

for The Defense

Training Newsletter of the Maricopa County Public Defender's Office
James J. Haas, Maricopa County Public Defender

Volume 25, Issue 2

May 2015 – July 2015



*Delivering America's
Promise of Justice for All*

for The Defense

Editor: Stephanie Conlon

Assistant Editors:
Jeremy Mussman
Misty Marchione
Kelly Parker

Office:
620 West Jackson, Ste. 4015
Phoenix, AZ 85003
(602) 506-7711

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Consent, Serna and The Princess Bride:

**“You keep using that
word--I do not think
it means what you
think it means.”**



**By Steve McCarthy and Mikel Steinfeld,
Defender Attorneys**

The Arizona Supreme Court held in *State v. Serna*, 235 Ariz. 270 (2014) that in order for a *Terry* frisk to occur, the police must have reasonable suspicion that criminal activity is afoot and that the person may be armed and presently dangerous.

In other words, in Arizona, where it is legal to either openly carry or conceal a gun, the mere presence of a gun cannot provide reasonable suspicion that the gun carrier is armed and presently dangerous so as to justify a *Terry* frisk.

Unknowingly, Johnathon Serna, a convicted felon, helped to strengthen the rights of an individual to be secure under the Fourth Amendment when he strapped a holster to his hip, placed a revolver in the holster, and walked out his front door into the middle of the street.

Summary of the Facts

Phoenix Police Officers Kendall Nunley and Blake Richey saw Serna and a woman standing in the middle of West Garfield Street having a conversation at night. They were in a gang neighborhood. The officers sped toward Serna and the woman in a police SUV without their headlights on. In Serna's neighborhood, "rolling dark" is a common practice that allows the police to approach suspects with less warning. When Serna moved out of the street, his movements were tracked by a police spotlight mounted near the SUV's driver side mirror. Serna walked out of the street

and onto the gated, private property of a friend.

Both Officers Richey and Nunley got out of the SUV and yelled out to Serna. Serna was polite and cooperative. The police asked Serna a series of questions: What are you doing? Are you selling drugs? Is this your house? Do you have a gun? Serna said that he did have a gun. Officer Richey ordered Serna to place his hands on his head. Officer Richey then lifted up Serna's shirt and removed a revolver from the holster that Serna was wearing. The officers asked Serna if he had ever been to prison and Serna said yes. Game over. Serna was a felon in possession of a handgun and guilty of MIW.

The Motion to Suppress

The defense filed a motion to suppress arguing that an unlawful seizure had occurred as the police had no reasonable suspicion to believe a crime was being committed. Serna was simply having a conversation with a woman in the street. There was no hand to hand transaction. Serna did not run when he saw the police. Serna wasn't nervous and fidgety. There was nothing that would lead the police to suspect Serna had committed or was about to commit a crime.

The State countered that reasonable suspicion for the police contact was irrelevant as the entire interaction was consensual.

The legal issue became whether or not Serna consented to this interaction with the police. In other words, would a reasonable person have felt free to ignore the police and simply walk away? Very little about the police interaction from beginning to end seemed consensual.

At the evidentiary hearing, however, the State framed this supposed consensual encounter with Serna as simply a normal conversation between a citizen and an officer. The State used the word consensual in such a way that I was reminded of Inigo Montoya's famous line in *The Princess Bride*, "You keep using that word, I do not think it means what you think it means."

Unfortunately for Serna, the evidentiary hearing became one erratic defense witness versus the testimony of two police officers, and it was clear that Serna was going to lose. One tiny snippet of testimony offered a ray of hope. The police officer admitted that he ordered Serna to place his hands on his head so the officer could remove Serna's gun. Surely, if nothing else, that part wasn't consensual, right?

When Faced with Imminent Defeat, Start Padding the Record

It was clear the State was going to prevail on the motion to suppress as it was written prior to the evidentiary hearing. Serna was not going to prevail when the officers testified that the encounter was consensual. After the hearing, we took the information that came out during the hearing, and changed our tactic. Presuming everything the officer said was correct, there was still a path to victory. We filed a "Defendant's Memorandum to the Court," developing the argument in light of the evidentiary hearing.

In the memorandum, we argued that even if the encounter was consensual, the officer did not have the authority to frisk Serna during the consensual encounter. To support this point, the memorandum cited *State v. Ilono*, 210 Ariz. 473 (App. 2005), a case that was not cited in the original motion to suppress. In *Ilono*, the Court of Appeals held that an officer cannot conduct a frisk unless the officer had reasonable suspicion that criminal activity was afoot. In Serna's case, the officers were clear that they did not observe or suspect any criminal activity. Their mantra, that this was a consensual contact, had defined the argument. Because the contact was merely a consensual encounter, and not a stop based upon a reasoned belief that criminal activity was occurring, there

was no reason to frisk Serna.

While we still lost at the trial level, it was that citation post-evidentiary hearing that provided our appeals department with the necessary ammunition to win. Three years later, the Arizona Supreme Court overturned Serna's trial conviction in *State v. Serna*, 235 Ariz. 270 (2014). During the appellate process, the State's mantra at the evidentiary hearing became a reason to support suppression. The Supreme Court relied upon the testimony at the hearing and ruled that the contact was merely a consensual encounter. Because the officers were so insistent that the contact was consensual, there was nothing in the record indicating a belief that criminal activity was afoot.

The Court ultimately ruled that police cannot engage a gun carrier in consensual conversation, claim they are afraid of the gun carrier because he has a gun, and then take the gun away. The law is clear that if the police are afraid of a man because he has a gun, they are free to avoid him.

Practice Pointer

Don't be afraid to adapt. It is perfectly appropriate to change the basis of your motion to suppress post-evidentiary hearing. The hearing can give you a unique insight that was previously missing and allow you to reframe the issue.

To support a new position, you should always be willing to cite new case law after the evidentiary hearing. You are not stuck with one theory or one set of citations. If there is a better, or even just a different, way to make an argument after the evidentiary hearing, do it.



Writer's Corner: Ban "and/or"

by Bryan A. Garner

And/or dates from the mid-19th century. Although lawyers and courts have vilified and/or for most of its life, this bit of legalese continues to infest legal writing and create ambiguity.

The literal sense of and/or is "both or either," so that A and/or B means (1) "A," (2) "B," or (3) "both A and B." Since and/or has a literal sense, what's the problem? "Both or either" suggests a choice, but and/or is often used in contexts where logically there is no real choice. This makes the drafter's intent hard to discern.

Courts are often asked to decide the intended effect of and/or. For example, if a provision states "Robert and/or Jane must sign to make this agreement valid," will the agreement be valid if only Robert or only Jane signs—can they really bind each other without the other's consent? Or is it valid only if both Robert and Jane sign?

About half the time, and/or means **or**:

Ex.: A sign: "No food and/or drink allowed." [It says that each is disallowed. Read: "No food or drink allowed."]

Ex.: Language in a rental agreement: "Williams must give the owner prompt notice of noise, traffic, and/or pet violations observed on the property." [What is Williams required to give notice of: all three violations occurring at once, or in some combination, or individually? Read: "Williams must give the owner prompt notice of all noise, traffic, or pet violations observed on the property." (If Williams must give notice of each type individually, it follows that he must also give notice of any combination of them.)]

And about half the time, and/or means **and**:

Ex.: A provision in a statute: "All applicable state and/or federal regulations apply to the transfer of goods." [Or falsely suggests a choice between regulations. Read: "All applicable state and federal regulations apply to the transfer of goods."]

Ex.: A statement in a report: "The team of lawyers, paralegals, and/or mediators resolved the case quickly for their client." [Who was on the team? Did they all contribute to the resolution or not? Read: "The team of lawyers, paralegals, and mediators resolved the case quickly for their clients."]

In most legal drafting—when linguistic precision is essential—it's best to add the words **or both** or **either**:

Ex.: A provision in a statute: "Violation of this provision is punishable by imprisonment of up to 5 years and/or a \$10,000 fine." [If the violator can be both imprisoned and fined, read: "Violation of this provision is punishable by imprisonment of up to 5 years, a \$10,000 fine, or both." If only one punishment can be levied, read: "Violation of this provision is punishable by either imprisonment of up to 5 years or a \$10,000 fine."]

If the document lists several items, and not all are required, introduce the list with any of the following:

Ex.: A provision in a regulation: "To prove residency, please provide (1) a valid, unexpired driver's license; (2) a valid, unexpired voter-registration card; and/or (3) a W-2 or 1099 from the current tax year." [Does the applicant need to provide just one or all of the documents? Read: "Any of the following documents will be accepted to verify a person's residency: (1) a valid, unexpired driver's license; (2) a valid, unexpired voter-registration card; or (3) a W-2 or 1099 from the current tax year."]

Small wonder that and/or has been held to invalidate provisions in affidavits, wills, indictments, judgments, contracts, statutes, and findings of fact.

Although using and/or seems like a quick and easy drafting tool, it's more of a quick and dirty one: it too often reflects a failure to think something through or to understand what the parties intend. It creates room for disagreement and litigation. After some practice, you'll find it surprisingly easy and workable to avoid the phrase. In the long run, the extra effort you make to choose between and and or will save you much effort, money, or both.

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.

“What Actually Happened” Here-



How the standard “Duty of Jury” instruction incorrectly communicates the role of the jury and the burden of proof.

by Mikel Steinfeld, Defender Attorney

The very first instruction read to a jury in final instructions is the Duty of Jury.¹ The court instructs the jury that it is their responsibility to apply the instructions “to the facts as you determine them.” The jury is told to “determine what the facts are in the case by determining what actually happened.” The remainder of the instruction is riddled with references to “facts” and “what happened.” The language is carried throughout the remainder of the standard instructions.² To some extent, this role seems to make sense. The jury is the “fact-finder” after all. But the focus on finding “facts” and determining “what actually happened” improperly alters the dynamic of a trial and shifts the burden. Thus, we should challenge these standard instructions in order to ensure that the instructions accurately reflect the burden of proof and appropriate role of the jury.

The Second Circuit Court of Appeals confronted a similar issue in *United States v. Shamsideen*.³ In *Shamsideen*, the challenged instruction was:

Under your oath as jurors you are not to be swayed by sympathy. You are to be guided solely by the evidence in the case and the crucial, hard-core question that you must ask yourselves as you sift through the evidence is, where do you find the truth? The only triumph in any case, whether it be civil or criminal, is whether or not the truth has triumphed. If it has, then justice has been done. If not, justice will not have been done. You are to determine the guilt or innocence of the defendant you are considering solely on the basis of the evidence and subject to the law as I have charged you.⁴

While the Second Circuit recognized that the pursuit of the justice system is the truth, the role of the jury is something different:

The pursuit of truth is not, however, unguided by law. A variety of constitutional and procedural rules define the means by which truth is best ascertained in a free society. Foremost among the rules applicable to criminal cases are the presumption of innocence and the requirement that the government prove guilt beyond a reasonable doubt, which serve truth by “reducing the risk of convictions resting on factual error.”⁵

The Second Circuit then evaluated the instruction in isolation. The Court found the instruction, independently, was incorrect because “that instruction is inadequate to ensure the jury’s understanding that (1) the law presumes the truth of a defendant’s innocence, and (2) the truth of a defendant’s guilt may not be found on less than proof beyond a reasonable doubt.”⁶ The instruction also failed “to inform the jury that if the evidence is insufficient to permit it independently to ‘find

the truth,' its duty, in light of the presumption of innocence, is to acquit."7 While the Court affirmed the conviction because the instructions, taken as a whole, adequately communicated the burden of proof, the Court commented, "trial courts should not define a jury's deliberative task by reference to finding the truth but, rather, by reference to whether the government has satisfied its burden to prove the elements of the charged crime beyond a reasonable doubt."8

Arizona's standard instructions are similar to the challenged instruction in *Shamsideen*. Where the *Shamsideen* instruction referenced "the truth," the standard Arizona instructions tell jurors to "determine the facts" and decide "what actually happened." Utilizing the language of *Shamsideen*, the Duty of Jury instruction, in isolation, does not explain the jury's duty "by reference to whether the government has satisfied its burden to prove the elements of the charged crime beyond a reasonable doubt." The instruction defines the jury's burden by reference to "what actually happened." In essence, the Arizona instructions merely use a synonym for "truth".

Thus, Arizona's Duty of Jury instruction, and related instructions which reference the determination of "facts" or "what actually happened," suffers from the same flaws noted in *Shamsideen*: the "instruction is inadequate to ensure the jury's understanding that (1) the law presumes the truth of a defendant's innocence, and (2) the truth of a defendant's guilt may not be found on less than proof beyond a reasonable doubt."9 Like any "truth" instruction, the encouragement to find the "facts" and "what actually happened" forces the jury into a guilt/innocence dichotomy rather than a guilty/not guilty dichotomy. The courts task the jury to create their own hypothesis of what happened and apply the law to that hypothesis. That is not the jury's role. The jury's role is to evaluate the evidence and the State's hypothesis to determine if the State has proven guilt beyond a reasonable doubt.

To appropriately set your record on any challenges to a jury instruction you need to take at least two steps. First, you need to object to the standard instruction (or the instruction that will be given by the court). Second, you need to propose an alternative. As an alternative to Standard Criminal 1, I would propose the following:

Duty of Jury

It is your duty as a juror to determine whether the State has carried its burden to prove guilt beyond a reasonable doubt. You do this by applying these jury instructions to the evidence you have received. You must follow these jury instructions. They are the rules you should use to decide this case.

When I say "evidence," I mean the testimony of witnesses and the exhibits introduced in court. You should not guess about any evidence. You must not be influenced by sympathy or prejudice. You must not be concerned with any opinion that you feel I have about the evidence.

You must consider all of these instructions. Do not pick out one instruction, or part of one, and ignore the others. As you consider the evidence, however, you may find that some instructions no longer apply. You must then consider the instructions that do apply, together with the evidence.

This is not meant to preclude your own creativity—quite the opposite. This is just one attempt to modify the Duty of Jury instruction to account for the discussion in *Shamsideen*. There may certainly be a better way to phrase the instruction, and we should always seek to improve our instructions.

While *Shamsideen* evaluated the instruction in isolation, instructions are not read in isolation. You should make sure you propose alternatives for other standard instructions. This may include instructions such as:

Criminal 4, Evidence to Be Considered:

You are to determine ~~what the facts in the case are~~ whether the State has proved the defendant's guilt beyond a reasonable doubt only¹⁰ from the evidence produced in court....

Criminal 7, Jury Not to Consider Penalty:

You must decide whether the defendant is guilty or not guilty by ~~determining what the facts in the case are~~ considering the evidence and applying these jury instructions....

Criminal 18, Credibility of Witnesses:

In deciding ~~the facts of~~ whether the State has met its burden to prove guilt beyond a reasonable doubt in this case, you should consider what testimony to accept, and what to reject....

Criminal 22, Lesser-Included Offenses:

... 2. after full and careful consideration of the ~~facts~~ evidence, you cannot agree on whether to find the defendant guilty or not guilty of ...

Criminal 42, Impasse Instruction:

... If you still disagree, you may wish to tell the attorneys and me which issues, questions, law or ~~facts~~ evidence you would like us to assist you with....

By going through the instructions more comprehensively, you will demonstrate how the instructions, as a whole, fail to correctly instruct the jury.

(Endnotes)

1 Revised Arizona Jury Instructions ("RAJI"), Criminal, Standard Criminal 1, Duty of Jury.

2 See RAJI, Criminal, Standard Criminal 4, Evidence to Be Considered; Standard Criminal 7, Jury Not to Consider Penalty; Standard Criminal 18, Credibility of Witnesses; Standard Criminal 22, Lesser-Included Offenses; Standard Criminal 42, Impasse Instruction.

3 511 F.3d 340 (2d Cir. 2008).

4 *Id.* at 342.

5 *Id.* at 346 (citations omitted).

6 *Id.* at 346.

7 *Id.* at 347.

8 *Id.* at 350.

9 *Cf. id.* at 346.

10 Redactions are expressed with ~~striketrough~~, additions are expressed with underline.

Old Dogs *Can* Learn New Tricks: Keyboard Shortcuts A-Z in Microsoft Word

by Laura Schulte, Defender Paralegal

The saying “Old dogs can’t learn new tricks” does not apply when it comes to the ever-changing world of technology. The jokes run rampant that the more experienced staff in the office learned how to type motions and pleadings on typewriters. While that may be true, most of us know how to use Microsoft Word in its basics. When asked to address efficiency or “tricks” used to make life a little easier and faster, my solution to cutting time deals with keyboard shortcuts, which in the process of making charts instead of clicking buttons, allows me to keep my hands on the keyboard. Simple functions can be used to make your life easier and will limit the number of mouse clicks to almost none.



Ctrl B again and it clicks the button off.

The Control Key (Ctrl) plus numerous letter combinations shorten the amount of time it will take to do certain things. You do not have to capitalize the letter in order to accomplish these functions. (Ctrl Shift will get you entirely different results.) The Enter Key is also useful with these shortcuts. Without further ado:

Ctrl A- Select All- All the copy and pasting from different motions and different formats is tiresome to fix. Select All allows you to highlight everything on the screen thus allowing you to modify all of it at one time.

Ctrl B- Bold- Use it for captions and headings. **Emphasize** specific points. Once you are in “**Bold**” mode to get out of it, just

Ctrl C- Copy- This is probably the most common function next to Ctrl S that people are aware of and it is just as useful.

Ctrl D- Opens the Font Menu- This allows the user to have access to changing the font from the default “Calibri (Body)” to Times New Roman. The user also has access to changing the font size from 11 to another number. It also gives access to underline, strikethrough, etc. (Stay tuned for more on those functions)

Ctrl E- Centers the text-There is not an art form to this, but if the user ever needs to center the text to the middle of the screen this shortcut can come in hand.

Ctrl F- Find Menu- Looking for a specific word or case in the middle of your motion? This function can locate it for you!

Ctrl G- Go To Menu- Sick of scrolling? Open this up and it will appear hand in hand with the Ctrl Find menu. It will allow you to jump to specific points in your document.

Ctrl H- Replace Menu-“Boiler Plate” motion? Please don’t forget to change your client’s name! This function will replace words for you. All the Mr. Smiths will become Mr. Daltons with this simple function.

Ctrl I- Italicize- *Emphasize* words. Once you are in “*Italics*” mode to get out of it, just Ctrl I again and it clicks the button off.

Ctrl J- Justifies the Text- This function equalizes the text evenly across the page. It does not “provide a good reason for (something nor does it prove or show (something) to be just, right, or reasonable”.

Ctrl K- Insert a hyperlink- This function allows you to link to web pages, places within a document, or to another file.

Ctrl L- Aligns the text to the left Margin- Simply put, unless you are working in Justified, Right or Centered Margin, the use of this shortcut is very limited.

Ctrl M- Tabs the text over a half inch- If you do this shortcut numerous times; it continues to move the text over another ½ inch each time.

Ctrl N- Opens a new document- Need to have an exact copy of something you worked on previously, but need to make changes to it in a new version? Ctrl A, Ctrl C, Ctrl N and Ctrl V, but don’t forget to Ctrl S once you are done.

Ctrl O- Opens the Open File Menu- Need to get into another file? Ctrl O allows you to access this menu to find another file.

Ctrl P-Print- Not to be confused with the Ctrl V function (Paste). Printing was never less complicated. Please push “Enter”.

Ctrl Q- Adds Space between the lines after a paragraph- This was a fun discovery. This function is probably not used very often hence using the letter “Q”. So while you are using your Ctrl P shortcut, mind your Ctrl Qs.

Ctrl R-Aligns the text to the right margin- Sincerely, your name.

Ctrl S-Saves the Document- Probably the most common function used. Keep using it. For reference the “F12” Key opens “Save As”

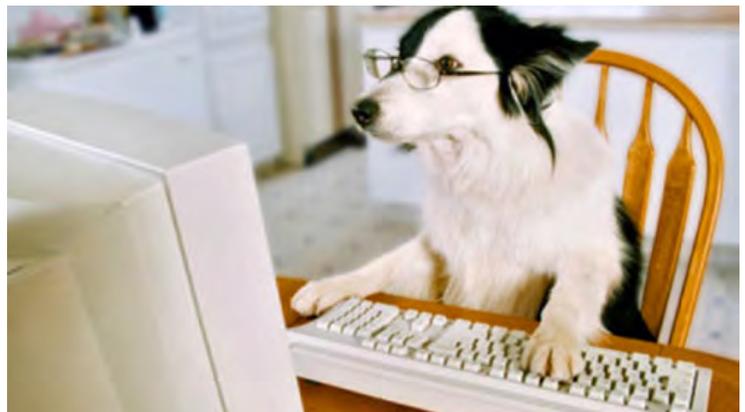
Ctrl T- Moves the tab on the upper margin- In a paragraph, the lines will wrap around. Once you get to the second line (pause) use this function and it will tab your line over underneath the first line. Similar to the Ctrl M function- but the Ctrl M function will move the entire paragraph rather than lines below.

Ctrl U- Underlines the text- Underline titles among other things. Just like with the “**Bold** and *Italicize*” functions, to turn it off just Ctrl U a second time

Ctrl V- Paste- Commonly used with Ctrl C. Why Ctrl V? Simplest explanation is that V is right next to C on the keyboard.

Ctrl W-Closes the window- Make sure you Ctrl S before you do this.

Ctrl X- Cuts the text- This will remove the selected text.





Ctrl Y- Redo (Or Repeat) - This shortcut is very useful when making charts that have similarities. Beware; it only works for things just done prior to activating the shortcut.

Ctrl Z- Undo- We all make mistakes. Ctrl Z will undo whatever user error was just committed. Hit this numerous times to continue “undoing” things you didn’t mean to do. (Too bad there isn’t a “Ctrl Z” function for our client’s actions).

From A-Z, you have tools to make your life a little simpler while working in Word.

Celebrating the Thirteenth Annual APDA Conference

By Jim Haas, Maricopa County Public Defender

This year’s Arizona Public Defender Association Statewide Conference was held June 16-19, 2015 at the Tempe Mission Palms Hotel. The conference featured 152 courses over 3 days and was attended by 1,500 individuals committed to improving the quality of services and representation provided to our clients.

For two-and-a-half days prior to the conference, attorneys, mitigation specialists and paralegals had an opportunity to attend training on the Colorado Method of Jury Selection in Capital Cases. Additionally, on the Tuesday of conference week, all day intensive courses were offered on Leadership, Immigration Consequences of Criminal Convictions, and Investigative Use of the Internet.



At the awards luncheon, indigent representation staff and attorneys from around the state were recognized for their accomplishments and dedication to our profession and our clients. The honorees were:

Rural Administrative Professional

Lisa Lauria,
Pinal County Public Defender

Urban Administrative Professional

Eudelia Duran,
Maricopa County Public Advocate

Rural Paraprofessional

Ricardo Sandoval,
Yuma County Public Defender

Urban Paraprofessional

Kelly Johnson,
Pima County Public Defender

Rural Performance/Contribution

Cecelia Sloan,
Senior Tribal Court Advocate,
Navajo Nation Public Defender

Performance/Contribution

Tracy Abastillas,
Maricopa County Public Defender
Anna Haney,
Maricopa County Legal Defender

Rising Star

Charlie Doughty,
Coconino County Public Defender
Robert Casey,
Maricopa County Public Advocate
Efthymios Katsarelis,
Pima County Public Defender

Rural Attorney

Joseph Carver,
Coconino County Public Defender

Urban Attorney

Philip Beatty,
Maricopa County Public Defender

Contract Attorney

Jennifer Willmott

Hooker

Bob Hirsh, Pima County

Lifetime Achievement

Consuelo Leon,
Maricopa County/City of Phoenix
Alan Gerhardt,
Coconino County Public Defender
Isabel Garcia,
Pima County Legal Defender

Gideon

Al Flores, Private Attorney



Gary Kula, APDA Treasurer and Conference Guru



Bob Hirsch and Isabel Garcia, retiring

Jury and Bench Trial Results

March 2015-May 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					
3/9/2015	Smith <i>Leazotte</i>	Kiley	CR2014-002670-001 Agg Aslt-Victim Bound /Restr, F6 Agg Aslt-Temp Disfigurement, F4	2 2	Jury Trial-Not Guilty
3/12/2015	Turner <i>Strumpf</i> <i>Rankin</i> <i>Costanzo</i>	Mulleneaux	CR2013-424215-001 Criminal Damage, F4 Burglary 3 rd Degree, F4 Aggravated Assault, F2 Aggravated Assault, F6 Aggravated Assault, F5 False Report to Law Enforce, M1	1 1 1 2 1 1	Jury Trial-Guilty Lesser/Fewer
3/24/2015	Blum	Mahoney	CR2014-120415-001 Unlawful Imprisonment, F6 Threat-Intimidate, M1	1 1	Jury Trial-Guilty as Charged
5/8/2015	Forner <i>Tomaiko</i>	Coury	CR2014-131707-001 Agg Aslt DV-Impede, F4 Agg Aslt-Victim Bound/Restr, F6 Criminal Damage-Deface, M2	1 1 1	Jury Trial –Guilty Lesser/Fewer
Group 2					
3/11/2015	Vandergaw	Svoboda	CR2014-133421-001 Threat-Intimidate, M1 Misconduct Involving Weapons, F4 Criminal Trespass 1 st Deg, F6	2 1 1	Jury Trial-Guilty Lesser/Fewer
3/13/2015	Vandergaw <i>Cook</i>	Bernstein	CR2013-457134-001 Dangerous Drug Poss/Use, F4 Drug Paraphernalia Poss/Use, F6	1 1	Jury Trial-Guilty as Charged
3/18/2015	M. Jones Rothman Leazotte	Myers	CR2014-102332-001 Dangerous Drug Violation, F4	1	Jury Trial- Not Guilty
3/20/2015	Vandergaw <i>Schyvynck</i> <i>Avalos</i>	Kaiser	CR2013-417608-003 Armed Robbery, F2 Kidnap, F2	2 2	Jury Trial-Guilty Lesser/Fewer
3/23/2015	Peterson	Hendrix	CR1992-092552-001 Molestation of Child, F2 Sexual Conduct with Minor, F2 Kidnap, F2	2 1 1	Jury Trial-Guilty Lesser/Fewer

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

Jury and Bench Trial Results

March 2015-May 2015

Public Defender's Office – Trial Division

Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(s)	Counts	Result
3/25/2015	Nadimi	Sanders	CR2014-110032-001 Marijuana-Possess/Use, F6 Drug Paraphernalia-Possess/Use, F6	1 1	Court Trial-Guilty Lesser/Fewer
4/8/2015	Lorenz <i>Leon-Pesqueira</i>	Coury	CR2014-147559-001 Child/Vul Adult Abuse Intent, F4 Agg Aslt DV-Impede Breathing, F4	2 1	Jury Trial-Guilty Lesser/Fewer
4/23/2015	Podsiadlik <i>Ortega</i>	Newell	CR2014-149327-001 Unlaw Means Transp-Control, F5 Criminal Damage-Deface, M1	1 1	Jury Trial-Not Guilty
4/28/2015	Peterson <i>Ortega</i>	McCoy	CR2014-106535-001 Burglary 3 rd Degree, F4	1	Jury Trial-Guilty as Charged
4/29/2015	Lorenz <i>Vasquez</i>	Newcomb	CR2014-108265-001 Forgery, F4	1	Jury Trial-Not Guilty
4/30/2015	Whitaker <i>Munoz</i> <i>Roberts</i>	Myers	CR2014-128527-001 Agg Aslt-Deadly Wpn/Dang Inst, F3 Dschrng Firearm in City Limit, F6	1 1	Jury Trial-Guilty Lesser/Fewer
Group 3					
3/9/2015	Laux	Hegy	CR2011-157536-001 Narc Drug Obtain Illegally, F3	1	Jury Trial-Not Guilty
4/23/2015	Spargo	Flores	CR2010-153942-001 Criminal Trespass 3 rd Deg, M3 Resisting Arrest, F6	1 1	Jury Trial-Guilty as Charged
4/24/2015	Henager <i>Spears</i> <i>Hales</i> <i>Henry</i>	Fink	CR2014-110639-001 Sexual Conduct with Minor, F2 Molestation of Child, F2 Indecent Exposure, F6	2 3 1	Jury Trial-Guilty as Charged
4/24/2015	Henager <i>Burns</i> <i>Tomaiko</i>	Gentry	CR2014-133547-001 Sexual Abuse, F5	1	Jury Trial-Not Guilty
4/30/2015	Spargo <i>Tomaiko</i>	Ditsworth	CR2014-111944-001 Dangerous Drug Violation, F4	1	Jury Trial-Not Guilty
5/28/2015	Burns <i>Brady</i>	Fenzel	CR2014-154544-001 Marijuana Violation, F2	1	Jury Trial- Guilty Lesser/Fewer

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

Jury and Bench Trial Results

March 2015-May 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 4					
3/12/2015	Melcher <i>Verdugo</i>	Steinle	CR2014-131058-001 Agg Aslt-Deadly Wpn/Dang Inst, F3 Poss Wpn by Prohib Person, F4	1 1	Jury Trial-Guilty as Charged
3/23/2015	McGroder <i>Verdugo</i>	Mata	CR2014-121864-001 Poss Wpn by Prohib Person, F4 Dangerous Drug Poss/Use, F4 Drug Paraphernalia Possess/Use, F6	1 1 1	Jury Trial- Guilty Lesser/Fewer
3/24/2015	Becker <i>Anderson</i> <i>Kunz</i>	Newcomb	CR2014-002142-001 Murder 1 st Deg-Law Enforcement, F3 Agg Aslt Deadly Wpn/Dang Inst, F2 Dschg Firearm at Residence, F2 Burglary 1 st Degree, F3 Theft-Control Property, F3 Endangerment, F6	1 3 1 2 1 1	Jury Trial-Guilty Lesser/Fewer
4/16/2015	Melcher <i>Verdugo</i> <i>Kunz</i>	Nothwehr	CR2014-144754-001 Agg Aslt-Deadly Wpn/Dang Inst, F3 Shoplifting-Removal of Goods, M1	2 1	Jury Trial-Guilty Lesser/Fewer
4/24/2015	Finefrock <i>Tomaiko</i> <i>Kunz</i>	Brotherton	CR2014-001163-001 Marijuana Violation F2	2	Jury Trial-Guilty as Charged
4/30/2015	Romero <i>Gilchrist</i>	Newcomb	CR2013-003667-001 Escape 3 rd Degree, F6	1	Court Trial-Not Guilty
5/4/2015	Walker <i>Verdugo</i>	Richter	CR2014-150255-001 Aggravated Assault, F5	1	Jury Trial-Not Guilty
Group 5					
3/4/2015	Champagne <i>Mori</i>	Mullins	CR2014-114376-001 Resist Arrest-Physical Force, F6	1	Jury Trial-Guilty as Charged
4/22/2015	Glass-Hess <i>Romani</i>	Rummage	CR2014-007872-001 Kidnap-Ransom/Hostage, F2 Theft by Extort-Inj W/Weapon, F2 Assist Criminal Syndicate, F4 Marijuana-Possess/Use, F6	1 1 1 1	Jury Trial-Not Guilty

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Jury and Bench Trial Results

March 2015-May 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
5/8/2015	Ditsworth	Gass	CR2014-134169-001 Armed Robbery, F2 Theft-Means of Transportation, F3 Unlaw Flight from Law Enf Veh, F5 Kill/Harm Work/Service Animal, M1	1 1 1 1	Jury Trial-Guilty Lesser/Fewer
5/8/2015	Culbert <i>Thompson</i> <i>Taylor</i> <i>Costanzo</i>	Gentry	CR2014-136478-001 Poss Wpn by Prohib Person, F4	1	Jury Trial- Guilty as Charged
Group 6					
3/3/2015	Wrobel <i>Souther</i>	Woodburn	CR2012-005697-001 Marijuana Violation, F6	1	Court Trial-Guilty Lesser/Fewer
3/27/2015	Chiang <i>Wolkowicz</i> <i>Godinez</i>	Nothwehr	CR2012-164098-001 Trafficking in Stolen Property, F3 Burglary 2 nd Degree, F3	1 1	Jury Trial-Guilty as Charged
4/21/2015	Knobbe <i>Hallam</i> <i>Souther</i>	Bernstein	CR2014-106189-001 Narcotic Drug Violation, F4 Drug Paraphernalia Violation, F6	1 1	Jury Trial-Guilty as Charged
4/28/2015	Chiang <i>Wolkowicz</i>	Sanders	CR2013-004934-001 Burglary 3 rd Degree, F4	1	Jury Trial-Guilty as Charged
4/28/2015	Chiang	Bernstein	CR2013-460997-001 Aggravated Assault, F5 Threat Intimidate, M1 Disorderly Conduct, M1	1 1 1	Jury Trial- Guilty as Charged
5/15/2015	Guenther <i>Godinez</i> <i>Gebhart</i>	Kemp	CR2012-155696-001 Sexual Conduct with Minor, F2 Sexual Abuse, F3	11 1	Jury Trial-Guilty Lesser/Fewer
5/29/2015	Llewellyn <i>Taradash</i> <i>Souther</i> <i>Springer</i> <i>Gebhart</i>	Cohen	CR2012-128983-001 Murder 1 st Degree, F1 Street Gang, F3 Drive by Shooting, F2 Endangerment, F6	1 1 1 5	Jury Trial –Guilty Lesser/Fewer

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Jury and Bench Trial Results

March 2015-May 2015

Public Defender's Office – Trial Division

Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(s)	Counts	Result
Probation Violation					
5/22/2015	Fritz Souther Vasquez	Viola	CR2013-430194-001 Armed Robbery, F2 Misconduct Involving Weapons, F4 Aggravated Assault, F3	1 2 1	Jury Trial-Guilty as Charged
RCC					
5/29/2015	Reyes-Petroff Sheperd Godinez	Myers	CR2012-160587-001 Misconduct Involving Weapons, F4	1	Jury Trial-Guilty as Charged
3/13/2015	Lachemann Thompson Henry	Newcomb	CR2014-000871-001 Murder 2 nd Degree, F1	1	Jury Trial- Guilty as Charged
Specialty Court Group					
3/6/2015	Duncan Hook Hart Velting	Ditsworth	CR2012-125141-002 Murder 1 st Degree, F1 Burglary 1 st Degree, F2 Armed Robbery, F2	1 2 1	Jury Trail-Guilty Lesser/Fewer
Training					
4/9/2015	Roth	Gentry	CR2014-000379-00001 Marijuana Possess/Use, F6 Drug Paraphernalia Possess/Use, F6	1 1	Court Trial-Guilty Lesser/Fewer
Vehicular					
3/16/2015	Dehner Vondra	Bernstein	CR2013-419567-001 Agg DUI-Passender Under 15, F6	2	Jury Trial- Guilty as Charged
5/13/2015	Quesada Decker Vondra Henry	Kongable	CR2013-459534-001 Agg DUI-Lic Susp/Rev for DUI, F4 Aggravated DUI-Third DUI, F4	2 2	Jury Trial- Guilty as Charged
5/8/2015	Whitney	Kaiser	CR2013-461828-001 Agg DUI-LIC Susp/Rev for DUI, F4	2	Jury Trial- Guilty as Charged
5/13/2015	Hann Decker	Newcomb	CR2014-105790-001 Agg DUI-LIC Susp/Rev for DUI, F4 Aggravated DUI-Third DUI, F4	2 2	Jury Trial- Guilty as Charged
4/16/2015	Dehner	Donofrio	CR2014-030098-001 Agg DUI BAC .08-Passngr Under 15, F6	1	Jury Trial-Not Guilty

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Jury and Bench Trial Results

March 2015-May 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
6/10/2015	Woods <i>Stapley</i>	Myers	2012-136840-001 Dangerous Drug Violation F4, Drug Paraphernalia Possess/ Use F6	1 1	Court Trial-Guilty as Charged

Legal Advocate's Office – Dependency

Last Day of Trial	Attorney <i>CWS</i>	Judge	Case Number and Type	Result	Bench Or Jury Trial
3/16/15	Haywood <i>Sanchez</i>	Larsen	JD511197 Severance Trial	Granted	Bench
4/10/15	Haywood <i>Sanchez</i>	Crawford	JD508018 Severance Trial	Granted	Bench
4/24/15	Vera <i>Elwood</i>	Overholt	JD30016 Dependency Trial	Granted	Bench
5/4/2015	Haywood <i>Sanchez</i>	Crawford	JD507297 Dependency Trial	Granted	Bench
5/12/15	Vera <i>Elwood</i>	Martin	JD30005 Dependency Trial	Granted	Bench
5/13/15	Vera <i>Elwood</i>	Martin	JD29992 Dependency Trial	Denied/Dismissed	Bench
6/16/15	Haywood <i>Sanchez</i>	Anemone	JD511138 Severance Trial	Under Advisement	Bench

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Jury and Bench Trial Results

March 2015-May 2015

Legal 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
4/2/2015	Sitver <i>Rubio</i>	Richter	2012-137842-002 Burglary 1 st Degree, F2 Kidnap, F2 Armed Robbery, F3	1 4 2	Jury Trial-Guilty as Charged
5/7/2015	Walton	Sanders	CR2013-451160-001 Narcotic Drug Violation, F2 Use Elec Commun Drug Transact, F4	3 3	Court Trial- Guilty Lesser/Fewer
5/29/2015	Amiri	Kaiser	CR2014-128983-001 Agg DUI-LIC Susp/Rev for DUI, F4	2	Jury Trial-Guilty as Charged

***The Fourteenth Annual
APDA Statewide
Conference is scheduled
for June 22-24, 2016.
Mark your calendars!***



Maricopa County
Public Defender's Office
620 West Jackson, Ste. 4015
Phoenix, AZ 85003
Tel: 602 506 7711
Fax: 602 372 8902
pdinfo@mail.maricopa.gov

for The Defense is the training newsletter published by the Maricopa County Public Defender's Office, James J. Haas, Public Defender.

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