October 2000 Volume 10, Issue 10

for The Defense

►◄ Dean Trebesch, Maricopa County Public Defender ►◄

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Beware of Unknown Court Policies:

What You Don't Know About Ex Parte Communications Between Judge and Jury Can Hurt You

By Craig Orent
Deputy Legal Defender

As any criminal defense attorney with a pulse knows, there's been much talk about court policies and their negative impact on us and our clients. Most of the policies are well known and often discussed in defense inner circles. However, some time ago I learned of a little known, pre-existing court policy that may subtly harm our clients (or even the prosecution) at sentencing. Judges have been told that, after each trial's conclusion, they should talk to jurors to learn how they feel about the process. Often the judges conduct this colloquy outside our presence and without our knowledge. Knowing what we know about jurors, we can assume, and in fact be sure, that this discussion about process often evolves into discussion about the case and our client. If the jurors' comments are negative and we don't know about them, how can we be assured that the judge's sentencing decision hasn't been influenced, and how can we be expected to respond to the jurors' comments?

How did I learn about this policy? By accident. After one trial, I approached the jury room to talk with the jurors and noticed the door was closed. I learned from the bailiff that the judge was talking to them and that I would have to wait until she was finished to enter. So I knocked on the door, the judge answered, and I objected to her talking with the jurors outside my presence about my case while it was still pending sentencing. Although annoyed, the judge allowed me into the room. No harm, no foul.

After a subsequent trial, the same thing occurred but with a different judge and

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Roadblocks and Blood Draws:

New Issues in DUI Cases

By Dan Lowrance
ASU Clinic Intern Supervisor

DUI law changes more rapidly than any other area of criminal law. The legislature changes the law every year due to political pressures, and the Court of Appeals and Supreme Court are constantly having to interpret these changes. A couple of issues have come up that may be helpful in the defense of DUI cases.

ROADBLOCKS

DUI checkpoints are illegal in Arizona if used for the purpose of catching drunk drivers. *State ex. rel. Ekstrom v. Justice Court of the State of Arizona in for Kingman Precinct No. 1*, 136 Ariz. 1, 663 P.2d 992 (1983). However, DUI roadblocks are constitutionally permissible if their primary purpose is the deterrence of drunk driving. *State v. Superior Court in for the Pima county (Simmons)* 143 Ariz. 45, 691 P.2d 1073 (1984). In *Simmons*,

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different results. Again, I approached the jury room and knocked on the door. The judge opened the door and gave me a scowling look as if to say, "how dare you interrupt me." With the jurors in the background watching and listening, I told her that I wanted to enter the room and talk with the jurors. She replied, in a demeaning tone, that when she was done she would learn if they wanted to meet with counsel. I replied, "I need to talk to you." She said she would not talk with me outside the prosecutor's presence (he had chosen not to talk to the jurors and left the building). While making this statement, and with me almost inside the doorway, (and again in front of all the jurors) the judge began closing the door. I then tried to utter an objection, but could not finish the sentence because the door slammed in my face. Being less than thrilled about how I had just been treated, especially in front of the jurors, I returned to my dog house but began to intellectualize what had happened.

It occurred to me that, since the case was still pending and the judge had yet to impose sentence, she had engaged in improper ex parte communications with the jurors. My client had been charged with second degree murder and convicted of manslaughter. I had no idea what the jurors told the judge. What if some jurors said that they felt my client was guilty of first or second degree murder, but that they compromised to avoid a mistrial? Could others have said, although my client was guilty of manslaughter, they felt he was extremely dangerous and needed to be incarcerated forever? The only way to find out was to interview the judge and/or the jurors. I was facing a dilemma: I could proceed to sentencing, not knowing what occurred in the jury room and how it may have impacted the judge, or I could try to question the judge about what was said, and then proceed to sentencing. However, given the judge's demeanor and the reaction of shutting the door in my face, the latter option did not seem practical. So I did neither, and instead asked the judge to recuse herself; alternatively, I asked her to allow me to interview the jurors and to refer the matter to another judge for an evidentiary hearing.

She refused to remove herself from the case, and my motion was referred to an independent judge to decide what should be done. After oral arguments, this judge denied both my request for an evidentiary hearing and my request for assignment of a new judge. His ruling was based on his conclusions (assumptions) that "there can be no prejudice to the defendant from the judge speaking with excused jurors after a verdict has been rendered," and that "[d]efense counsel's affidavit and motion for change of judge contains no evidence of any improper ex parte communication made by the jurors to [the trial judge]." In other words, he presumed that the trial judge discussed only procedural matters with the jurors. He also prevented me from questioning the trial judge concerning what was discussed, but went on to hold that my affidavit was inadequate because I had not outlined what was said during the ex parte conversations. He did, however, permit me to interview the jurors.

Back to my dog house. I had my investigator begin locating and interviewing jurors, while I filed a special action. To my surprise, the county attorney's office, in its response before the Court of Appeals, agreed that the trial judge's ex parte communications were improper and that I was entitled to a hearing. Wait, it gets better. Upon reading the state's response, (*the judge who had denied me the hearing)* engaged in ex parte communications. He sent two ex parte e-mails to the state's appellate lawyer expressing shock, and urging him to modify his position before the higher court. The prosecutor, to his credit, took the matter to his office's ethics committee, which instructed him to disclose the e-mails to me. That part of the story must end here.

In the meantime, my investigator had located and interviewed some of the jurors. Probably to no one's surprise, except the judge who denied me the hearing, they confirmed that they and the trial judge discussed more than mere procedural matters. They discussed their views of my client, of me and the prosecutor, and of the state's witnesses. Prosecutors should also beware: the jurors' comments were favorable to my client. There being no prejudice to my client, I withdrew the special action, and he eventually received a fair sentence.

So what's the moral of the story? Always be alert to your trial judge trying to communicate with the jurors outside your presence, even after your client has been convicted and the jurors excused. You might also file a pre-verdict written motion, or at least make an oral one, that should your client be convicted, you object to the judge talking to the jurors outside your presence. Should you decide to do so, the sample motion on page 3 & 4 of this newsletter may be helpful.

SAMPLE MOTION TO PRECLUDE EX PARTE JUDGE/JUROR CONTACT

The Defendant, **********, pursuant to the authorities listed below, requests this Court to avoid any and all ex parte communications with the jury subsequent to any verdict that may result from the trial.

INTRODUCTION

Some trial judges as a matter of routine meet privately with jurors after the trial's completion to learn how they feel about their trial experience. Commonly, the post-verdict discussion will evolve into discussions about the evidence, defendant, attorneys, etc. When the defendant has been convicted, this practice may violate the United States and Arizona Constitutions, and deny the defendant a fair and impartial sentencing hearing. To avoid this potential prejudice, the Defendant requests the Court to avoid engaging in ex parte communications with the jurors between the verdict and the sentencing hearing.

ARGUMENT

A judge has an affirmative obligation not only to be impartial, but to be seen as impartial. Matter of Haddad, 128 Ariz. 490, 498, 627 P.2d (1981). "Even where there is no actual bias, justice must appear fair." State v. Salazar, 182 Ariz. 604, 608, 898 P.2d 982, 986 (App. Div. 1 1995) (quoting McElhanon v. Hing,151 Ariz. 403, 411, 728 P.2d 273, 281 (1986), cert. denied 481 U.S. 1030, 107 S.Ct. 1956, 95 L.Ed.2d 529 (1987)) "Next in importance to rendering a righteous judgment, is that it be accomplished in such a manner that no reasonable question as to impartiality or fairness can be raised." State v. Romano, 34 Wash.App. 567, 569, 662 P.2d 406, 407 (1983) (citing In re Murchison, 349 U.S. 133, 75 S.Ct. 623, 99 L.Ed. 942 (1955) (The Court in Romano held that the judge's ex parte communication regarding defendant's case violated due process by creating an appearance of unfairness despite the lack of any showing the judge was affected by the communications.)). "Such a rule is a requisite to the orderly administration of justice in any judicial system." State v. Valencia, 124 Ariz. 139, 140, 602 P.2d 807, 808 (1979).[1]

The Arizona Code of Judicial Conduct prohibits a judge from engaging in ex parte communications concerning a pending matter. It also requires the judge to assure all interested parties a full opportunity to be heard on a matter. Rule 81, Canon 3, Rules of the Supreme Court states in pertinent part:

> (A) Adjudicative Responsibilities
>
> (4) A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte applications concerning a pending or impending proceeding....
> (Emphasis Added)
> The commentary to the above rule states:
> The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted [for example, brief amicus curiae].
>
> To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.
> (Emphasis Added)

"The ex parte rule carries a distinct purpose to protect parties' due process rights to a fair trial" and a fair sentencing proceeding. State v. Scales, 933 P.2d 737, 741 (1997 Kansas). A defendant has a Due Process right to assure that his sentence is based on accurate and truthful information. And a sentence based on false or misleading information denies him this right. Townsend v. Burke, 334 U.S. 736, 740-41, 68 S.Ct. 1252 (1948). Defendant's Due Process rights are violated if he is denied the opportunity to adequately address information considered in determining the appropriate sentence.[2] Gardner v. Florida, 430 U.S. 349, 362, 97 S.Ct. 1197, 1206-07 (1977); Williams v. New York, 337 U.S. 241, 69 S.Ct. 1079 (1949).

Judges are prohibited from talking with jurors outside counsel's presence during deliberations because jurors may draw the judge into improper substantive discussions. State v. Sammons, 156 Ariz. 51, 57, 749 P.2d 1372, 1378 (1988). This rule exists because of the risk that the judge in some way, even if inadvertently, will influence the jury's deliberations. See, State v. Guytan, 192 Ariz. 514, 968 P.2d 587, ft. nt.5 (App. Div. 1 1998) (and cited cases). A similar analysis must be applied to post-verdict judge/ juror meetings but for the opposite reason. That is, there is a risk that juror comments will influence the judge for sentencing, particularly when counsel is absent and thus unable then or at any other time to respond.

Post verdict ex parte judge/juror communications clearly violate the Judicial Code of Conduct, Rule 81, Canon 3, Rules of the Supreme Court, quoted above. Considering ex parte judge/juror communications in another context reveals the impropriety of such discussions. For example, may a judge read a letter from a juror concerning the defendant's upcoming sentencing without bringing it to counsels' attention? May the judge meet with a juror in chambers at a later date, at the juror's request, to discuss sentencing recommendations and the juror's views about the trial issues? The answer is "NO". See, State v. Jackson, 186 Ariz. 20, 29, 918 P.2d 1038,1047 (1996).

There is no difference between the above scenarios and the judge meeting privately with jurors in the jury room immediately after the verdict is read. The fact that the meeting takes place just after the verdict's reading, and that this is the jury's first opportunity to talk with the judge about the case makes it likely that the jurors will initiate conversations about all sorts of issues relating to the trial, facts, and eventual sentencing. Anyone familiar with post verdict meetings with jurors knows one of the most common, if not the most common, juror inquiry is what will happen at the sentencing and what penalty the defendant is facing.

[Here you should present the various ways such post verdict discussions can prejudice your client] [For example, in my case, the jury had three verdict forms to choose from: Second Degree Murder, Manslaughter, and Negligent Homicide. The jury was instructed as to three theories of Second Degree Murder (intentional, knowing, and reckless) and two theories of Manslaughter (reckless and heat of passion). The verdict forms did not require the jury to specify which theory they relied on in convicting the defendant. Consequently, the Judge, in talking ex parte with the jury, may have learned which theory they, or the majority, in fact relied on in convicting the Defendant. Such knowledge clearly could affect the Judge's sentencing decision. For example, the jury may have told the Judge that all but one juror believed the State proved Second Degree Murder by intentional killing, but, because of the "reasonable efforts procedure," enunciated in State v. LeBlanc, 186 Ariz. 437, 924 P.2d 441 (1996), they settled for Manslaughter. Some of the jurors may even have expressed their opinion that the defendant was guilty of First Degree Murder and asked why they were not permitted to consider that offense. Or, the jury may have told the judge that they convicted the defendant of Manslaughter based on an intentional killing due to reasonable provocation, as opposed to doing so by reckless conduct.]

Such knowledge could significantly influence the Court in its sentencing decision. But as stated earlier, because the communications would be ex parte, defense counsel would be unaware of what was said, and thus could not attempt to respond to or refute the information at the sentencing hearing. And, as stated above, this inability would violate Defendant's right to Due Process.

"Fairness in sentence demands that the defendant be given an opportunity to deny or explain information considered by the court in arriving at an appropriate sentence. When that information is the subject of ex parte communications with the sentencing judge, the defendant is deprived of that opportunity." State v. Scales, 933 P.2d at 741.

"By definition, ex parte contacts are rarely on the record and, therefore, are usually unreviewable." McElhanon v. Hing,151 Ariz. at 411, 728 P.2d at 281. Since, the ex part communications would not be on the record, and, at the very least, would create the appearance of partiality and impropriety, the Defendant respectfully requests this Court to avoid any and all ex parte communications with the jury subsequent to any verdict that may result from the trial.

Endnotes

1. The Arizona Code of Judicial Conduct requires a judge to disqualify herself from any proceeding if her impartiality might be reasonably questioned or if she has a personal bias or prejudice concerning a party. Rule 81, Canon 3, Rules of the Supreme Court states in pertinent part:

(C) Disqualification.

(1) A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including, but not limited to instances where:

(a) He has a personal bias or prejudice concerning a party *or personal knowledge of disputed evidentiary facts concerning the proceeding*.

(Emphasis Added)

The commentary to the above rule states:

Under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless whether any of the specific rules in § 3E(1) apply.

2. "Ex parte communications deprive the absent party of the right to respond and be heard. They suggest bias or partiality on the part of the judge. Ex parte conversations or correspondence can be misleading; the information given to the judge 'may be incomplete or inaccurate, the problem can be incorrectly stated. At the very least, participation in ex parte communications will expose the judge to one-sided argumentation, which carries the attendant risk of an erroneous ruling on the law or facts. At worst, ex parte communication is an invitation to improper influence if not outright. corruption." Shaman, Judicial Conduct and Ethics S 5.01. Quoted in State v. Scales, 933 P.2d at 741.

Roadblocks and Blood Draws

Continued from page 1

the Tucson Police Department used press releases and advertisements on radio, television and in the newspaper to warn the public that there would be DUI roadblocks in the city that weekend. Because of this publicity, the Supreme Court found that the roadblocks' primary purpose was to deter people from drinking and driving, rather than to catch drunk drivers. It is interesting to note that the police do not have to tell the public where the roadblocks are going to be - just that they are going to be out there on a particular day or weekend.

The standard practice in Maricopa County is for the agency conducting the roadblock to send out press releases with no further follow up, leaving the duty of notifying the public strictly to the radio, television and newspaper industries. Sometimes these industries do sufficiently publicize these roadblocks, and sometimes they do not. For example, the East Valley DUI Task Force usually has a press conference some time before Thanksgiving. The story is run on local television news programs, radio and in the newspaper. In contrast, when the Maricopa County Sheriff's Office conducted a roadblock last year, nothing could be found anywhere advertising it. Most of the time, the roadblocks at least get a paragraph on page two of the "Valley and State" section in the *Arizona Republic*.

Clearly, a roadblock without any advertisement or publicity is illegal. The question still remains: if the only advertisement is the one paragraph announcement on page two of the "Valley and State" section of *Arizona Republic*, is that enough to notify the public and make the roadblock a deterrent to drunk driving? This issue has yet to be decided.

Even if the roadblock is sufficiently advertised and publicized that it can be regarded as a deterrent, it still has to be a "minimal intrusion" to pass constitutional muster. In the *Simmons* case, the stop lasted five to twenty seconds, and the case also set out other procedures used by the Tucson police that made that roadblock constitutional. In a case that the Public Defender's Office had with the Maricopa County Sheriff's Office, our client sat in line waiting for the contact with a deputy for *fifteen minutes*. Even though the eventual contact with our client only lasted ten to fifteen seconds, the fifteen minutes sitting in line waiting to be interviewed was a fact that the judge also used in declaring the roadblock unconstitutional.

HOSPITAL BLOOD DRAWS

The scenario goes something like this: your client is involved in an accident, has minor injuries, and is taken to the emergency room. Even though your client has only minor injuries, the hospital takes five or six vials of blood (a "rainbow draw") to check for possible internal injuries. As they are taking the blood for the hospital use, they take two extra vials of blood for law enforcement purposes. Why, you ask? Because the police can make arrests pursuant to §28-1388(E) (a class 1 misdemeanor) if they are not given a sample of the alleged suspect's blood. Both *Lind v. Superior Court*, 954 P.2d 1058 (Ariz. App. Div. 1) (1988) and *State v. Cocio*, 147 Ariz. 277, 709 P.2d 1336 (1985), upheld this statute as long as probable cause exists to believe that the defendant violated the DUI laws, and exigent circumstances exist.

In *State v. Flannigan*, 194 Ariz. 150, 978 P.2d 127 (1999), (litigated by our own Chris Johns), the Court ruled that exigent circumstances are not created merely because of the effervescent nature of alcohol in the body. Since the advent of telephonic search warrants, the exigency justifying a warrantless seizure of blood is only created after the law enforcement officer has attempted to obtain a warrant and run into undue delay in the attempt.

Once the blood has been taken and put into storage, there is no exigency, even if police cannot get a telephonic warrant, because the alcohol will not metabolize and be eliminated from the blood in the test tube. In fact, the blood and alcohol can be preserved for years. Therefore, no exigent circumstances exist and if the police seize your client's blood without a warrant, the seizure is illegal.

Incorrigible Juveniles and the Escape Statutes:
A.R.S. 13-2503, 13-2502

By Arthur K. Merchant
Juvenile Durango Supervisor

Lately, in the Juvenile Division, attorneys have seen an increase in petitions alleging escape under A.R.S. 13-2503 and 13-2502. Most of those petitions allege that incorrigible juveniles commit escape while on home detention. This article primarily focuses on incorrigible juveniles charged with escape from a juvenile secured care facility and/or a juvenile detention facility, A.R.S. 13-2503 (A) (1), when they are on home detention.

Obviously, from the defense perspective, a juvenile secured care facility and/or a juvenile detention facility would seem to mean the facility is a locked down building where children do not have the ability to leave when they want. That is a correct perception of a locked facility. However, there are some judges in the Juvenile Court who think of home detention as a juvenile secured care facility or a juvenile detention facility.

A.R.S. 41-2816 provides a description of a juvenile secured care facility. For a juvenile to be in a juvenile secured facility means that the child has been committed to the Juvenile Department of Corrections, and is under its control until the juvenile turns 18. The term "secure care" under A.R.S. 8-201 (25) and A.R.S. 41-2801(5) means:

> Confinement in a facility that is completely surrounded by a locked and physically secured barrier with restricted ingress and egress.

If a child has never been committed to the Department of Juvenile Corrections, a child cannot have escaped from a juvenile secured care facility.

A juvenile detention facility is a facility where juveniles are detained. The word "detention" under A.R.S. 8-201 (14) is defined as:

> The temporary confinement of a juvenile who requires secure care in a physically restricting facility that is completely surrounded by a locked and physically secured barrier with a restricted ingress and egress for the protection of the juvenile or the community pending court disposition, or as a condition of probation.

Obviously, home detention is not incarceration in a juvenile detention facility. In fact, it is not "detention" within the limited statutory definition of that word. *In re Sheree M.*, 1 CA-JV 99-0202 (Ariz. App. 2000).

The term "escape" under A.R.S. 13-2501 (4) means:

> The departure from custody or from a juvenile secured care facility as described in A.R.S. 41-2816, a juvenile detention facility or an adult correctional facility in which a person is held or detained with the knowledge that such departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period.

The term "custody" under A.R.S. 13-2501 (3) means:

> The imposition of actual or constructive restraint pursuant to an on-site arrest or court order, but does not include detention in a correctional facility, juvenile detention center or the state hospital.

When the state charges a juvenile with escape under A.R.S. 13-2503 (A) (1), which is escape from a juvenile secured care facility or a juvenile detention facility, but the juvenile has actually escaped from home detention, let the state put forth its case. Then, hammer home in your closing argument that the State has failed to prove the elements of the crime. Inform the court that a juvenile secured care facility and/or a juvenile detention facility is not home detention, *In re Sheree M.*. Also inform the court that the state has failed to establish the juvenile escaped from a juvenile secured care facility or a juvenile detention facility.

Additionally, be prepared to object to the state moving to amend the petition to conform to the evidence at anytime during the adjudication. Under *State v. Johnson*, 2 CA-CR 98-0572 (Ariz. App. 2000) the state is precluded from amending the petition if it is not based on a technical or formal error, or the amendment changes the nature of the offense charged in the petition, and if the defense is not afforded sufficient notice to meet the allegations and defend against them. If the state tries to amend the petition, the state will try to amend the petition to A.R.S. 13-2503 (A) (2), which is:

> Escaping or attempting to escape from custody imposed as a result in having been arrested for, charged with, or found guilty of a felony.

Or, the state may try to amend the petition to A.R.S. 13-2502 (A), which alleges:

> A person commits escape in the third degree if having been arrested for, charged with, or found guilty of a misdemeanor or petty offense, such person knowing escapes or attempts to escape from custody.

Under current case law, specifically *State v. Williams*, 186 Ariz. 622, 925 P.2d 1073 (Ariz. App. 1996), a person can be convicted of escape under A.R.S. 13-2503 (A) (2) if the person is on home detention. A person ordered into home detention is in custody pursuant to a court order. Therefore, leaving the home without permission is escape from custody imposed as a result of being arrested for, charged with or found guilty of a felony.

If the court grants the state's motion to amend, you still have a good legal argument. Remember, your client is an incorrigible child who has been placed on home detention pending the disposition hearing, or as a result of the disposition hearing for the incorrigibility. Under A.R.S. 13-2503 (A) (2) or A.R.S. 13-2502 (A), the state will be unable to meet the required elements of either of those two statutes. A.R.S. 13-2503 (A) (2) requires that a person escapes or attempts to escape from custody imposed as a result of having been arrested for, charged with, or found guilty of a felony. In your case, your client, who is incorrigible, is in custody but has not been arrested for, charged with, or found guilty of a felony. As for A.R.S. 13-2502 (A), the state must prove that your client was arrested for, charged with, or found guilty of a misdemeanor or petty offense, and your client knowingly attempts to escape or escapes from custody. Again, your client is in custody based on incorrigible charges, not a misdemeanor or petty offense. Your client was not arrested for, charged with or found guilty of a misdemeanor or a petty offense. As such, drive home the point to the court.

Incorrigible juveniles placed on home detention who subsequently leave their residence without permission, should not be found delinquent of the charge of escape. Under A.R.S. 13-2503 (A) (1), home detention is not a juvenile secured care facility or a juvenile detention facility. Nor do A.R.S. 13-2503 (A) (2) and 13-2502 (A) incorporate any language referring to incorrigible children in custody as a result of being arrested for, charged with or found guilty of an incorrigible act. Be on the lookout for these cases and argue these points.

Do you have an idea for an article? Would you be interested in writing an article for publication in *for The Defense*?

If so, give us a call.

BULLETIN BOARD

New Attorneys

Zachary D. Cain has been hired as a Defender Attorney effective October 30, 2000. Zachary recently graduated from Arizona State University School of Law. He previously served in our Clinical Intership Progam while attending law school.

April M. Giancola has accepted a position with the Office as a Defender Attorney effective October 30, 2000. April recently graduated from the New England School of Law.

Olin R. Hale will join the Office as a Defender Attorney, effective October 30, 2000. Olin graduated from Southern Methodist University School of Law. Most recently, he has been a public defender in Navajo County and, prior to that, Olin was in private practice for nine years.

Julien Jones, currently a Law Clerk in Trial Group C, has successfully passed the Arizona Bar Exam and will be joining our attorney training program effective October 30, 2000.

Suzette Pintard will return to the Public Defender Office as a part-time attorney assigned to the EDC Unit, effective October 23, 2000.

Steven A. Primack has accepted a position with the Office as a Defender Attorney, effective October 30, 2000. Steven recently graduated from John Marshall Law School, and he is the brother-in-law of our attorney Allyson Primack.

Terry J. Reid has accepted a position as a Defender Attorney effective October 30, 2000. Terry recently graduated from Arizona State University School of Law and she was a participant in our Clinical Internship Program while in law school.

Aldon G. Terpstra has been hired as a Defender Attorney, effective October 30, 2000. Mr. Terpstra graduated from Arizona State University College of Law. He clerked for Judge Rebecca Berch of the Court of Appeals and was in private practice for the last year.

Michael R. Ziemba will be joining the Office as a Defender Attorney, effective October 30, 2000. Michael recently graduated from Arizona State University College of Law and served in our Clinical Internship Program while attending law school.

Derron Woodfork, currently a Law Clerk in Trial Group E, has successfully passed the Arizona Bar Exam and will be joining our attorney training program, effective October 30, 2000.

Attorneys Changes

Jeffrey A. Zick, Defender Attorney assigned to Trial Group A, has resigned from the Office of the Public Defender effective October 27, 2000. Jeff will be transferring to the Maricopa County Attorney's Office.

MARICOPA COUNTY'S
2nd ANNUAL
CHILI-FOR-CHARITY COOKOFF

TO BENEFIT

VALLEY OF THE SUN UNITED WAY

SATURDAY, NOVEMBER 11, 2000

Following Veterans Day Parade

MARGARET T. HANCE PARK

10:30 a.m. – UNTIL THE JUDGING ENDS

EXPERIENCE THE "CHILI CHALLENGE"

ALL CHILI ENTRIES MUST BE PREPARED AT THE EVENT

The 2nd "Chili-for-Charity" Cookoff to benefit the Valley of the Sun United Way will officially get underway at the Margaret T. Hance Park, Central Avenue and the I-10 tunnel, following the Veteran's Day Parade on Saturday, November 11, 2000. More than 30 cooks are expected to participate in the charity chili cookoff. Festivities will begin with a cook's parade at 10:30 a.m.

Sanctioned by the Chili Appreciation Society International (CASI), contestants will combine traditional recipes with their own secret ingredients in hopes of winning top honors. Tasting cups go on sale at 10:00 a.m. Vote for your favorite chili and salsa by using the voting forms enclosed in the tasting packets. Normally, chili pots are emptied quickly and the salsa goes fast so don't miss your chance to taste all the mouth-watering recipes.

Prizes have been donated for a special drawing. Winners will be announced at the trophy presentation, following the judging.

Admission is free

- CHILDREN'S CARNIVAL ACTIVITIES
- FOOD COURT & ENTERTAINMENT
- THE GREAT "CHILI DOG" ADOPTION

For further details call the **Chili Hotline @ 602-506-7999** or **Judi Wheeler @ 602-506-6633**

For Complete Event Schedule See Back Cover

ARIZONA ADVANCE REPORTS

By Stephen Collins
Defender Attorney – Appeals

Benitez v. Dunevant, 329 Ariz. Adv. Rep. 13 (SC, 8/31/00)

Defendant was charged with driving a vehicle on a license suspended for an earlier DUI violation. He was not entitled to a jury trial because it is a "petty" offense.

State v. Carlisle, 329 Ariz. Adv. Rep. 5 (CA 1, 8/29/00)

A television reporter began an investigation into people who use the Internet to seduce minors. The reporter pretended to be a fourteen-year-old boy named Brad and entered adult Internet chat rooms. In one of the chat rooms, Defendant arranged to meet with "Brad" to perform oral sex. The reporter then hired an eighteen-year-old actor to pretend to be "Brad." When Defendant met the actor, Defendant agreed to perform oral sex.

It was held that Defendant was guilty of attempted sexual conduct with a minor even though the "victim" was actually an eighteen-year-old actor. Factual impossibility is not a defense to attempt.

The absence of an actual victim under the age of fifteen did not preclude the offense from being a dangerous crime against children under A.R.S. Section 13-604.01. It is only necessary that the perpetrator believes the intended victim is under fifteen years of age, and then takes any step in a course of conduct planned to culminate in one of the enumerated crimes in the statute.

State v. Morales, 329 Ariz. Adv. Rep. 3 (CA 2, 7/18/00)

At trial, the prosecutor cross-examined the Defendant and asked him if the police officers had lied. There was no objection. On appeal it was claimed the prosecutor's question was argumentative, invaded the province of the jury, and failed to allow for "a possibility of mistake, lapse of memory, or failure of observation."

The state urged a blanket rule that asking a witness who completely contradicts another witness to comment on that witness's veracity is permissible cross-examination. The Court of Appeals rejected both arguments deciding not to adopt a bright line rule that automatically permits or prohibits the question at issue.

"Were they lying" questions may be appropriate when the only possible explanation for the inconsistent testimony is deceit or lying or when a defendant has opened the door by testifying about the veracity of other witnesses on direct examination. "Absent such circumstances, however, the safest and recommended course is for parties to refrain from asking such questions."

Any prosecutorial misconduct was not reversible error because there was no objection at trial. "Were they lying" questions alone will rarely amount to fundamental error.

State v. Petrak, 329 Ariz. Adv. Rep. 7 (CA 1, 8/31/00)

Defendant was convicted for misconduct involving weapons pursuant to A.R.S. Section 13-3102(A)(8). This statute prohibits "knowingly . . . using or possessing a deadly weapon during the commission of any felony offense included in Chapter 34 of this title[drug offenses]."

The prosecution presented evidence of drugs found in Defendant's house and a marijuana pipe and two guns found in his truck. The trial judge ruled the guns did not have to be connected to the drug possession. He instructed the jury that "If you're in possession of illegal drugs it's a crime to be in possession of a gun, and that means to own one."

The Court of Appeals reversed. It held the prosecution must prove that a defendant intended to use or could have used the weapon to further the felony drug offense underlying the weapons misconduct charge. A mere temporal nexus was insufficient.

The indictment did not make it clear whether it was alleging misconduct involving weapons because of drugs and guns in Defendant's truck or drugs and guns in his home. The Court of Appeals found this inadequately defined the charge and failed to notify Defendant of what evidence would be presented against him. An indictment is duplicitous when two or more offenses are charged in the same count of an indictment.

State v. Wood, 329 Ariz. Adv. Rep. 11 (CA 1, 8/31/00)

When Defendant and his wife separated, he took their child and went to Oklahoma. This was done without the wife's knowledge or consent. Defendant was convicted of custodial interference even though no custody proceeding was pending.

Under A.R.S. Section 13-1302(A)(2), a person commits custodial interference if, "knowing or having reason to know that the person has no legal right to do so . . . before the entry of a court order determining custodial rights, [he] takes, entices or withholds any child from the other parent denying that parent access to any child." The Court of Appeals held Defendant was guilty of violating the statute because pending custody proceedings are not a prerequisite.

State v. O'Meara, 330 Ariz. Adv. Rep. 3 (SC, 8/31/00)

A police officer observed four men loitering in front of a K-Mart. They then got in a maroon car and sat for fifteen minutes. Three of the men then got out and got into a gray car parked nearby. Defendant and another man then got into the maroon car and drove away. Both cars were then driven away. The maroon car made several U-turns.

The two cars then stopped in a Safeway parking lot. Defendant got out of the maroon car and back into the gray car. The three men in the gray car got out and got into the maroon car. When the vehicles left the parking lot, the police officer radioed a patrol officer for help and instructed him to stop the gray car "if it violated any traffic laws."

Defendant was stopped for failing to signal a lane change and speeding. When he refused to allow a search of the vehicle, the officer walked to the back of the trunk and said he smelled fabric softener. Defendant was detained until a drug detection dog arrived which alerted on the trunk. A telephonic search warrant was then obtained and 349 pounds of marijuana was found in the trunk.

The validity of the stop was not questioned. The issue on appeal was whether the multiple car switching, the odor of fabric softener and the officer's experience gave him reasonable suspicion to detain Defendant after the traffic stop. The Arizona Supreme Court held there was reasonable suspicion under the totality of the circumstances test.

Defendant argued that each of the observed activities could have innocent explanations and therefore should be disregarded. It was held that "one cannot parse out each individual factor, categorize it as potentially innocent and reject it." Instead, one must look at all of the factors collectively.

Justices Feldman and Zlaket concurred with the result but not with the approach adopted by the majority.

State v. Wilkinson (Porter), 330 Ariz. Adv. Rep. 29 (CA 1, 9/13/00)

Defendant was convicted of contracting without a license, a class 1 misdemeanor. The contracting homeowner sought restitution for incomplete and faulty work. The Court of Appeals held restitution was improper because any losses were the result of shoddy workmanship, not from the absence of a contractor's license.

BULLETIN BOARD

New Support Staff

Lynn Murrieta has been hired as a Records Processor for Trial Group C in Mesa, effective October 9, 2000.

Chantilly Little has been hired as a Client Services Coordinator effective October 23, 2000. Chantilly received her Bachelor's Degree in Psychology from Missouri Valley College and, most recently, she has been a probation officer for Navajo County.

Support Staff Changes

Jennifer Rosiek, Records Processor Downtown, has resigned from her position at the Public Defender's Office Records Division, effective October 18, 2000.

Carolyn Partis, Legal Secretary for the DUI Unit, has resigned her position with the Public Defender's Office, effective October 20, 2000.

SEPTEMBER 2000
JURY AND BENCH TRIALS

GROUP A

Dates: Start–Finish	**Attorney** Investigator *Legal Assistant*	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
9/7-9/7	**Looney**	Warren	Trudgian	TR 00-04133, TR 00-03808 TR 00-04137 Driving on Suspended License	Pled day of trial	Bench
9/11-9/11	**Valverde**	Davis	Cohen	CR 00-07697 Burglary 3rd Degree/F4	Guilty	Jury
9/11-9/12	**Knowles** Brazinskas	Heilman	Hunt	CR 00-07606 Endangerment/F6 Criminal Damage/F6	Dismissed with prejudice	Jury
9/11-9/13	**Zick**	McVey	Duvendack	CR 00-05438 Agg. Assault, Dangerous/F2 Agg. Assault/F6 Resisting Arrest/F6, Escape/F6	Not Guilty Agg. Assault Dangerous; Guilty of Agg. Assault, Resisting Arrest and Escape	Jury
9/15-9/15	**Rempe** Molina	Talamante	Spaw	CR 99-15309 Sale of Dangerous Drugs/F2	Hung jury	Jury
9/18-9/18	**Zick/Noland**	Schwartz	Rahi-Loo	CR 00-070904 Burglary/F4; Resisting/F6	Dismissed day of trial	Jury
9/20-9/20	**Knowles** Jones	McVey	Altman	CR 00-07776 Trespass 1st Degree/F6 Interfere w/ Judicial Procedure/M1	Dismissed day of trial	Jury
9/20-9/20	**Howe**	Araneta	Newell	CR 00-07371 Theft Means of Transport/F3	Dismissed without prejudice day of trial	Jury
9/20-9/21	**Cotto**	McVey	Spaw	CR 00-04979 PODD/F4	Guilty	Jury

GROUP B

Dates: Start–Finish	**Attorney** Investigator *Legal Assistant*	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
9/6 - 9/13	**Lopez**	Hilliard	Reid-Moore	CR 00-007174 Agg Assault, F3D & Endanger F6D	Not Guilty	Jury
9/11	**Walton**	Martin	Shreve	CR00-009162 1 ct Agg Assault, F3D 1 ct Agg Robbery, F3N	Dismissed w/out Prejudice	Jury
9/12–9/14	**Whelihan**	O'Melia	Charnell	CR98-06643 2 cts Agg Assault, F3D	Guilty	Jury
9/21–9/25	**Peterson**	Gottsfield	Strom	CR00-010613 Agg Assault, F4D	Guilty	Jury
9/25–9/27	**Lemoine** Casanova	Gottsfield	Flanagan	CR00-001445 4 cts Sale Narc Drug w/ 2 prior felonies	Guilty on all counts	Jury
9/27–9/28	**Owens** King	Kaufman	Kuhl	CR00-004496 Theft, F6N	Guilty	Jury

DUI UNIT

Dates: Start-Finish	**Attorney** Investigator *Legal Assistant*	Judge	Prosecutor	CR # and Charge(s)	Result:	Bench or Jury Trial
8/22-8/23	**Force**	McVey	Poster	CR00-007093 2 Cts. Agg DUI, F4	Not Guilty Impairment, Guilty of Agg. DUI > .10	Jury
8/28-8/30	**Carrion**	Araneta	Wolfrem	CR99-014825 Agg DUI w/2 priors, Agg DUI .10	Guilty	Jury
8/31-9/5	**Timmer**	Keppel	Eckardt	CR00-02969 Agg DUI w/2 priors and probation	Hung Jury	Jury
9/7-9/11	**Potter**	Gottsfield	Poster	CR00-006556 Agg DUI	Mistrial Not Guilty	Jury

SEPTEMBER 2000
JURY AND BENCH TRIALS

GROUP C

Dates: Start–Finish	**Attorney** Investigator *Legal Assistant*	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
8/30 – 9/5	**L. Moore**	Jarrett	Boyle	CR2000-091301(B) Ct. 1: Prohibited Possessor/F4N	Guilty	Jury
9/6 – 9/11	**Bond**	Oberbillig	Gonzales	CR2000-091656 Ct. 1: Agg DUI/F4 Ct. 2: Agg DUI BAC >.10/F4N	Ct 1: Guilty Ct 2: Directed Verdict	Jury
9/6 – 9/7	**Antonson**	Willrich	Griblin	CR2000-092232 Ct. 1: POM/F6N Ct. 2: PODP/F6N	Ct 1: Guilty Ct 2: Dismissed day of trial	Jury
9/7 – 9/13	**Davis / Nermyr**	Barker	Curtis	CR1999-092612 Ct. 1: Agg Assault/F3N	Hung Jury (5 not guilty and 3 guilty)	Jury
9/12 – 9/19	**Stewart / Ramos** Southern	Hendrix	Griblin	CR1999-091391 Ct. 1: PODD F/Sale/F2N Ct. 2: PODP/F6N	Not Guilty all counts	Jury
9/13 – 9/18	**Bond**	Willrich	Rosales & Brame	CR2000-092255 Ct. 1: Agg Assault/F3D Ct. 2: Cruelty to Animals/F6N Ct. 3: Misconduct w/Weapons/F4D	Ct. 1: Guilty (dangerous) Ct. 2: Not Guilty Ct. 3: Guilty	Jury
9/13 – 9/14	**Klopp-Bryant**	Fenzel	Weinberg	CR2000-090242 Cts. 1 & 2: Agg DUI/F4N	Guilty on both cts.	Jury
9/13 – 9/15	**Leonard / Little**	Oberbillig	Holtry	CR2000-092082 2 Cts. Agg DUI/F4N	Guilty	Jury
9/14 – 9/18	**Zazueta** (Advisory Counsel)	Barker	Blair	CR1999-095405 Ct.1: Flight fm Pur. Law Vehicle/F5N	Guilty	Jury
9/18 – 9/18	**Klopp / Moore, J.**	Fenzel	Weinberg	CR2000-091671 2 Cts. Agg DUI/F4N	Pled after Jury Selection	Jury
9/18 – 9/18	**Sheperd**	Jarrett	Curtis	CR2000-091120 Ct.1: Theft of Means of Transportation/F4N	Dismissed w/o Prejudice	Jury
9/18 – 9/19	**Stein**	Keppel	Rosales & Brame	CR2000-092975 Ct. 1: Ind. Exposure/M1N Ct.2: Public Sexual Indecency/M1N Ct. 3: POM/F6N	Ct 1 & 2: Dismissed w/Prej. Ct. 3: Guilty	Jury
9/19 – 9/20	**Alcock**	Barker	Sandish	CR2000-091538 Ct. 1: Agg DUI/F4N	Guilty of Misd. DUI	Jury
9/20 – 9/27	**Sheperd**	Willrich	Krabbe	CR2000-092969 Ct. 1: Burg 2nd Deg/F3N	Guilty	Jury
9/25 – 9/28	**Logsdon / DuBiel**	Keppel	Holtry	CR1997-095522 Cts. 1-4: Agg DUI & BAC >.01 or greater/ F4N	Guilty on all counts.	Jury
9/25 – 9/26	**Gaziano**	Skousen	Gordwin	CR00-00515 Misd. Interfere w/Judicial Proceedings	Guilty	Bench
9/25 – 9/27	**Leonard**	Keppel	Boode	CR2000-092747 Ct. 1: PODD for/sale/F2N	Not Guilty on Sale Guilty on Possession	Jury
9/25 – 9/25	**Fox / Klopp**	Oberbillig	McCoy	CR2000-091818 2 Cts.: Agg DUI/F4N	Pled day of trial	Jury
9/26 – 9/26	**Davis**	Barker	Doane	CR2000-092182 2 Cts.: Dangerous Drug Violation/F3N 1 Ct. Misconduct w/Weapons/F4N	Dismissed day of trial w/o Prejudice	Jury
9/26 – 9/26	**Klopp**	Barker	Doane	CR2000-091031 Ct. 1: POM/F6N Ct. 2: PODP/F6N	Pled to Misdemeanor day of trial	Jury

SEPTEMBER 2000
JURY AND BENCH TRIALS

GROUP D

Dates: Start–Finish	**Attorney** Investigator *Legal Assistant*	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
8/2	**Mehrens**	Cole	Todd	CR 20000-008740 1 Ct. Agg DUI	Dismissed w/o prejudice	Jury
8/8	**Mehrens**	Cole	Eckhardt	CR 2000-005178 1 Ct. Agg DUI-F4	Plead to DUI M1 day of trial	Jury
8/16	**Mehrens**	Araneta	Fritz	CR 99-17693 1 Ct. Agg DUI –F4	Plead to DUI M1 day of trial	Jury
8/21-9/20	**Parker**	Cole	Horn	CR 99-16714 25 Cts. Sexual conduct w/minor; 7 Cts. Child molest; 14 other various sex chrgs.	34 cts. Dismissed 12 cts. Guilty	Jury
8/30-9/1	**Mehrens**	Galati	Poster	CR 99-16132 2 Agg DUI – F4	Guilty of lesser included = DUI M1.	Jury
9/11 – 9/13	**Elm / Radovanov**	Bolton	Eaves	CR 99-13862 1 Ct. Trafficking in Stolen Prop., F3	Guilty	Jury
9/11-9/12	**Billar**	Ellis	Amiri	CR99-017519 Poss of Dangerous Drugs and Drug Possession both F4	Not Guilty	Bench
9/12- 9/18	**Stazzone**	Gerst	Linstedt	CR 2000-01444 1 Ct. Shooting Occ. Struc-Gng Int, F2 Dang. 4 Cts. Agg. Assault, F3, Dang. 1 Ct. Endangerment, F6, Dang.	Directed Verdict: 1 ct. of Agg. Assault Guilty of rest	Jury
9/12-9/12	**Varcoe**	Gerst	Kozinets	CR2000-010984 1 Ct. Disorderly conduct, F6	Dismissed Without Prejudice	Bench
9/12-9/12	**Varcoe**	Ballinger	Bailey	CR2000-007560 1 Ct. Sex abuse, F5	Dismissed Without Prejudice	Bench
9/12-9/13	**Lerman / Ferragut**	Kaufman	Kozinets	CR2000-009529 1 Ct. POND	Not Guilty	Jury
9/13	**Enos/ Eskander**	Gottsfield	Mueller	CR 2000-006819 1 Ct. Drv Undr Fin Res Sus, F4 1 Ct. Agg Dr-Lq/Drg/Tx Sub, F4	Not Guilty	Jury
9/13-9/20	**Varcoe/ Huls**	Mangum	Johnson	CR2000-004751 1 Ct. Molest, C2, DCAC 2 Cts. Sex abuse, C3, DCAC 1 Ct. Sex conduct, C2, DCAC	Not Guilty	Jury
9/14	**Wallace**	Gerst	Adelman	CR 2000-005582 1 Ct. Agg Assault, F4	Dismissed	Jury
9/14 – 9/27	**Kibler** Salvato *Kay*	Bolton	Lynch	CR 99-04016 Murder 2, F1	Not Guilty	Bench
9/18	**Schreck / Geranis**	Ballinger	Eaves	CR2000-06344 1 Ct Agg Assault, F6	Guilty	Jury
9/19-9/19	**Berko / Clemency**	Cole	Petrowski	CR99-18166 22 Cts. Armed robbery rape 5 victims	Dismissed	Jury
9/20-9/26	**Billar**	P. Reinstein	Berstein	CR 2000-05402 1 Ct Escape-2nd Deg. F5; 1 Ct. Harassment, F6; 1 Ct. Resist Offcr/arrest, f6	Guilty Aggravated Harrassment and Resisting Arrest Not Guilty Escape	Jury
9/25	**Schreck** O'Farrell	Ballinger	Eaves	CR2000-04594 1 Ct Agg Assault, F6	Plead Guilty day of Trial to a class 1 mm, summary probation	Jury
9/25 – 9/27	**Stazzone**	Dougherty	Musto	CR 2000-06399 1 Ct. Burglary 3, F4 1 Ct. Attpt/Com Theft Means Transprt, F4 1 Ct. Burg. Tools Poss., F6	Dismissed by State on 9/27/00	Jury
9/26-9/26	**Varcoe**	Meyers	Eaves	CR2000-009250 1 Ct. Burg., 1 Ct. Theft	Dismissed	Jury
9/26-9/26	**Varcoe**	Gerst	Eaves	CR2000-008417 1 Ct. Burglary, 1 Ct. Theft	Dismissed	Jury
9/27-9/27	**Clemency**	McClennen	Flores	CR 2000-00651 1 Ct. POND, F4	Plead day of trial-State agreed to treat case as Prop 200	Jury

SEPTEMBER 2000
JURY AND BENCH TRIALS

GROUP E

Dates: Start–Finish	**Attorney** Investigator *Legal Assistant*	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
8/31 - 9-6	**Ackerley**	Schneider	Hanlon	CR00-04551 Agg. Asslt./F3	Not Guilty	Jury
8/31 – 9/8	**Flynn**	Araneta	Blumenreich	CR 00-08027 Resist Arr/M1	Guilty	Bench
9/6/00	**Richelsoph**	Reinstein	Wilson	CR00-06667 Resist. Arrst./F6	Guilty of Resist. Arrst./M1	Bench
9/7 – 9/13	**Flynn**	Araneta	Brnovich	CR00-06729 Agg Asslt./F4D	Guilty	Jury
9/11 - 9/14	**Roskosz**	Schwartz	Hanlon	CR00-02651 Poss. of an Imitation Controlled Sub. w/ Intent to Distribute/F6; Forgery/F4	Not Guilty on Possession charge Hung on Forgery charge	Jury
9/12 - 9/15	**Squires**	Reinstein	Adams	CR00-00606 Agg. Asslt./F4	Not Guilty	Jury
9/21 -9/26	**Roskosz**	Hall	Kay	CR00-08008 POND/F4; PODP/F6	Not Guilty both counts	Jury
9/26	**Pelletier**	Araneta	Neugebauer	CR00-08030 Agg. DUI/F4	Dismissed day of trial	Jury

COMPLEX CRIMES

Dates: Start–Finish	**Attorney** Investigator *Legal Assistant*	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
Submitted 9/1 – verdict rendered 9/22	**Bevilacqua/Gavin**	Jarrett	Brnovich	CR99-95294 1 Ct. Murder 1°, F1 1 Ct. Child Abuse, F2	Submitted to Court on stipulated set of facts – Guilty Murder 1; Not Guilty Child Abuse	Bench
9/5 – 9/13	**Bevilacqua** Bradley	Gerst	Imbordino	CR98-05869 1 Ct. Murder 1°, F1; 1 Ct. Burglary, F2D; 1 Ct. Misconduct Involving Weapons, F4	Guilty – Murder; Guilty –Burglary (non-dangerous); Guilty Misconduct Involving Weapons	Jury
9/6 – 9/18	**Liles**	Sheldon	Mesh	CR98-15491 6 Cts. Sale of Narcotic Drugs, F2 2 Cts. Conspiracy to Sell Narcotic Drugs, F2; 3 Cts. Offer to Sell Narcotic Drugs, F2; 2 Cts. Offer to Sell Dangerous Drugs, F2; 1 Ct. Illegally Conducting an Enterprise, F3; 1 Ct. Use of Electronic Communication in [illegible]on, F4	Guilty on all counts	Jury

OFFICE OF THE LEGAL DEFENDER

Dates: Start–Finish	**Attorney** Investigator *Legal Assistant*	Judge	Prosecutor	CR# and Charge(s)	Result	Bench or Jury Trial
9/11 – 9/18	**Funckes**	Hotham	Kamis	CR00-02974 5 cts. Sale of Marijuana, F3 2 cts. Misconduct Involving Weapons, F4 Offer to Sell Marijuana over two pounds, F2 Transfer of Marijuana, F3 Armed Robbery, F2 D;; Kidnaping, F2 D	Not Guilty Offer to Sell Marijuana over two pounds, F2 1 ct. Misconduct Involving Weapons, F4; Guilty on all other counts	Jury
9/12 – 9/22	**Steinle** Apple	Hilliard	Greer	CR99-15292 2° Murder, F1 Dangerous	Guilty Negligent Homicide, Dangerous	Jury
9/25 – 9/28	**Patton** Horrall	Cole	Conrad	CR99-17228 Poss equipment/chemicals for manufacture dangerous drugs, F3 ; PODP, F6; Forgery, F4	Guilty	Jury
9/28 – 9/29	**Canby**	Talamanle	Wilson	CR99-01453 3° Degree Burglary, F4 Possession Burglary Tools, F6	Not Guilty	Jury

2nd ANNUAL
CHILI-FOR-CHARITY COOKOFF 2000
SATURDAY, NOVEMBER 11, 2000

SCHEDULE OF EVENTS

7:00 a.m. – 10:00 a.m.	Booth Set-up
8:00 a.m. – 9:00 a.m.	Registration
9:00 a.m.	Sponsor Announcements
10:00 a.m. – 4:00 p.m.	Arts & Crafts Fair in Plaza Area
10:00 a.m. – 10:30 a.m.	Cook's Meeting
10:30 a.m. – 11:00 a.m.	Opening Ceremonies & Cook's Parade
11:00 a.m.	COOKOFF BEGINS!
11:00 a.m. – 2:00 p.m.	Children's Carnival Booths
11:30 a.m.	Sponsor Announcements
11:45 a.m. – 2:30 p.m.	Entertainment (TBA)
12:30 p.m.	People's Choice Packets Go On Sale
12:30 p.m.	Salsa Tasting Packets Go On Sale
1:45 p.m.	Judges Meeting
2:00 p.m.	CHILI TURN-IN
2:15 p.m.	Sponsor Announcements
2:30 p.m.	Bubble Gum Blowing Contest
3:00 p.m.	Jalapeno Eating Contest
3:30 p.m.	Drawing & 50/50
3:45 p.m.	Final Thank You to Sponsors
4:00 p.m.	AWARDS CEREMONY
4:00 p.m.	Area Clean Up

FOR INFORMATION CALL: CHILI HOTLINE @ 602-506-7999

for The Defense

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 5th of each month.