

for The Defense

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Promise of Justice for All*

for The Defense

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Defining the Homicide or Incapacitated “Victim” in Arizona: Understanding the Law of Consanguinity

By Anna Unterberger, Capital Attorney

Since 1990, and under Article 2, Section 2.1(c) of the Arizona Constitution, “victim” has been defined as: “a person against whom the criminal offense has been committed **or, if the person is killed or incapacitated, the person’s spouse, parent, child or other lawful representative[.]**” Regarding who is a victim when a homicide charge or incapacitated person is involved, this is the narrowest definition in Arizona law of “victim.”

The statutory law expands this definition. Since 2005, A.R.S. §13-4401(19) has defined a “victim” as: “a person against whom the criminal offense has been committed, including a minor, **or if the person is killed or incapacitated, the person’s spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative of the person[.]**”

Rule 39(a), Arizona Rules of Criminal Procedure, now states that it adopts the statutory definition of “victim.” For years, the Rule used the constitutional definition, but no longer; the change became effective in 2009.

Is the statutory/rule definition that expands the constitutional definition a permissible “implementation,” or is it an illegal expansion of the constitutional definition? That issue should continue to be litigated, but it is beyond the scope of this article.

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Regarding the statutory/rule definition and the consanguinity issue, there are two different ways to determine whether a person is within a certain degree of consanguinity. One is the more archaic canon law method, and the other is the more modern and widely-accepted civil law method. I'll use the relationship of a nephew to the deceased/incapacitated person for purposes of this discussion. Under the more modern civil law method, nephews are the third level of consanguinity, and even under the statutory definition, could not be interviewed. But under the canon law method, they are the second level, and thus could be interviewed under the current statutory/rule definition.

No Arizona appellate caselaw directly addresses this issue. But the analogous caselaw comes down in favor of the modern civil law method when defining consanguinity. The following quotation is from *State v. Ramsey*, 171 Ariz. 409, 831 P.2d 408 (App. 1992):

Consanguinity is defined as "Kinship; blood relationship; Consanguinity is distinguished from 'affinity,' which is the connection existing in consequence of a marriage, between each of the married persons and the kindred of the other." *Black's Law Dictionary* 275 (5th ed. 1979). The degree of consanguinity is determined by the civil law, which tells us that:

[p]arents and children of a [person] are related to him in their first degree Uncles, aunts, nephews, nieces, and great-grandparents ... are related to him in the third degree.

State v. Sumpter, 438 N.W.2d 6, 8 (Iowa 1989) (citing *Am.Jur.2d Descent and Distribution* § 55, at 793 (1983)).

Ramsey, 171 Ariz. at 411, 831 P.2d at 410. *Ramsey* involved a consanguinity issue under A.R.S. § 13-3601, the domestic violence statute.

The Arizona Supreme Court used the civil law method when interpreting the anti-nepotism statute as it regarded first cousins in *Graham County v. Buhl*, 76 Ariz. 275, 263 P.2d 537 (1953). The Court reviewed a number of cases from other states and then offered this analysis:

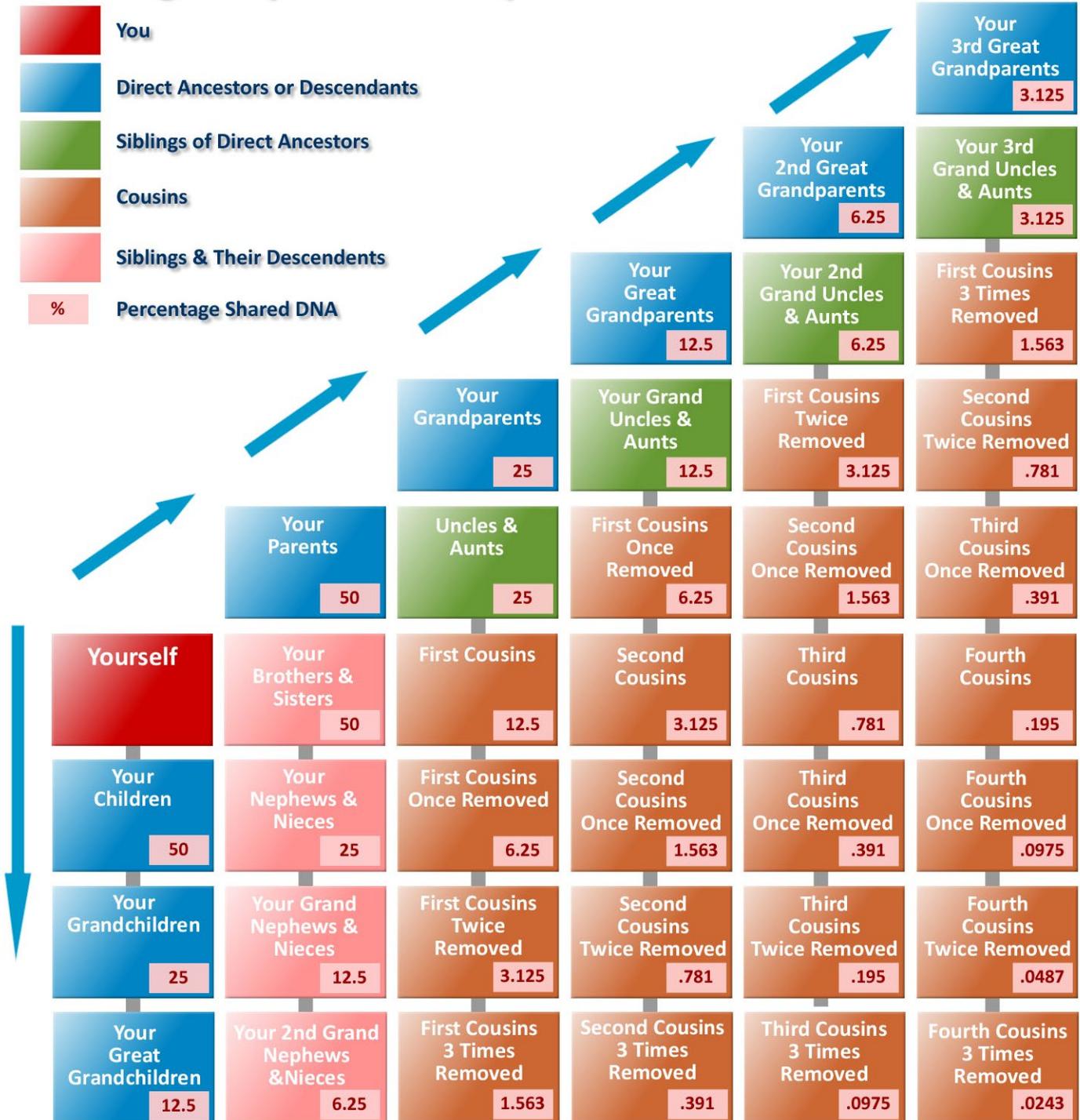
From the cases cited it is apparent that the common law adopted the canon law rule for one purpose and the civil law rule for another. The one rule is no less a part of the common law than the other. Therefore, the real problem here presented is, which of the two common law rules applies? Certainly the social and political reasons which prompted feudal England to formulate the old canons of descent and adopt the canonical law rule to implement them, have never held sway in Arizona. The rule was tailored to the needs of a vanished society, one having many concepts foreign to ours. The reason for the rule has gone, and the rule has gone with it. The civil law method is easier to apply, less confusing, and may even be said to rest upon a sounder basis in logic. Moreover, the members of this court as presently constituted, having all served as judges of the superior court, take judicial notice of the fact that it has been the common practice of the bench and bar of this state to apply the civil law method rather than the archaic and cumbersome canonical rule in determining degrees of relationship, such as disqualification of jurors, etc. It appears from the decisions of the Attorney General that on May 4, 1934, when Mr. Justice LaPrade held that office-the public officers of this state were advised to apply the civil rule in computing degrees of relationship in nepotism cases.

We hold the civil rule is the one the legislature intended in enacting our antinepotism law.

Graham County, 76 Ariz. at 279, 263 P.2d at 539-40. Thus, *Graham County* and *Ramsey* are analogous authority in support of using the civil law method when determining that a nephew is not a victim.

Much more recently and in Maricopa County, an Arizona Superior Court judge directly addressed the victim/consanguinity issue in *State v. Victor Hernandez, CR 2010-137021-001*. In a minute entry dated 8/16/2013, the court used the modern civil law definition when ruling on whether a first cousin was a victim under Arizona law. The issue was before the court regarding whether the Defendant's Third Motion for Deposition of State's Witness Asserting Victim's Rights should be granted. The court's analysis included the quotation from *Ramsey*, cited above. The conclusion: "first cousins do not qualify as victims because they are related to the fourth degree to the deceased." Consequently, the Defense motion for deposition was granted.

Consanguinity Relationship Chart



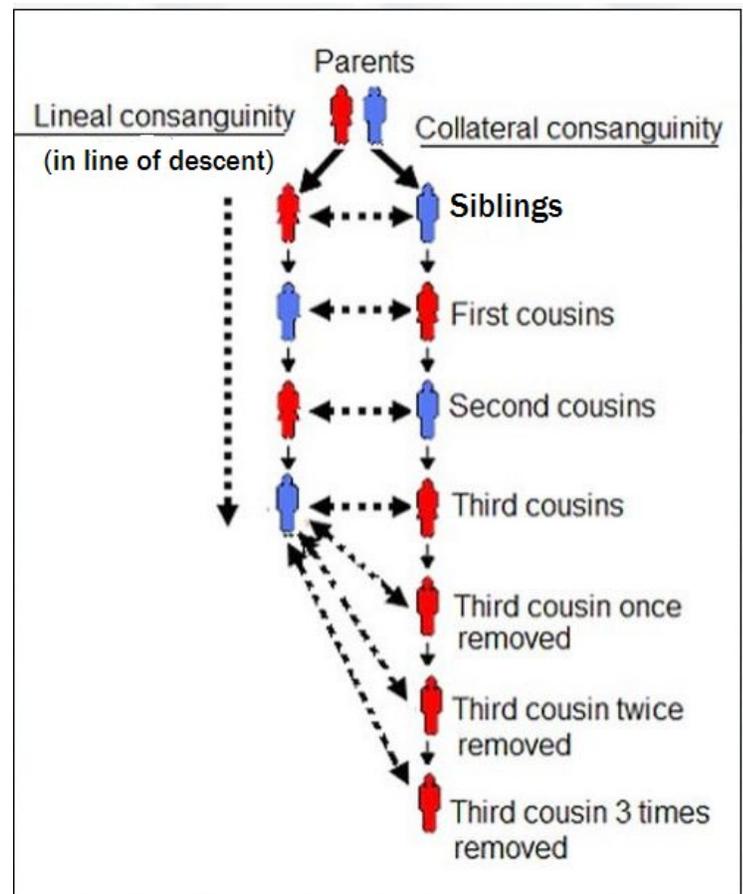
Consanguinity Chart Now with More DNA Flavor!
 by John J. Tierney is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License.
 Based on a work at <http://currach.johnjtierney.com>.

The affinity issue was very recently addressed in *Allen v. Sanders (RPI State of Arizona)*, 2015 WL 1514449 (Ariz. App. April 2, 2015). There, the defendant's charges included first degree murder and child abuse. "KD" allegedly witnessed defendant Allen abusing "AD," the child who was killed. KD's biological father was David, whose second wife was Shirley. Shirley was the biological mother of AD, and she gave birth to AD after she married David, but David was not AD's biological father. *Id.*, at 1, ¶ 2. The Defense moved to interview KD, and the trial court denied the motion, ruling that KD was a victim, "because AD was related by affinity to David, and KD was related by affinity to Shirley, [so] AD and KD were related by affinity to each other." *Id.*, at 1, ¶ 4.

The Court of Appeals reversed the trial court and ordered that KD submit to a defense interview. "At common law, 'affinity' was traditionally defined as the 'connection existing in consequence of a marriage, between each of the married persons and the kindred of the other.'" *Id.*, at 2, ¶ 8 (footnote and citations omitted). "[B]ecause David and Shirley were married to each other, David was related by affinity to Shirley's blood relations (her parents, any siblings, and her child, AD), and Shirley was related by affinity to David's blood relations (his parents, any siblings, and his child, KD). *Id.*, at 3, ¶ 9. "But, under the traditional common law definition of affinity, an affinity relationship does not exist between the blood relations of one spouse and the blood relations of the other spouse." *Id.*, at 3, ¶ 10 (citations omitted). "Applying this rule here, David's blood relations (his parents, any siblings, and his child, KD) and Shirley's blood relations (her parents, any siblings, and her child, AD) were not themselves related by affinity. Accordingly, under the traditional common law definition of affinity, KD and AD were not related by affinity. Thus, under the VBR, KD is not a victim because she was not a 'person related to [AD] by affinity.' See A.R.S. § 13-4401(19)." *Id.*

The *Allen* Court further ruled that although the Legislature, through A.R.S. § 13-4418, has directed that the VBR should be liberally construed, "the Legislature did not simply define 'victim' as including any other person related to the deceased victim by affinity, or for that matter, consanguinity. Instead, it specified that the 'other person' had to be related to the deceased victim by 'consanguinity or affinity to the second degree.' A.R.S. § 13-4401(19). A degree of affinity, like a degree of consanguinity, is a unit for measuring the proximity of one person's relationship to another. ... By linking affinity to a specific unit of measure, the Legislature further demonstrated its intent to adopt the traditional common law definition of affinity." *Id.*, at 3, ¶12 & 4, ¶ 14.

Just because the prosecution designates someone as "next of kin" in a witness list does not mean that person is a "victim" under Arizona law. When in doubt, make the prosecution prove that its claimed victim actually **is** a victim, as the law defines that term.



Practice Pointer: Prohibited Possessor Based on an Out-of- State Conviction? Depends on the State...

By Chris Culbert,
Trial Attorney



A.R.S 13-3101(A)(7)(b) states, in part, that a prohibited possessor is any person convicted within or without the state of a felony...

Often-times our analysis of a case ends when a client's felony priors are discovered, assuming there are no issues with the State's ability to prove up such priors as an element of the Misconduct Involving Weapons charge. However, when a client's only prior felonies are from outside of Arizona, an additional step should be included in evaluating the State's case.

In a recent prohibited possessor case I worked on, my client's only relevant priors were from Ohio. In researching the prohibited possessor law in Ohio I discovered that not every felony conviction in that jurisdiction results in the loss of a person's right to possess a firearm. Ohio law, in pertinent part, states that a felony conviction must arise from a crime including violence or drug related behaviors in order to result in a person's right to possess a firearm being stripped. My client's two felony priors from Ohio did not fall within the Ohio law and, thus, her gun rights were not stripped.

After moving to Arizona she was found in possession of two handguns and charged as a prohibited possessor. I presented an argument to the State that she never lost her right to possess a firearm as a result of her felony convictions in Ohio; therefore, she should not be prohibited from possessing a firearm in Arizona. This argument was fortified with a U. S. Constitutional due process argument, emphasizing the client's inability to have her rights restored in Ohio because she never lost them in the first place.



This argument was successful resulting in the State dismissing its case. The lesson: research the prohibited possessor law in the jurisdiction where the alleged felony conviction occurred if the State's allegations depend on out-of-state priors.



The Buzz from Smoking Butane Honey Oil (BHO) May Sting

Pamela Adwell, Specialty Courts Attorney

Butane Honey Oil, Butane Hash Oil, Dabbs, Wax. These are some of the more common names for a concentrated form of cannabis, which is becoming a popular way to ingest marijuana. It looks like a yellow wax, and can be smoked out of an electronic cigarette or vaporizer pen, covering the odor.

Making BHO starts by soaking marijuana in a closed container filled with butane (yes, lighter fluid). Then, once the marijuana resin has been extracted from the plant material by the butane, the cannabinoid-laden butane is separated from the plant material and lit on fire. Burning the butane off the compound creates a concentrated substance which causes a more intense high than regular old marijuana plant.

Use of BHO is legal for those that hold a valid medical marijuana card. For those without a card, possession or use of BHO is a class 4 felony for Possession of Narcotic Drugs.

How is possession of a substance made from marijuana categorized as possession of narcotic drugs, you ask? It goes like this:

Narcotic drug is defined in §13-3401(20). Under (w) of that subsection, you will find “cannabis” is listed as a narcotic drug. I know. I was surprised, too! I thought cannabis could only be marijuana.

A.R.S. §13-3401(4) «Cannabis» means the following substances under whatever names they may be designated:

- (a) The resin extracted from any part of a plant of the genus cannabis, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or its resin. Cannabis does not include oil or cake made from the seeds of such plant, any fiber, compound, manufacture, salt, derivative, mixture or preparation of the mature stalks of such plant except the resin extracted from the stalks or any fiber, oil or cake or the sterilized seed of such plant which is incapable of germination.

So, cannabis is the resin extracted from any part of the plant (except the seeds and the stalk- probably because they don't cause a high) and any compound made from it.

If your client has his medical marijuana card, file a motion to dismiss pursuant to the Arizona Medical Marijuana Act (AMMA), or just email a request for dismissal to the assigned Deputy County Attorney. Initially, Bill Montgomery maintained that extracts were illegal for cardholders and non-cardholders alike. Marijuana extracts were deemed legal for holders of a medical marijuana card in *Welton v. State of Arizona*, (CV2013-014852).

If you get a case like this that's charged as a class four felony, now you know why. If your clients are using BHO or other marijuana extracts, advise them it's a class four felony if they don't have a medical marijuana card.

Practice Pointer for Dangerous Drug Cases

--Pamela Adwell and Brett Turley, Specialty Courts Attorneys

Who ever heard of a Class 4 open?

While they are rare, they *are* possible for certain dangerous drug cases where the client has no priors. Amphetamine, LSD, and PCP are excluded, so think psilocybin mushrooms, khat, anabolic steroids, and certain kinds of pills. See §13-3407(B)(1).

If you think your client can successfully complete probation, try to negotiate a Class 4 open where a Class 6 designated is being offered.

LawProse Lesson #207:

Three Ways to Improve a Statement of Facts.

Posted on April 22, 2015 by Bryan A. Garner

Three ways to improve a statement of facts:

First: Let it progress naturally from beginning to end—almost invariably in chronological order. Just tell the judge your story of the relevant events that gave rise to this legal dispute. Presenting the facts in order gives the judge a more coherent picture of the case.

Second: Remove all argument and editorializing. Those don't belong in a statement of facts. Including them is counterproductive because doing so is inevitably transparent. As if that weren't enough, argument within a statement of facts may even violate court rules.

Third: Unflinchingly include the unfavorable as well as the favorable facts. At best, you lose credibility fast if you unfairly exclude germane facts that don't support you. And you'll fail to make a good argument that overcomes them. At worst, the judge will think you're cherry-picking what to divulge—and maybe even think you're hiding something from the court.

The statement of facts in a brief gives you an opportunity to shine as a storyteller. Learn the techniques of writing short stories. But never forget you're dealing in nonfiction!

Editors' Note: Bryan A. Garner is a best selling legal author with more than a dozen titles to his credit, including *A Dictionary of Modern Legal Usage*, *The Winning Brief*, *A Dictionary of Modern American Usage*, and *Legal Writing in Plain English*. The selection above is an excerpt from Garner's "Usage Tip of the Day" e-mail service and is reprinted with his permission.

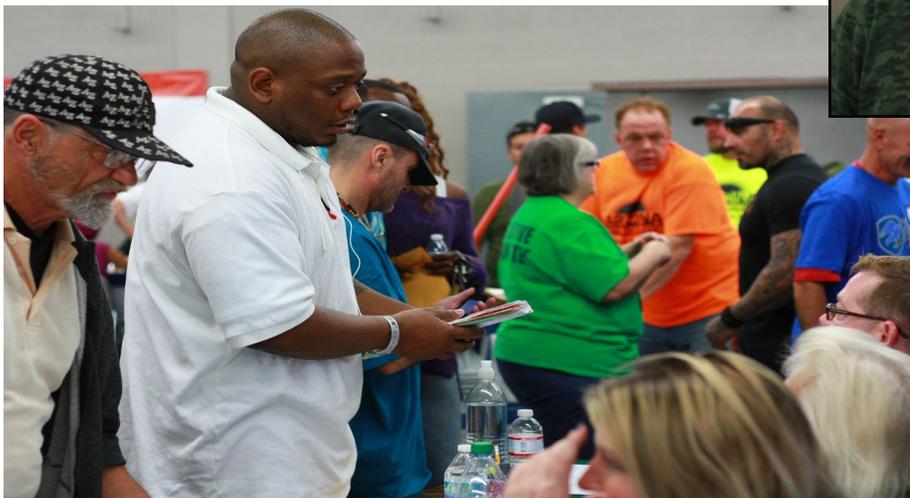
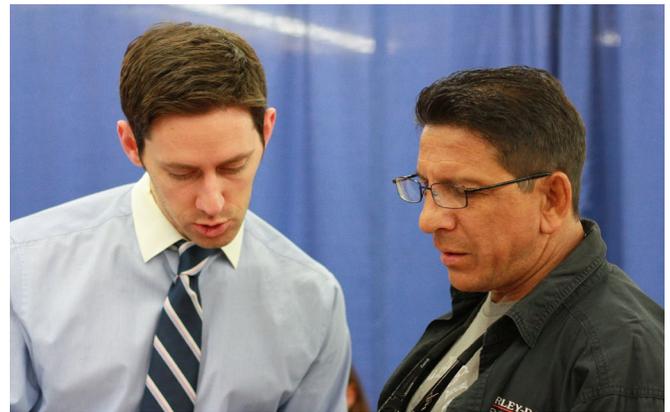
You can sign up for Garner's free Usage Tip of the Day and read archived tips at <http://www.lawprose.org/blog/>. Garner's *Modern American Usage* can be purchased at bookstores or by calling the Oxford University Press at: 800-451-7556.

The 2015 Arizona Veterans StandDown

Jeremy Mussman, Deputy Director

On February 12th to the 14th, criminal defense attorneys and non-attorney staff came together with prosecutors, judicial officers, court staff, probation officers, IT specialists and scores of other volunteers to address the legal needs of homeless and at-risk veterans at the 2015 Arizona StandDown. Many of these veterans had legal problems that needed to be addressed and our community came through for them. Numerous courts were present and more than 200 veterans were seen by the Superior Court alone, resulting in over \$300,000 in fines and fees being waived or converted to community service. As one veteran told us: "The Standdown made a stepping stone out of a stumbling block so that I could move my life forward."

Thank you again to the following attorney and non-attorney volunteers who signed up through our office to help handle hundreds of Superior Court and Justice Court matters – we could not have done it without you.



Dawnese Hustad
Gary Beren
Tennie Martin
Kathleen Tomaiko
Cheri Smith
Tracy Baker
Lee Ann Taylor
Kara Hyland
Dusty Sain
Joseph Rhoades
Kalla Gottry
Christina Carter
Cathy Whalen
Tim Bein
Brittany Sifontes
Heather Brees
Tyrone Bruce
Alejandro Barrientos
Borjas
Lisa Bolinger
Shannon Peters
Devra Ellexson
Alberta Porter
Kathy Hannappel
Chris Phillis
Sharon Neill
Thomas Leazotte
Dan Carrion
Pamela Campbell
Ashley Raatz

Karen Emerson
Vanessa Smith
Xochitl Orozco
Pamela Adwell
Marvin Davis
Dan Lowrance
Kellie Sanford
Chad Garner
Adam Adinolfi
Nicole Farnum
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Amy Ellingson
Michelle Page
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Chelli Wallace
Karen Vandergaw
Lupe Landero
Krista Denera
Elizabeth Rothwell
Sheila Braz-
inskas-Pangburn
Kristin Wrobel

Rodney Mitchell
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Ron Schyvynck
Renee Springer
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Lina Garcia
Nohemi Melchor
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Richard Miller
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Maria Gonzalez
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Danielle Kiser
Crusita Sibaja
Vicki Lopez
Leah Schachar
Katelyn Miller
Kevin Heade
Melody Harmon
Kara Hyland
Ryan Slomski
Debra Hander
Pam Nicholson



Jury and Bench Trial Results

December 2014 - February 2015

| Public Defender's Office – Trial Division | | | | | |
|---|--|-----------|---|-------------|----------------------------------|
| Closed Date* | Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i> | Judge | CR Number and Charge(s) | Counts | Result |
| Group 1 | | | | | |
| 1/6/2015 | Blum Moore | Granville | 2014-117505-001 Marijuana-Possess/Use, F6 | 1 | Court Trial- Guilty Lesser/Fewer |
| 1/9/2015 | Walker | Cohen | 2014-117000-001 Unlaw Flight from Law Enf Veh, F5 Dangerous Drug Poss/Use, F4 Drug Paraphernalia Possess/Use, F6 | 1 1 1 | Jury Trial-Guilty As Charged |
| 1/12/2015 | Walters Moore | Mahoney | CR2014-001829-001 Aggravated Assault, F3 Disorderly Conduct, F6 | 1 1 | Jury Trial- Guilty as Charged |
| 2/20/2015 | Jackson | Richter | CR2013-111961-001 Aggravated Assault, F3 Aggravated Assault, F4 | 1 1 | Jury Trial- Guilty Lesser/Fewer |
| Group 2 | | | | | |
| 1/9/2015 | Jones Hales | Svoboda | 2014-124822-001 Armed Robbery With Deadly Wpn, F2 Agg Aslt-Deadly Wpn/Dang Inst, F3 | 1 1 | Jury Trial- Guilty as Charged |

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

Jury and Bench Trial Results

December 2014 - February 2015

| Public Defender's Office – Trial Division | | | | | |
|---|--|---------|--|------------------|----------------------------------|
| Closed Date* | Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i> | Judge | CR Number and Charge(s) | Counts | Result |
| 1/12/2015 | Gurion | Mahoney | 2014-126135-001 Agg Aslt Adult on Minor, F6 | 1 | Court Trial- Guilty Lesser/Fewer |
| 1/29/2015 | Gurion Rothman <i>Hales</i> | Mroz | 2013-419226-001 Narcotic Drug Violation, F2 | 1 | Jury Trial- Not Guilty |
| 2/25/2015 | Gurion <i>Munoz</i> | Viola | 2014-138428-001 Agg Aslt-Deadly Wpn/Dang Inst, F3 Criminal Damage Deface, M1 Disord Conduct Weapon/Instr, F6 Agg Aslt-Adult on Minor, F6 | 1 1 1 1 | Jury Trial- Not Guilty |
| 12/5/2015 | Vandergaw | Kaiser | 2013-418819-001 Armed Robbery, F2 Aggravated Assault, F3 | 1 1 | Jury Trial- Guilty as Charged |
| 12/10/2015 | Nadimi <i>Leazotte</i> | Kaiser | 2013-455135-001 Narcotic Drug Violation, F4 | 1 | Jury Trial- Guilty as Charged |
| Group 3 | | | | | |
| 12/3/2014 | Henager <i>Caldwell</i> | Newcomb | 2013-451448-001 Aggravated Assault, F3 Threat-Intimidate, F6 | 1 1 | Jury Trial- Guilty Lesser/Fewer |

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

Jury and Bench Trial Results

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| Public Defender's Office – Trial Division | | | | | |
|---|--|---------|---|-------------|----------------------------------|
| Closed Date* | Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i> | Judge | CR Number and Charge(s) | Counts | Result |
| 12/18/2014 | Brady <i>Tomaiko</i> <i>Baker</i> | Ireland | 2014-134952-001 Agg Aslt-Deadly Wpn/Dang Inst, F3 | 1 | Jury Trial- Not Guilty |
| 1/29/2015 | Williams <i>Brashear</i> | Kreamer | 2014-101641-001 Marijuana Violation, F6 | 1 | Court Trial- Guilty Lesser/Fewer |
| 2/25/2015 | Burns | Kiley | 2014-124941-001 Dangerous Drug Poss/Use, F4 | 1 | Jury Trial- Guilty as Charged |
| Group 4 | | | | | |
| 12/18/2014 | Fune <i>Verdugo</i> <i>Kunz</i> | Padilla | 2012-140361-001 Theft, F6 | 1 | Court Trial- Guilty Lesser/Fewer |
| 12/18/2014 | Becker <i>Kunz</i> | Cohen | 2014-127064-001 Poss Wpn by Prohib Person, F4 | 1 | Jury Trial- Guilty as Charged |
| 1/23/2015 | Manberg <i>Gilchrist</i> <i>Kunz</i> | Mahoney | 2013-000551-001 Sexual Conduct with Minor, F2 Molestation of Child, F2 Continuous Sexual Abuse-Child, F2 | 5 2 2 | Jury Trial- Guilty Lesser/Fewer |

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

Jury and Bench Trial Results

December 2014 - February 2015

| Public Defender's Office – Trial Division | | | | | |
|---|---|------------|--|-------------|--------------------------------------|
| Closed Date* | Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i> | Judge | CR Number and Charge(s) | Counts | Result |
| 1/30/2015 | Peterson <i>Verdugo</i> <i>Curtis</i> <i>Davis</i> <i>Gonzalez</i> | Cohen | 2010-006838-001 Murder 1 st Degree, F1 Aggravated Assault, F3 Misconduct Involving Weapons, F4 | 3 1 1 | Jury Trial- Guilty Lesser/ Fewer |
| 1/30/2015 | Peterson | Cohen | 2011-005503-001 Promoting Prison Contraband, F4 | 1 | Jury Trial- Guilty as Charged |
| Group 5 | | | | | |
| 12/1/14 | Glass-Hess <i>Romani</i> | Kiley | 2014-103670-001 Aggravated Assault, F3 | 2 | Jury Trial- Guilty Lesser/ Fewer |
| 12/11/2014 | Glass-Hess <i>Romani</i> | Viola | 2014-117869-001 Agg Aslt-Deadly Wpn/Dang Inst, F3 | 3 | Jury Trial- Not Guilty |
| 1/22/2015 | Ortega <i>Thompson</i> <i>Cook</i> | Kiley | 2013-434869-001 Dangerous Drug Violation, F2 | 2 | Jury Trial- Guilty as Charged |
| 1/22/2015 | Champagne <i>Thompson</i> | Rueter | 2014-115881-001 Marijuana-Possess/Use, F6 Drug Paraphernalia Possess/Use, F6 | 1 1 | Court Trial- Guilty Lesser/ Fewer |
| 2/13/2015 | Whitney | Brotherton | 2013-445678-001 Aggravated Assault, F2 | 2 | Jury Trial- Guilty as Charged |

Jury and Bench Trial Results

December 2014 - February 2015

Public Defender's Office – Trial Division

| Closed Date* | Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i> | Judge | CR Number and Charge(s) | Counts | Result |
|----------------|--|--------|---|--------|-----------------------|
| Group 6 | | | | | |
| 2/5/2015 | Llewellyn <i>Sain</i> <i>Falle</i> <i>Henry</i> | Garcia | 2013-457398-001 Murder 2 nd Deg-Knowing, F1 | 1 | Jury Trial-Not Guilty |

| Capital | | | | | |
|----------------|--|-----------|--|------------------|-------------------------------------|
| 2/25/2015 | Kalman <i>Gilchrist</i> <i>Kunz</i> | Gottsfeld | 2007-176100-001 Molestation of Child, F2 Sexual Conduct with Minor, F2 Public Sexual Indecency, F5 Obscene Matl-Furnish to Minors, F4 | 5 3 2 1 | Jury Trial- Guilty Lesser/ Fewer |
| RCC/EDC | | | | | |
| 12/19/2014 | Sheperd | Steinle | 2013-449198-001 Dangerous Drug Violation, F2 | 1 | Jury Trial- Guilty as Charged |
| 1/23/2015 | Warner <i>Verdugo</i> | Steinle | 2011-148351-001 Dangerous Drug Violation, F4 Drug Parapher- nalia Violation, F6 | 1 1 | Jury Trial- Guilty as Charged |

Jury and Bench Trial Results

December 2014 - February 2015

| Public Defender's Office – Trial Division | | | | | |
|---|--|-----------|---|------------------|-------------------------------------|
| Closed Date* | Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i> | Judge | CR Number and Charge(s) | Counts | Result |
| 12/3/2014 | Warner <i>Gilchrist</i> <i>Kunz</i> | Richter | 2013-429965-001 Kidnap-Death/ Inj/Sex/Aid Fel, F2 Sexual Conduct with Minor, F2 | 1 1 | Jury Trial- Guilty as Charged |
| 12/16/2014 | Peterson <i>Kunz</i> | Newcomb | 2013-448795-001 Armed Robbery, F2 Aggravated Assault, F3 Theft, M1 Theft Crdt Crd Obt Fraud, F5 | 1 1 1 2 | Jury Trial- Guilty Lesser/ Fewer |
| Specialty Court Group | | | | | |
| 2/10/2015 | Heade <i>Tomaiko</i> <i>Curtis</i> | Ditsworth | 2013-003333-001 Burglary 3 rd Degree Criminal Dam- age, F5 Burglary Tools Possession, F6 | 1 1 1 | Jury Trial- Guilty Lesser/ Fewer |
| Vehicular | | | | | |
| 12/5/2014 | Brink | Newcomb | 2013-438634-001 Aggravated DUI- Interlock, F4 Agg DUI-Pas- senger Under 15, F6 | 2 2 | Jury Trial- Guilty as Charged |

Jury and Bench Trial Results

December 2014 - February 2015

| Public Defender's Office – Trial Division | | | | | |
|---|--|----------|---|-------------|-------------------------------------|
| Closed Date* | Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i> | Judge | CR Number and Charge(s) | Counts | Result |
| 12/5/2014 | Dehner | Newcomb | 2013-428962-001 Agg DUI-Lic Susp/Rev for DUI, F4 Aggravated DUI-Interlock, F4 Aggravated DUI-Third DUI, F4 | 2 2 2 | Jury Trial- Guilty as Charged |
| 12/18/2014 | Randall Decker Vondra | Kaiser | 2012-146720-001 Agg DUI-Lic Susp/Rev for DUI, F4 | 2 | Jury Trial- Guilty as Charged |
| 12/19/2014 | Baker | Donofrio | 2012-155868-001 Agg DUI-Lic Susp/Rev for DUI, F4 | 2 | Jury Trial- Guilty Lesser/ Fewer |
| 1/2/2015 | Conter | Kaiser | 2012-152694-002 Aggravated DUI, F4 Drug Parapher- nalia Violation, F6 | 3 1 | Jury Trial- Guilty as Charged |
| 1/5/2015 | Conter McGrath | Svoboda | 2012-110150-001 Agg DUI-Lic Susp/rev for DUI, F4 Agg DUI-Third DUI, F4 Hit and Run/ Damage Attend Veh, M2 | 2 2 1 | Jury Trial- Guilty Lesser/ Fewer |

Jury and Bench Trial Results

December 2014 - February 2015

Public Defender's Office – Trial Division

| Closed Date* | Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i> | Judge | CR Number and Charge(s) | Counts | Result |
|--------------|--|----------|---|--------|-------------------------------|
| 1/22/2015 | Hann | Donofrio | 2014-001426-001 Agg DUI-Lic Susp/Rev for DUI, F4 | 2 | Jury Trial- Guilty as Charged |
| 2/20/2015 | Baker | Miller | 2013-456932-001 Agg DUI Pas- senger Under 15, F6 | 2 | Jury Trial- Guilty as Charged |

Legal Defender's Office – Trial Division

| Closed Date* | Attorney <i>Investiga- tor</i> <i>Paralegal</i> <i>Mitigation</i> | Judge | CR Number and Charge(S) | Counts | Result |
|--------------|---|--------|---|-------------|---------------------------------|
| 12/3/14 | Lee | Fink | 2013-429444-002 Burglary 2 nd Degree, F3 | 1 | Jury Trial- Guilty as Charged |
| 1/8/2015 | Vogel | Mroz | 2014-135794-001 Agg Aslt-Deadly Wpn/Dang Inst, F3 Disord Conduct-Weapon/Instr, F6 Assault-Intent/Reckless/Injure, M1 | 1 1 2 | Jury Trial- Guilty as Charged |
| 1/16/2015 | Rothschild <i>Orozco</i> <i>Woodrick</i> | Gates | 2009-007734-001 Murder 1 st Degree, F1 Kidnap, F2 Aggravated Assault, F3 | 1 2 1 | Jury Trial- Guilty as Charged |
| 1/16/2015 | Campbell <i>Carson</i> | Rueter | 2014-127700-001 Agg Aslt- Officer, F4 Resist Arrest-Physical Force, F6 | 1 1 | Jury Trial- Guilty as Charged |
| 2/6/2015 | Kinkead Campbell <i>Otero</i> <i>Handgis</i> <i>Garza</i> <i>Apple</i> | Bergin | 2013-114296-002 Murder 1 st Degree, F1 Hindering Prosecution F3 | 2 1 | Jury Trial- Guilty Lesser/Fewer |

Jury and Bench Trial Results

December 2014 - February 2015

Legal Advocate's Office – Trial Division

| Closed Date* | Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i> | Judge | CR Number and Charge(S) | Counts | Result |
|--------------|--|-----------|---|------------------|----------------------------------|
| 12/16/2014 | Woods | Kemp | 2014-134895-001 Forgery-Offers Forged Instrum, F4 | 1 | Court Trial- Guilty Lesser/Fewer |
| 1/22/2015 | Rose <i>Brauer</i> | Reinstein | 2013-003474-001 Murder 1 st Degree, F1 Misconduct Involving Weapons, F4 | 1 1 | Court Trial- Guilty as Charged |
| 1/30/2015 | Buck Schmich <i>Brauer</i> <i>Joseph</i> | Stephens | 2011-005473-001 Murder 1 st Degree, F1 Burglary 1 st Degree, F3 | 2 1 | Jury Trial- Guilty as Charged |
| 1/30/2015 | Glow Koestner <i>Mena</i> | Sanders | 2011-140108-001 Murder 1 st Degree, F1 Murder 1 st Degree, F2 Dschg Firearm at a Structure, F3 Misconduct Involving Weapons, F4 | 1 1 1 1 | Jury Trial- Guilty as Charged |
| 2/9/2015 | Woods <i>Mongold</i> | Myers | 2014-133348-001 Traffick Stolen Prop 2 nd Deg, F3 Theft Control Property, M1 | 1 1 | Court Trial-Guilty Lesser/Fewer |

Legal Advocate's Office – Dependency

| Last Day of Trial | Attorney <i>CWS</i> | Judge | Case Number and Type | Result | Bench Or Jury Trial |
|-------------------|--------------------------------------|----------|------------------------------|----------------------|---------------------------|
| 1/12/2015 | Timmes <i>Gill</i> | Ishikawa | JAD589570 Severance Trial | Severance Granted | Bench |
| 1/13/2015 | Christian <i>Hawkinson</i> | Crawford | JAD507250 Severance Trial | Severance Granted | Bench |
| 12/2/2015 | Klass <i>Moreno</i> | Contes | JD24070 Severance Trial | Severance Granted | Bench |
| 12/3/2015 | Klass <i>Hoff</i> | Pineda | JD14727 Severance Trial | Severance Granted | Bench |



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Mark your calendars for the 13th Annual APDA Statewide Conference June 16-19, 2015

The APDA Annual Statewide Conference is the training and social event of the year. The three-day conference offers training on an incredibly diverse range of topics for attorneys, investigators, paralegals, mitigation specialists, and administrative support staff. Each year, we offer more than 100 classes to 1200 attendees and provide approximately 18 hours of continuing legal education, including more than 10 hours devoted to ethics.

But the real story of the conference is the energy created when over 1000 individuals who are dedicated to the same core values get together. The atmosphere is charged with anticipation of new discoveries and joyful reunions of old friends who have drifted apart to work in different areas of the state. The excitement is palpable, making the conference the ideal way for attorneys and staff to recharge their batteries.

Registration opens soon!

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Tempe Mission Palms Resort
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