding law*

*We'll have refreshments,  
that's food and that's drink  
We promise to you,  
Russ's jokes will not stink*

*December seventeen,  
not too far away  
Make your plans now,  
to be there that day!*