

for The Defense

Training Newsletter of the Maricopa County Public Defender's Office

James J. Haas, Maricopa County Public Defender

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*Delivering America's
Promise of Justice for All*

for The Defense

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Effect of Jury Knowing of a Prior Conviction

By Robert L. Gottsfield, Superior Court, Maricopa County

Limited empirical analysis exists of defendants' decisions to testify or of the effect of prior convictions on trial outcomes in real jury trials.¹ In a recent article,² co-authored by the father of empirical legal studies,³ Theodore Eisenberg, which examined over 300 criminal trials in four large counties (L.A.; Phoenix⁴; Bronx, N.Y.; and District of Columbia), sixty percent of defendants without criminal records testified, compared to forty-five percent with prior felony convictions. For testifying defendants with prior convictions, juries learned of these in only about half the cases.

The study found that statistically significant associations are found (1) between the existence of a criminal record and the decision to testify; and (2) between the defendant's testifying at trial and the jury's learning about the defendant's prior record.

While these are no brainers for those in the trenches, it was the third finding which was of most interest, which is the correlation between a jury's knowledge of priors and a conviction. Such jury knowledge had no effect in two out of three scenarios but an apparent overwhelming effect in the third.

Thus for cases with strong or even average evidence of the charge or charges against a defendant, that the defendant testified and was impeached with a prior conviction, was not statistically associated with conviction rates. The converse is also true, a prior criminal conviction does not play an outcome-determinative role in cases with evidence too far below what is needed to convict beyond a reasonable doubt, and where defendants were acquitted.

However criminal cases with evidentiary value close to but below a reasonable doubt can lead to conviction if the jury learns of priors. As stated by the authors:

One could view a prior record as "making up" for evidentiary deficiencies. Or, one might view the prior record as evidence tending to suggest guilt. Under either view, the prior record makes a difference.

That the record effect occurs primarily in cases in which the evidence is not overwhelming resonates with Kalven and Zeisel's⁵ classic finding that extralegal factors have the most important impact primarily in close, as opposed to clear, cases.⁶

Juries appear to rely on prior criminal convictions to convict in the case on trial when the evidence in that case normally would not support a conviction. The authors conclude that use of prior convictions can in those instances lead to erroneous convictions.⁷

The effect in otherwise weak cases is substantial and can increase the probability of conviction to over 50% when the probability of conviction in similar cases without criminal records is less than 20%.⁸

Jurors naturally want to hear defendants provide their own accounts of involvement or lack of involvement in crimes. Because of this, many judges, including the author, voir dire on the issue of "if defendant does not testify will you hold that as a strike against the defendant in determining guilty or not guilty." The Fifth Amendment's prohibition against self-incrimination is not always effective. Judges in Arizona routinely find that the probative value of admitting a prior felony conviction outweighs its prejudicial effect to the accused, for the purpose of attacking the character for truthfulness of the defendant.⁹ Prosecutors and police are undoubtedly influenced by the existence of prior criminal records in charging and arrest decisions.

It is, therefore, very troubling that in the strongest of weak criminal cases the existence of a prior conviction can prompt a jury to convict. As stated by the authors: "The prior record effectively leverages the existing evidence over the threshold needed to support conviction."¹⁰

Moreover, and somewhat shocking as counter-intuitive, the authors conclude there is little evidence that prior convictions influence credibility,¹¹ which is the historical basis for admission of such evidence. Without going into the empirical research, in cases in which defendants testified, a prior conviction was not significantly associated with the degree of believability but, as noted above, the prior clearly affected case outcomes in the situation where there would normally be an acquittal in the strongest of the weak cases. An implicit conclusion of the authors, although they concede admittedly unrealistic, is that maybe prior convictions should not be admissible at all.

(Endnotes)

1. Theodore Eisenberg and Valerie P. Hans, Taking a Stand on Taking the Stand: The Effect of a Prior Criminal Record on the Decision to Testify and on Trial Outcomes, 94 Cornell L. Rev. 1353, 1356 (Sept. 2009).
2. Supra n. 1. See also these references cited in the article: John H. Blume, The Dilemma of the Criminal Defendant with a Prior Record – Lessons from the Wrongfully Convicted, 5 J. Empirical Legal Stud. 477, 486, 490-91 (2008) (principal reason defendants do not testify is a prior conviction; 91% of factually innocent defendants with prior records declined to testify and counsel advised the primary reason was to avoid jury bias); Edith Greene and Mary Dodge, The Influence of Prior Record Evidence on Juror Decision Making, 19 Law Hum. Behav. 67, 76 (1995) (mock jurors were more likely to convict if they learned of a prior conviction, compared to no conviction information).
3. See Gottsfield, Just the Facts: Empirical Legal Studies and Judging in the 21st Century, Maricopa Lawyer, August 2008, at 14.
4. Pursuant to Arizona Evidence Rule 609 evidence of a conviction is not admissible in most cases if more than ten years has elapsed since the date of conviction or of the release of defendant from confinement. See *State v. Green*, 200 Ariz. 496, 29 P.3d 271 (2001) (remote prior convictions rarely admissible; sexual abuse conviction reversed because of admission of two 15 year old felony convictions).

5. Harry Kalven, Jr. and Hans Zeisel, The American Jury, 133-135 (1966).
6. Eisenberg and Hans, *supra* n. 1 at 1386.
7. *Id.* note 8 at 1356 for authority cited.
8. *Id.* at 1357 and see 1387.
9. Subject to the caveat in n. 4 *supra*. The authors advise that every jurisdiction admits prior convictions in some context in a criminal trial, which I did not independently verify.
10. Eisenberg and Hans, *supra* n. 1 at 1385.
11. *Id.* at 1387.

Writers' Corner



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 following 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 www.us.oup.com/us/apps/totd/usage. Garner's *Modern American Usage* can be purchased at bookstores or by calling the Oxford University Press at: 800-451-7556.

Occam's razor; Ockham's razor.

In the 14th century, William of Ockham (1285-1349), an Englishman, wrote a book entitled *Commentary on the Sentences*. In it, he devised what is now known as "Occam's razor" (the preferred spelling): "Entia non sunt multiplicanda praeter necessitatem" (lit., "entities are not to be multiplied beyond necessity"). In plain English, this means that the simplest of competing theories is preferable to the more complex ones, or that the parts of an argument should never be multiplied any more than necessary. Although many philosophers still use "Ockham," the spelling "Occam" appears more than twice as often in modern print sources. Another term for "Occam's razor" is the "law of parsimony."



January Brown Bags



PSR Format and Earned Time Credit

The Reid Technique of Interview and Interrogation Overview

*Presented by Adult
Probation*

Chief Barbara Broderick

Presented by MCPD

Jennifer Rock, Attorney Supervisor
Christine Whalin, Attorney
Bill Meginnis, Investigator

**Friday, January 15, 2010
12:30pm—2:30pm**

**Friday, January 22, 2010
12:00pm—1:30pm**

Downtown Justice Center,
620 W. Jackson
5th Floor Training Room

Downtown Justice Center,
620 W. Jackson
5th Floor Training Room

May qualify for up to 2.0 hours CLE

May qualify for up to 1.5 hours CLE

If you have questions, please contact Celeste Cogley at 602-506-7711 X37569 or email at cogleyc@mail.maricopa.gov

Annual Awards

Recognizing Long-Term Dedication and Commitment to High Quality Representation of Vulnerable Clients

By Jim Haas, Public Defender

At the office holiday celebration on December 17, 2009, the office honored Records Processor Cherie Proffer for 25 years of excellent service. We also recognized two individuals who have shown great commitment to providing high quality representation to our most vulnerable clients, by presenting the Bingle Dizon Award to Mitigation Specialist Tammy Velting and the Joe Shaw Award to Appeals Attorney Tennie Martin.

Cherie Proffer



Cherie joined our office on July 16, 1984, and her experience has made her one of the primary “go-to” persons in our Records Division. She is known for her meticulous attention to detail and her uncanny ability to spot things that “just don’t look right” and fix them. She does not shirk even the ugliest task.

Cherie is often called the “Mother Hen” by her co-workers. She is loved by her co-workers and acts as a peace-maker when there are disagreements. She has a profound sense of fairness that dovetails with our office mission.

Among her supervisor’s praise of Cherie’s work is the following comment: “She brings a lifetime of experience to our office. When Cherie answers the phone, you hear what experience is worth – priceless correct answers.”

Tammy Velting

The Bingle Dizon Award was created in 2001 to honor a longtime and beloved secretary with our office known for her extraordinary commitment to excellent work and her dedication to our office. The recipient of this award is selected by a committee composed of attorneys and support staff representing all parts of our office.

Tammy Velting has demonstrated her dedication to our office and our clients by working tirelessly to improve our representation of some of our most vulnerable clients.

Two years ago, Tammy came to me with a concern that the special needs of juveniles charged as adults were not being met. She made a compelling argument that the representation of these clients is a specialized practice, and that the office should establish a specialty unit to focus on these cases.

As a result, our Juveniles in Adult Court Unit was established in January 2008, and it has succeeded beyond our wildest expectations. The unit has become a cohesive team of dedicated individuals who achieve amazing results. They have set the standard for representation of juveniles charged as adults.

Tammy has been a huge reason for that success. She goes well beyond the call of duty to ensure that these kids are treated fairly and are provided all of the services required by law.



Some comments by the attorneys in the unit: “Tammy is extremely devoted to our clients. She works harder than anyone I know. She makes innumerable jail visits. She prepares the client for every step of the process so that the client and his family are completely prepared for what is going to happen. She uses her personality and dedication to obtain information from our clients that I could never hope to attain. The kids open up to her to a degree they never do with me.”

“Tammy is very thorough. She reads everything. She makes endless notes. She then translates those notes into excellent written and verbal reports.”

“She is a great encourager for these kids. She motivates them. All of my clients love her. Tammy gives our clients their best chance to succeed.”

“She is always thinking of ways to make our unit and our office better.”

Tennie Martin



The Joe Shaw Award was created in 1995 to honor a remarkable attorney who spent 20 years in our office, starting at the age of 65. Joe was known for his integrity, professionalism, generosity, and dedication to our office. The Shaw Award is given each year to an attorney, selected by the same committee that chooses the Dizon Award, who best demonstrates Joe Shaw’s many qualities.

Tennie is the primary attorney responsible for mental health appeals in our office. She has successfully brought to the attention of the appellate courts the failure of mental health commissioners to follow mental health statutes and rules that had been implemented to protect the rights of patients. Her efforts have been instrumental in causing the mental health court to discontinue the patient-unfriendly informal procedures that had evolved in that court in recent years.

Tennie also maintains an appellate caseload that includes capital cases, and she was successful in getting a conviction and death sentence vacated in the case of Joseph Anthony.

Tennie is extremely generous in sharing her knowledge with others. She regularly trains for the APDA, our office, and the State Bar. And her animal rescue efforts are legendary.

One of her colleagues commented: “Tennie is a consummate professional whose treatment of and compassion for her clients and co-workers is second to none. Her co-workers describe her as a kind, good natured and caring person; someone always willing to give of herself; a wonderful friend; a most worthy recipient of the Joe Shaw Award.”



Sponsored by Maricopa County Public Defender

Interstate Compact Updates

Presented By

Dori Ege, Interstate Compact Commissioner

.....

Friday, February 26, 2010

12:00pm — 1:30pm

**DTJC, 620 W. Jackson,
5th Floor Training Room**

This brown bag will include:

- **Most recent rule changes**
- **Eligibility criteria**
- **Answers to legal authority questions**
- **Information regarding liability issues**

May qualify for up to 1 hour CLE



If you have questions, please contact Celeste Cogley at 602-506-7711 X37569 or email at cogleyc@mail.maricopa.gov

Poverty Criminalized: My First Jury Trial

By Shari Sukaram, Contract Attorney for San Mateo County, California

I always dreamed about having my first jury trial. Finally that day had come true and only a short time to prepare. As I read through the file, the outcome for my client looked grim. This was a case of two big counts of child endangerment. There were allegations of rodent infestation in the home, animal feces, urine, mold, lack of electricity, lack of running water and pure filth. Pictures, video, and recorded statements of the children were included in the file. Everything pointed to my client's guilt and his criminal record didn't help matters. He would be unable to testify on his own behalf. Yet my client was adamant that he was not guilty, and it was my job to prove that he was not.

I spent the next few days and nights agonizing over the case in front of me. What are the defenses and challenges? How will I select a jury? What about opening and closing? Jury instructions? Ugggg!!! The nervousness began to sink in. It looked as though I had an impossible case in front of me. To make matters worse, my client's phone number was disconnected and he was not contacting me.

My first step to battle the prosecution's case and my bundle of nerves was to contact my mentors. Appointments for trial preparation were etched into my datebook. Shortly thereafter, I met with Eric Liberman and Dave Goldstein. Each one went through my case, gave me important advice and answered my questions that helped invaluablely in my preparation for trial. With a mix of anxiety and excitement, I trudged forward.

As I stepped through this muddy case, the client finally contacted me. After thoroughly discussing his case, I learned that my client was a single father raising two young girls, with a 74 year old father dying of cancer. His elderly father had extreme hoarding behavior and my client's place of residence was his father's home. The home was in disrepair and my client tried everything that was within his power and finances to get his father's behavior under control and get the house into a livable and habitable situation. My client had sold his car to make repairs on the home, and was struggling between making the repairs, working full time, taking care of his two girls, his ill father, and his pregnant fiancé.

This was not a case of child endangerment/abuse at all. This was a case of poverty and misfortune criminalized. My client was being punished for circumstances outside of his control. He was doing the best that he was able with the resources that he had. I realized that this case was about my client and his family. If he lost this case, then the lives of his children, his pregnant fiancé and his father would change forever as they knew it. He would lose custody of his children and there would be no one to take care of his father. These realizations became the fuel that fired the rest of my client's trial.

After what felt like endless days and nights of preparation and incessant hard work by my investigator Brian Vierra Jr., it was suddenly the day of trial. My client was offered a no jail time pretrial offer, yet he refused to take the deal, insisting on his innocence. He was also terrified to go to jail with a conviction for child abuse/endangerment charges. He let me know that an individual convicted of anything to do with harming a child would be treated horribly in jail and possibly beaten or killed by other inmates. Believing in his innocence, and empathizing with his fears, I announced to the judge that we were ready for trial.

As I walked to the courtroom where I had been assigned my heart began pounding. I opened the heavy wooden courtroom door . . . it was really happening my first jury trial. I walked up to the table and took my place in the chair where I would sit for the next five days. My client, scared and nervous took his place in the defendant's chair next to me, already labeled for guilt.

One by one every question I had about trial began to be answered by going through the steps of trial, climbing my way to the jury's verdict. I no longer needed to wonder how to do in limine motions because we started doing them that first day. Jury selection would begin that next day.

That night I barely slept. When I did sleep, I was plagued by nightmares. I dreamt that I came to the courthouse and a noisy jury was already seated in an unfamiliar court room. My client was missing and a district attorney that I had never seen before was on the case. I woke up in a cold sweat, happy that I was only dreaming.

The morning of my second day in court, my throat was dry and my heart raced. I sat at the table with my client waiting for the jury to be ushered inside the court room. As the bailiff opened the door, one by one the jurors walked into the court room. It was time for introductions, and as I introduced me and my client to the prospective jurors, I tried to read their reactions to me and my client with no avail. Everyone looked stone faced and cold. Part of me was thinking, oh crap . . . they already hate us. They have already made up their minds.

Putting my fears of what the jury was thinking aside, the first eighteen were called into the jury seats for questioning. I set out to find out what the jurors were thinking about the key things that mattered in my case. What role would each juror play in the juror deliberation room? How was this chess game going to play out? Which juror would become which piece?

Throughout the day, I figured out, to the best of my ability, which juror would be the pawn, bishop, queen or king, and which juror would be the enemy. This game of chess lasted throughout the day. By the end of the day we had our jury . . . twelve individuals that my client and I were praying and counting on to understand our theory of the case and understand that my client was innocent until proven guilty.

Opening statements started that day. While listening to the district attorney's opening statement, my client started to fidget, freak out, and write furiously on the paper that I had given him. My client immediately started making plans for his children's custody and well-being should he be convicted of the charges before him. I tried to calm him down. I told him this is the district attorney's job to show that he committed the crimes that he is charged with and that we would get our chance to tell the jurors our side of the story. I told him to try not to react to what the district attorney or her witnesses said or did.

With the client still inconsolable, I got up out of my chair to begin my opening statement. It was my voice telling my client's story and what the jurors could expect the evidence to show in this trial. I told them this was the only time that I would get to speak with them until the prosecution was finished with her part of the case. I pleaded with them to keep an open mind and wait to make a decision until they had heard from our witnesses. With that, I sat down and looked over at my client who had seemingly calmed down. With a calm client, and with opening statements out of the way, the judge decided to break for the day and the district attorney's questioning of the investigating officer would begin that next morning.

I spent the next hour after exiting the court room with my client and his pregnant fiancé assuring them that we were prepared, that we would get our chance to cross-examine the prosecution's witnesses and to talk about our side of the case. In addition to these long talks outside of the court room, I had spent countless hours talking to my client on the phone. I spent a lot of my time gaining the client's trust and getting him to stop panicking. After all, this was not only my first trial, but it was also my client's first trial as well.

The next day, the prosecution had the client's two children, his ex-wife, his adult son, an environmental health investigator, a child protective/family services case worker, an investigating police officer, two school secretaries, and the school principle testify. I tried to bring up as much

doubt in the prosecutions witnesses testimony as possible through cross examination. After, the district attorney finished her case it looked as though we could lose.

Finally it would be our turn to tell the jury our side of the case. With excitement I called our first witness. As our witness' testimony unfolded, the client began to feel more hopeful. We brought in our investigator, the landlord for the place where the client and his girls lived part of the time, the client's father, the client's neighbor and the client's fiancé.

Through our cross-examination and direct witness testimony, my client's story came out. We were able to paint the picture that would be filled in by our closing argument. We showed that my client was a single father, with money problems and custody issues with his ex-wife. We showed that the house was owned by the client's father and that the client's father did have hoarding behavior and that my client was the only one taking care of him while he was ill. We showed that my client's daughters floated from place to place, sometimes living with the ex-wife, sometimes with the client at his father's house, and sometimes at the home of the client's fiancé, existing among three locations. We were able to get in evidence that the home had since been cleaned up and repaired by the client and passed inspections. We also showed that there was no expert testimony regarding any medical illnesses linked to the disrepair of the home and no lab tests or forensic reports on the mold found in the house. With my portion of the case finished, we headed for lunch, and came back to begin closing arguments.

The district attorney's closing was excellent. I was so scared to go up and counter what the district attorney had told the jury. As I walked up to the jury, without saying a word, I wrote down on poster board "willful disregard for life". I underlined this over and over, and pieced together what we had been trying to get across to the jury throughout the entire trial. Here was a single father who was working hard to make a life for his daughters and take care of his dying father. His two children had food to eat, clothes, running water, heat and health care. Was this "willful disregard for life"? Was this really "child endangerment"? This was criminalizing a man for being a single father and struggling without resources to make a life for his family. As I looked at each of their faces I could not tell who understood our side of the story, who was sympathetic, who cared. Everyone continued with that cold stone faced neutral appearance. When I finished my closing and went back to the table, for the first time in the trial the client smiled.

Jury instructions were read and the jury was released to begin deliberations. I never realized how my mind and body would react to waiting for a verdict. This was one of the most nerve wracking experiences of my life. All I was thinking about was the burden that rested on my shoulders. If my client was found guilty, then the lives and future of his father, his children, his fiancé and his unborn child were on the line. Not to mention the client's future. If justice was not done, through a finding of not guilty, then they all would lose out on life as they knew it. I could only imagine how my client was feeling.

From that afternoon to the next late afternoon, I waited for a verdict. During that time, my client and I talked tirelessly and frequently on the phone. Our talks went from the case at hand, to him recounting his prayers to God, his fears for the futures of his children and his father. The agony of waiting for a verdict felt bad for me, but was torture for my client.

When my phone rang with a private number listed on the caller identification, I immediately thought that it was another juror question or issue that we needed to return to the courtroom for. When the clerk told me that the jury had a verdict, my heart started beating wildly. I felt jittery and breathless as I called my client and told him to return to the courtroom as soon as possible.

With swiftness, I returned to the courtroom and sat down in my chair. My client sat there with a look of fear and wonder, unsure of what to expect. As the jurors came into the room, none of them looked at me or my client. My client and I were sure that this was going to be bad news. We were

prepared for the worst. The judge flipped through the notebook that contained the verdict forms. Again, I could not tell by her response if this was good news or bad news. The judge handed the verdict forms to the clerk and we waited breathlessly for the verdict.

As the clerk began reading the verdict for count one, I held my breath. In slow motion the clerk said “we the jury find the defendant . . .” After what felt like an eternity, the clerk said . . . “not guilty.” I could not believe what I was hearing. I glanced at my client who had tears welling up in his eyes. Still, I could not relax . . . one more verdict to be read for the second count. A million thoughts raced through my mind. What if this one is for guilty? “We the jury find the defendant . . . not guilty”. Again I looked at my client. The outpouring of relief that was welling up inside of him could no longer be contained. Tears were streaming down his face, and he was unable to speak.

As the jury exited the court room, I was eager to go out and speak with them about their deliberation process and thoughts on the trial. Yet, I stayed in the courtroom with my weeping client. Grateful and emotional, he gave me a hug and thanked me. I got him some water, and gave us both some time to compose ourselves. Together we exited the courtroom to face the jury for one last time, with one huge difference: I had completed my first trial, and my client was now a free and innocent man.

SAVE THE DATES



14th Annual Trial College March 17, 18 & 19, 2010

APDA

June 9, 10 & 11, 2010

Jury and Bench Trial Results

September/October/November 2009

Public Defender's Office

Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 1						
8/17 - 9/4	Rock Whalin Sikora Kunz	Duncan	Kittredge	CR07-111560-001DT Murder 2nd Deg., F2D	Guilty Except Insane	Bench
8/20 - 9/1	Sitver Salvato Baker Falle	Contes	Clark, B.	CR07-131842-002SE Child Abuse, F4	Guilty	Jury
9/9 - 9/10	Akins	Welty	Lauer	CR09-120335-001SE Agg. Assault, F5 Assault, M1DV Preventing Use of Telephone in Emergency or False Represent. of Emergency, M2DV	Guilty of Lesser Included Agg. Assault, F6; Guilty of Lesser Included Assault (reckless, simple), M2DV; Not Guilty of Preventing Use of Telephone	Bench
9/14 - 9/15	Turley	Burke	Blum	CR09-122690-001SE Theft of Credit Card, F5 Fraud. Use of Credit Card, M1 Forgery, F4 Taking ID of Another, F4	Guilty (trial held in absentia)	Jury
9/23 - 10/5	Sitver Salvato Baker - Falle	Contes	Kelly	CR08-155279-001SE Att. Murder 2nd Deg., F2D	Guilty	Jury
9/24 - 10/1	Traher Ralston	Newell	Crowley	CR09-122838-001DT 2 cts. Burg. 3rd Deg., F4	Not Guilty of one ct. Burg. -- Guilty of lesser included Att. Burg., F2; Hung Jury on ct. 2	Jury
10/1 - 10/7	Rolstead Rock Thompson Coward	Roberts	Jencsok	CR08-162529-001SE TOMOT, F3	Not Guilty	Jury
10/7 - 10/27	Hann Rankin Leigh	Spencer	Leiter	CR09-005872-001DT Agg. Assault, F3D	Guilty	Jury
10/29	Rolstead	Kemp	Chapman	CR09-118474-001SE POM, M1 PODP, M1	Guilty	Bench
11/10 - 11/17	Sitver Ditsworth Curtis	Hoffman	Bonaguidi	CR09-127432-001SE 6 cts. Sexual Conduct w/ Minor, F2 DCAC	Guilty on 5 counts; Not Guilty on 1 count	Jury
11/23	Rolstead	Ditsworth	Chapman	CR08-145932-001DT POM, M1 PODP, M1	Not Guilty	Bench

Jury and Bench Trial Results

September/October/November 2009

Public Defender's Office (Continued)

Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 2						
9/9 - 9/14	Jakobe	Hannah	Sammons	CR08-175422-003DT 2 cts. PODD for sale, F2	Guilty both counts	Jury
9/16 - 9/21	Steinfeld Romani <i>Springer</i>	Reyes	Verdura	CR09-127683-001DT Agg. Assault, F4 DV	Guilty (held in absentia)	Jury
9/21 - 9/23	Banihashemi	Burke	Pokrass	CR08-169581-001DT PODD, F4 PODP, F6	Not Guilty PODD Guilty PODP	Jury
9/28 - 10/16	Taradash Chiang Reilly	Jones	Goddard	CR08-009177-001DT Dschg. Firearm at Struct., F2D Drive-by Shooting, F2D 2 cts. Agg. Assault, F3D Att. Burg. 3rd Deg., F4 Assist Crim. Street Gang, F3D	Guilty all counts, but not guilty of sentencing enhancement--Promoting a Criminal Street Gang	Jury
10/01 - 10/13	Garcia Bublik Urista <i>Springer</i>	Duncan	Steinberg	CR09-134109-001DT 2 cts. Agg. Assault, F6	Not Guilty both counts	Jury
10/13 - 10/15	Robinson Urista	Davis	Pokrass	CR09-103694-001DT Burg. 2nd Deg., F3	Not Guilty	Jury
10/14 - 10/19	Ramos	Hannah	Eicker	CR09-114042-001DT POND, F4	Guilty	Jury
10/27 - 10/29	Ramos Souther	Harrison	Fauth	CR09-122536-001DT Unlaw Use of Means of Transp., F5 Agg. Assault, F5	Not Guilty	Jury
Group 3						
9/2 - 9/10	Smith O'Farrell	Davis	Reed	CR09-120341-001DT PODD, F4 POM, F6 Unauthorized Use of a Means of Transp., F6 2 cts. PODP, F6	Guilty	Jury
9/8 - 9/10	Tivorsak O'Farrell	Flores	Carper	CR08-172904-001DT Agg. Assault F3D	Guilty	Jury
10/5 - 10/7	Roach Meginnis <i>Kunz</i>	Newell	Mandigo	CR09-006777-001DT Criminal Damage, F5 Criminal Damage, F6	Guilty of lesser F6 on Count 1; pled to F6 as a concurrent term for Count 2	Jury
10/5 - 10/7	Smith Flannagan	Blomo	Carper	CR09-106148-001DT Agg. Assault, F4	Guilty	Jury

Jury and Bench Trial Results

September/October/November 2009

Public Defender's Office (Continued)

Dates: Start - Finish	Attorney Investigator <i>Paralegal</i>	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 3 (Continued)						
10/19 - 10/20	Smith O'Farrell	Hoffman	Reed	CR09-111049-001DT POND, F4 PODP, F6	Guilty	Jury
10/20 - 10/26	Tivorsak O'Farrell	Gottsfeld	Keer	CR09-128330-001DT Kidnap, F2 Robbery, F4 Agg. Assault, F4 Threaten/Intimidate, M1	Guilty on Kidnap, Agg. Assault, and Threaten/ Intimidate; Not Guilty on Robbery	Jury
11/4 - 11/12	Whitney <i>Falle</i>	Harrison	Harder	CR07-128816-001 SE Agg. Assault, F3D Endangment, M1D Agg. DUI Susp/Rev, F4D	Guilty - Agg. Assault, Agg. DUI Not Guilty - Endangerment	Jury
11/4 - 11/9	Abramson Bublik	Kemp	Crowley	CR09-130746-001 DT Shoplifting, M1 2 cts. Agg. Assault, F3D	Shoplifting - guilty M1; 2 cts. Agg. Assault - guilty of lesser, Assault M2	Jury
11/16 - 11/19	Corbitt	Newell	Kelly	CR08-031153-001 SE 3 cts. Agg. Assault, F3D MIW, F4	Not Guilty	Jury
11/17 - 11/23	Whitney <i>Falle</i>	Ronan	Chapman/ Reames	CR08-031371-001 DT Agg Assault, F3D Criminal Damage, F6 Resist Arrest, F6	Guilty-Criminal Damage Not Guilty - Resist Arrest, Agg. Assault	Jury
11/17 - 11/24	Abramson	Roberts	Verdura	CR08-007659-001 DT PODD, F4 PODP, F6 POM, F6	Guilty	Jury
11/20	Whitney	Sanders	Plicht	CR08-150110-001 SE Assault, M1	Guilty	Bench
Group 4						
8/25 - 8/27	Houck	Svoboda	Bartz	CR08-176249-001SE Forgery, F4	Not Guilty	Jury
8/31 - 9/3	Antonson	Abrams	Kohler	CR08-117199-001SE PODD, F4 PODP, F6	Guilty	Jury
9/14 - 9/17	Walker	Ronan	Rodriguez	CR08-168211-001SE Burg. 3rd Deg., F4 Criminal Damage, M2	Guilty	Jury
9/15 - 9/23	Whitney	Foster	Kelly	CR08-168786-001SE 2 cts. Agg. Assault, F3D	Ct. 1 - Guilty Ct. 2 - Not Guilty	Jury

Jury and Bench Trial Results

September/October/November 2009

Public Defender's Office (Continued)

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 4 (Continued)						
9/17 - 9/22	Fluharty	Contes	Beatty	CR05-033017-001SE 2 cts. Sex. Cond. w/Minor, F2	2 Cts. Sex. Cond. w/Minor - Guilty	Jury
9/21 - 9/23	Antonson	Sanders	Collins	CR06-142986-001SE PODD, F4 Unlaw. Flight from LE., F5	PODD-Not Guilty Unlawful Flight - Guilty	Jury
9/23 - 9/25	Whitney	Abrams	Bhatia	CR08-173689-001SE Assault-Touch to Injure, M3 Agg. Assault, F3D	Assault-Pled Guilty to reduced charge of Disorderly Conduct Agg. Assault - Not Guilty	Jury
9/28 - 10/7	Antonson	Sanders	Collins	CR08-129645-001SE 2 cts. Murder 2nd Deg., F1D 2 cts. Agg. Assault, F2D DOSL, M1	2 cts. Murder - Guilty 2 cts. Agg. Assault-Guilty DOSL - Pled Guilty as Charged	Jury
10/13 - 10/20	Barnes	Contes	Blum	CR08-164551-001SE TOMOT., F3 Theft, F2 4 cts. Burg. 3rd Deg., F4	Guilty	Jury
10/20 - 10/22	Whitney	Hannah	Chapman	CR09-116270-001SE Agg. Assault, F3	Guilty - Dangerous	Jury
10/20 - 10/22	Walker	Contes	Hammond	CR09-113130-001SE Agg. Assault, F3D Assault, M1	Agg. Assault - Not Guilty Assault - Guilty	Jury
10/23	Dehner	Sanders	Plicht	CR09-030293-001SE Endangerment, M1 Child/Vul. Adult Phys. Abuse, M1	Not Guilty	Bench
10/26 - 10/30	Sheperd	Contes	Otis	CR09-030743-001SE Molest. Child, F2 3 cts. Sex. Conduct w/ Minor, F2 Public Sex. Indecency, F5 Sexual Abuse, F3	Guilty	Jury
10/23	Dehner	Sanders	Plicht	CR09-030293-001SE Endangerment, M1 Child/Vul. Adult-Phys. Abuse, M1	Not Guilty	Bench
10/26 - 10/30	Sheperd	Contes	Otis	CR09-030743-001SE 3 cts. Sexual Cond.w/Minor, F2 Sexual Abuse, F3 Public Sex Indecency, F5 Molest. of Child, F2	Guilty	Jury

Jury and Bench Trial Results

September/October/November 2009

Public Defender's Office (Continued)

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Group 4 (Continued)						
10/28 - 11/4	Antonson	Spencer	Rademacher	CR08-138727-001SE TOMOT, F3	Guilty	Jury
10/29 - 11/6	Peterson	Ronan	Heiner	CR07-030288-001SE 4 cts. Sexual Abuse, F5 Sexual Assault, F2	Guilty	Jury
11/4 - 11/12	Whitney Falle	Harrison	Harder	CR07-128816-001SE Agg. Assault, F3D Endangerment, M1 Agg. DUI, F4D	Agg. Assault-Guilty Agg. DUI - Guilty Endangerment-Not Guilty	Jury
11/16	Braaksma	Karp	Harris	TR08-179453-001TP DUI-Liquor/Drugs/Vapors, M1 DUI w/BAC .08 or more, M1	Guilty	Jury
11/16 - 11/19	Corbitt	Newell	Kelly	CR08-031153-001SE 3 cts. Agg. Assault, F3D MIW, F4	Not Guilty	Jury
11/16 - 11/23	Whitney Falle	Ronan	Chapman	CR08-031371-001SE Agg. Assault, F3D Criminal Damage, F6 Resist. Arrest, F6	Agg. Assault-Not Guilty Criminal Damage-Guilty Resist. Arrest-Not Guilty	Jury
11/20	Whitney	Sanders	Plicht	CR08-150110-001SE Assault, M1	Guilty	Bench
Group 5						
11/5	Kirchler, R. (Jones, R.38)	Welty	Heung	CR09-141655-001DT Agg. Assault, F6 Resist. Arrest, F6	Dismissed Resisting Arrest day of Trial; Guilty-Agg. Assault, M1	Bench
11/23 - 11/24	Kirchler, R. (Boyd, R.38)	McMurdie	Ensign	CR09-104346-001DT TOMT, F3	Not Guilty	Jury
Group 6						
11/9 - 11/13	Dapkus Ryon Ames	Passamonte	Rapp	CR09-135592-001DT Unlaw. Flight from LE Vehicle, F5	Guilty	Jury
11/30 - 12/1	Dapkus	Gaines	White	CR09-145461-001DT Burg. 3rd Deg., F4	Guilty	Jury
11/2 - 11/4	Taradash Rathkamp Reilly	Garcia	Verdura	CR08-008131-001DT Resisting Arrest, F6	Guilty	Jury

Jury and Bench Trial Results

September/October/November 2009

Public Defender's Office (Continued)

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
Vehicular						
8/24 - 9/15	Conter Carrillo Ryon	Sanders	Harder	CR07-121325-002 SE 2 cts. Murder, 1st Deg., F1D Agg. Assault, F2D Burg. 3rd Deg., F4N Unlaw. Flight from Law Enf., F5N	Guilty - 2 cts. Murder Not Guilty - Agg. Assault Guilty - Burglary Guilty - Unlaw Flight	Jury
9/8 - 9/10	Black	Passamonte	Caputo	CR08-114379-001 DT 2 cts. Agg. DUI, F4N	Guilty	Jury
9/15 - 9/17	Sloan	Passamonte	Walters	CR08-146526-001 DT 4 cts. Agg. DUI, F4N	Guilty	Jury
9/22 - 9/24	Sloan	Svoboda	Harder	CR08-170964-001 DT 2 cts. Agg. DUI, F4N	Guilty on Lesser	Jury
9/22 - 9/28	Iniquez	Hannah	Reed	CR09-006121-001 DT 2 cts. Agg. Assault, F3D	Guilty	Jury
09/29 - 10/1	Whitehead	Passamonte	Walters	CR2008-164651-001 DT 2 cts. Agg. DUI, F4	Guilty	Jury
10/05 - 10/07	Carson	Passamonte	McGary	CR2008-149148-001 DT 2 cts. Agg. DUI, F4	Guilty	Jury
10/13 - 10/19	Carson	Vandenberg	Bell	CR2008-005934-001 DT 2 cts. Agg. DUI, F4	Guilty	Jury
10/27 - 11/3	Black	Passamonte	Hom	CR2008-164345-001 DT 2 cts. Agg. DUI, F4	Not Guilty - Count 1 Guilty - Count 2	Jury
10/27 - 11/3	Califano	Passamonte	Caputo	CR08-165764-001DT 2 cts. Agg. DUI, F4	Guilty both counts	Jury
10/29 - 11/2	Black	Passamonte	Hom	CR08-164345-001DT 2 cts. Agg. DUI Drugs, F4	Ct. 1 Not Guilty Ct. 2 Guilty	Jury
Capital						
7/1 - 9/23	Tavassoli Patterson Spizer Resop Callahan	Brnovich	Duffy Rodriguez	CR04-022846-001DT Murder 1st Deg., F1D Armed Robbery, F2D Burglary 1st Deg., F3D MIW, F4D	Guilty on all charges; Aggravation Phase: Found Pecuniary Gain, did not find Cruelty (Heinousness and Depravity were eliminated at Chronis Hearing); Mitigation Phase: Death Verdict	Jury

Jury and Bench Trial Results

September/October/November 2009

Legal Defender's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
8/14 - 9/4	Ross	Gentry-Lewis	AG	JD13214 Severance Trial	Severance Granted	Bench
8/18 - 8/21	Storrs	Gottsfield	Jenscok	CR09-006130-001DT Theft Means of Trans, F5	Hung, 5-3 Not Guilty	Jury
8/21 - 9/11	Pulver	Aceto	AG	JD507008 Severance Trial	Severance Granted	Bench
9/9 - 9/21	Villanueva	Thumma	AG	JD16560 Severance Trial	Severance Granted	Bench
9/10	Sanders	Brain	AG	JD16369 Severance Trial	Severance Granted	Bench
9/11	Hozier	Anderson	MacArthur	JD17536 Dependency Trial	Dependency Found	Bench
9/14	Reidy	Newell	Reamer	CR08-173818-001DT Unlaw Use Means of Trans, F6	Not Guilty	Jury
9/18	Villanueva	Thumma	AG	JD16405 Severance Trial	Severance Granted	Bench
9/18 - 9/30	Ross	McClennen	AG	JD16286 Severance Trial	Severance Granted	Bench
9/22	Pulver	Thompson	AG	JD507938 Dependency Trial	Dependency Found	Bench
9/23	Ross	McClennen	AG	JD17821 Dependency Trial	Dependency Found	Bench
7/6 - 10/7	Cleary Tallan Horrall Otero MacTurk Bowen	Whitten	Hoffmeyer	CR05-128006-001SE Murder 1st Degree, F1D Kidnap, F2D 2 cts. Agg. Assault, F4	Guilty all charges Mistrial as to Penalty Phase	Jury
10/2	Kolbe	Thompson	AG	JD507072 Severance Trial	Severance Granted	Bench
10/7	Bushor	Ishikawa	AG	JD507931 Dependency Trial	Dependency Found	Bench
10/13	Ripa	Gentry-Lewis	AG	JD15837 Severance Trial	Severance Granted	Bench
10/15 - 10/29	Rothschild	Flores	Kittredge	CR08-139060-001DT Murder 2nd Degree, F1D 3cts Dschrg Firearm in City Limit, F6D	3cts Dschrg Firearm - Guilty Murder 2nd Degree - Hung Jury	Jury

Jury and Bench Trial Results

September/October/November 2009

Legal Defender's Office (Continued)

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
10/21 - 10/30	S. Allen	Sanders	Lauer	CR09-102863-001SE Marijuana Violation, M1 Drug Paraphernalia Violation, M1	Not Guilty	Bench
10/27	Sanders	Sinclair	AG	JD16203 Severance Trial	Severance Granted	Bench
10/29	Sanders	Blakey	AG	JD17153 Severance Trial	Severance Granted	Bench
11/4 - 11/18	Ross	McClennen	AG	JD16327 Severance Trial	Severance Dismissed	Bench
11/16 - 11/18	Collins	Gaines	Pokrass	CR09-121418-002DT Agg. Assault, F4	Not Guilty	Jury
11/17	Ross	McClennen	AG	JD17323 Severance Trial	Severance Granted	Bench
11/17 - 11/24	Beck	Foster	Parr	CR09-110820-001DT Theft Means Trans. F3 Theft, F3	Theft Means Trans. - Guilty Theft - Not Guilty	Jury
11/19	Bogart	Rayes	Kennelly	CR09-114665-001DT POM, F6	Not Guilty	Bench
11/20	Ross	McClennen	AG	JD16856 Severance Trial	Severance Granted	Bench



Jury and Bench Trial Results

September/October/November 2009

Legal Advocate's Office

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
8/31 - 9/16	Koestner Rood	Duncan	Rubalcaba	CR08-150364-001-DT 2nd Deg Murder, F1	Guilty	Jury
9/21 - 9/30	Roskosz Brauer Hayes	Kemp	Kittredge	CR09-103052-001-DT 2nd Deg Murder, F1 Drive By Shooting, F2 Agg Assault, F3	Hung Jury	Jury
9/23 - 10/1	Glow	Blomo	Pollack	CR08-117014-001-DT CR08-009264-001-DT CR08-009282-001-DT CR08-009294-001-DT CR08-009313-001-DT CR01-001921-A-DT Ct 1 - Armed Robbery, F2 Ct 2 - Armed Robbery, F2 Ct 3 - MIW, F4	Guilty	Jury
9/4	Smith	Bergin	Thomas	JD-17925 - Dependency Trial	No dependency found - case dismissed	Bench
10/13 - 10/20	Glow	Duncan	Goddard, Green	CR08-178299-001-DT 1 Ct. Fraud Schemes, F2 4 Cts. Forgery, F4	Hung Jury on Both Counts	Jury
9/29 - 10/13	Hindmarch Hanratty	Welty	Andrus, Lee	CR07-123123-001-DT 11 Cts - Sex. Exploitation of a Minor & DCAC, F2	Guilty on All Counts	Jury
9/28 - 10/6	Pena-Lynch Whiteside Brauer	Spencer	Dodsall, Heath	CR08-142963-001-DT 2 Cts Robbery, F4	Guilty	Jury
10/5 - 10/13	Agan Schmich Christianson	McMurdie	Imbordino	CR07-113869-001-DT Att. Murder, F2 Agg. Assault, F3 MIW, F4	Guilty	Jury
6/3 - 10/6	Owsley Marrero	Brodman	Monte	JD-14432; Severance	Severance Granted	Bench
10/5 - 10/14	Smith Contreras	Anderson	Sandler	JD-17493 - Severance	Severance Granted	Bench
10/20	Russell Miller	Anderson	O'Donnell- Smith	JD-16055-Termination of Parental Rights	Termination Granted	Bench
10/23	Russell Miller	Thumma	Oelzy	JD18045 - Dependency	Dependency Found	Bench
10/30 - 11/5	Miller Rood	Gaines	Tait	CR09-119780-001-DT 3 Cts TMOT, F3 3 Cts Trafficking in Stolen Property, F2 Forgery, F4	Not Guilty	Jury

Jury and Bench Trial Results

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Legal Advocate's Office (Continued)

Dates: Start - Finish	Attorney Investigator Paralegal	Judge	Prosecutor	CR# and Charges(s)	Result	Bench or Jury Trial
11/16	Miller	Gaines	Pokrass	CR09-121418-001-DT Agg. Assault Serious Physical Injury, F4	Not Guilty	Jury
11/5	Smith Contreras	Gentry- Lewis	Bell	JD16634; Severance	Severance Granted	Bench
9/21 - 11/18	Rich	Anderson	Hunter	JD15744; Severance	Severance Granted	Bench
10/21 - 11/9	Koestner Mullavey Rood	Hoffman	Wendell	CR08-121292-001-DT Arson of Occupied Structure, F2	Not Guilty	Jury
10/20 - 11/17	Agan Schmich Mullavey Christianson	McMurdie	Imbordino, Beatty	CR08-128068-001-DT 1st Deg Murder, F1	Death	Jury



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for The Defense

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