

for The Defense

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

Volume 22, Issue 4

November 2012 – January 2013



*Delivering America's
Promise of Justice for All*

for The Defense

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Restitution, CROs, and Liens: Oh My

HB 2556 Will Allow CROs at the Time of Any Restitution Order

By: Stacy Mealey, Defender Attorney¹

What is HB 2556?

On April 1, 2013, HB 2556 will go into effect. This bill reads in part:

At the time the defendant is ordered to pay restitution by the Superior Court, the Court may enter a criminal restitution order in favor of each person who is entitled to restitution for the unpaid balance of any restitution order.²

A criminal restitution order (CRO) is a financial judgment that results in a restitution lien against current and future interests in property (this includes real estate, personal property, mobile homes, cars, boats, ATVs, etc.) within Arizona.

What's Changed?

Previously, CROs were only allowed upon completion of probation or sentence, or when the defendant absconds from probation or sentence. Under this new law, a CRO will be allowed at any time restitution is ordered. According to the bill's sponsor, the purpose of this amendment is to protect victims as a CRO allows for an immediately enforceable civil judgment along with the start of accrual of interest.³

While it is not the main subject of this article, it is also important to note that this bill will also expand the Court jurisdiction, enabling it to *order* and *enforce* court ordered payments. This new language will negate many of our timeliness arguments regarding late restitutions requests and orders.

What Fees Result From a CRO?

When a CRO is entered, the result is a collections fee of 14.9% of the principal balance plus 10% per annum interest, accrued on a daily basis. If payments are not made towards any remaining balance on a CRO for 120 days upon completion of probation or upon release from the Department of Corrections, the account is transferred to a private agency which adds



18% of the total due while interest continues at 10% per annum.⁴ The 10% per annum interest goes to the victim, while the fees are allocated to the collection agencies.

The County Collections Unit provides more information on their website at http://www.maricopa.gov/Finance/PDF/Financial%20Services/Collections/CCU_%20FAQ_20120718.pdf.

Which Cases Will HB 2556 Apply To?

The timing of which cases, if any, are legally covered by HB 2556 is ripe for litigation. Should it apply to all cases that have outstanding restitution after April 1, 2013? Or perhaps sentencings that occur on and after the effective date of April 1, 2013? Or is it limited to cases where the date of the commission of the crime occurred after April 1, 2013, based on ex post facto?

“An ex post facto law is one which imposes a punishment for an act not punishable at the time it was committed, or which imposes punishment additional to that prescribed at the time the offense was committed.” *State v. Weinbrenner*, 164 Ariz. 592, 593, 795 P.2d 235, 236 (App. 1990). “[I]f the law in question merely changes procedural rights, it is not ex post facto.” *State v. Beltran*, 170 Ariz. 406, 408, 825 P.2d 27, 29 (App. 1992).

Historically, restitution has been rehabilitative in nature.⁵ While this is true, there is also support for the view that a restitution order is punitive as well. *State v. Foy* acknowledges that other jurisdictions recognize that restitution is a criminal penalty and is imposed as part of a sentence which is inherently a criminal penalty. 176 Ariz. at 169, 859 P.2d at 792. The Court in *State ex rel. Arizona Structural Pest Control Com’n v. Taylor* provides that *Foy* determined that a criminal restitution order is a “criminal penalty.” 223 Ariz. 486, 224 P.3d 983 (App. 2010). Further, *State v. Lewandoski* holds that early entry of a CRO, without a statute allowing it, is an illegal sentence, based on the premise that restitution is a criminal penalty and criminal penalties historically are not interest bearing. 220 Ariz. 531, 207 P.3d 784 (App. 2009).

Furthermore, while restitution itself may be rehabilitative in nature, issuing a CRO as opposed to simply ordering restitution is punishment. The additional fees imposed by a CRO (the 14.9% collections fee and the 10% per annum interest) are above and beyond what has long been allowed by restitution laws. These added fees are avoidable, excessive, and, thus, punishment. Therefore, ordering a CRO is punitive in nature and imposing a CRO on cases that occurred before April 1, 2013, would be ex post facto.

Also, if your client was unaware of the possibility of a CRO at the time the plea was entered and a CRO is entered at sentencing, you may argue that the entire plea should be vacated. If restitution and/or the resulting CRO were relevant and material to your client’s decision regarding the plea, and the possibility of such was unknown to your client, the plea should be vacated. *See State v. Crowder*, 155 Ariz. 477, 747 P.2d 1176 (1987).

Is HB 2556 Legal?

Courts cite four main reasons when advocating against interest on restitution: (1) if the law allowed for the recovery of unliquidated damages, the criminal courts would have to take on the time consuming and oft-times formidable tasks normally left to a civil court in evaluating losses; (2) a victim entitled to restitution is protected from discharge in bankruptcy court (unlike civil judgment debtors); (3) probation revocation proceedings may be relied on to enforce restitution orders; and (4) probation may be extended if needed to satisfy a restitution order. *Foy* at 793, 170. Case law has repeatedly determined interest to be consequential and thus outside the parameters of “restitution.”

HB 2556 is a game changer. It now statutorily allows for interest and fees on restitution orders. The statute, thereby, allows for consequential damages to be ordered. This opens up a whole can of worms. While the parameters on restitution are being augmented by this law, this cannot impede on the defendant’s rights. “A party sued civilly has important due process rights, including

appropriate pleadings, discovery, and a right to a trial by jury on the specific issues of liability and damages. The judge in the criminal trial should not be permitted to emasculate those rights by simply declaring his belief that the defendant owes a sum of money.” *State v. Reese*, 124 Ariz. 212, 215, 603 P.2d 104, 107 (App. 1979) (*quoting People v. Richards*, 17 Cal.3d 614, 131 Cal.Rptr. 537, 541, 552 P.2d 97, 101 (1976)). Allowing an order of restitution to include such high additional costs beyond actual loss to a victim may result in a fear foreseen by the *Reese* court: it may “reduce our system of justice to a potentially dangerous façade and convert the criminal court into a collection agency with none of the requirements of due process found even in a civil money judgment proceeding.” *Id.*

If a CRO Benefits Victims by Awarding Interest, Should Restitution Orders be Reduced Accordingly?

“The concept that restitution compensates victims only for loss actually suffered is well established.” *Town of Gilbert Prosecutor’s Office v. Downie*, 218 Ariz. 466, 469, 189 P.3d 393, 396 (2008). If the victim obtained a benefit, it is well established that a restitution award be reduced in light of any benefit so as to avoid a windfall to a victim. *Id.*

CROs confer a benefit to the victim: 10% per annum interest on any restitution awarded. To keep in line with well established law, restitution awards should be reduced so as to avoid any windfall to a victim if they do indeed obtain interest. Obviously, this will only complicate restitution determinations and provide even further reasons to support the argument for a defendant’s right to a civil trial to work through these difficult calculations.

Practice Pointers

HB 2556 gives the court discretion in issuing CROs at sentencing; it is not mandatory. However, it is anticipated that there will be significant pressure on commissioners and judges to order CROs at sentencing. A CRO will add at least 14.9% to the amount due and may potentially add 32.9% to the amount due for restitution *in fees alone* -- this does not include the 10% per annum interest applied. A.R.S. § 13-804(E) advises the court to consider the economic circumstances of the defendant when deciding the manner in which restitution is to be paid. The court has already determined our clients to be indigent; this fact along with the specific economic circumstances of your client should be discussed with the court in an attempt to avoid a CRO.

Specific concerns about appeals or PCRs that may be forthcoming should also be raised, as restitution payments are not stayed pending appeal. If a lien is entered against your client’s property due to a CRO, your client may suffer a myriad of collateral financial consequences.

Obviously, it should be stressed to clients to pay off restitution as soon as possible to avoid the continuing additional costs that CROs impose. Further, a client should be advised prior to sentencing that any property they own may be subject to a CRO at the time sentence is imposed if restitution is expected.

This article along with form motions and related documents regarding this law will soon be available to employees on the Public Defender website in the Restitution section of our Criminal Defense Practice Topics.

(Endnotes)

1. The author wishes to acknowledge the substantial assistance provided by Nate Walters, former MCPD Law Clerk (current MCPD attorney), with much of the research used in this article.
2. HB 2556 may be read in its entirety at https://www.azsos.gov/public_services/LegislativeFilings/PDFs/2012/50th_Legislature_2nd_Regular_Session/CH_269.pdf.

3. Vogt, T. (2012, February). *O2/09/2012 - House Judiciary*. Speech presented at Committee on Judiciary, Phoenix, AZ.
4. This does not differ from how CROs are currently enforced: currently, a CRO is entered upon completion of probation or release from DOC when restitution is still owed, and the account is transferred to a private agency if payments are not made for 120 days with the same fees applying.
5. *State v. Freeman*, 174 Ariz. 303, 306, 848 P.2d 882, 885 (App. 1993) (“[T]he purpose of restitution is not to punish.”); *see also State v. Howard*, 163 Ariz. 47, 51, 785 P.2d 1235, 1239 (App. 1989) (“The purpose of mandatory restitution is to make the victim whole, not to punish.”), *State v. Foy*, 176 Ariz. 166, 169, 859 P.2d 789, 792 (App. 1993) (The Court agrees that restitution is not an increase in punishment but is a “non-punitive aspect of probation directed towards a proper rehabilitative goal...”); *State v. Wilkinson*, 202 Ariz. 27, 30, 39 P.3d 1131, 1134 (2002) (“The primary purposes of restitution [are] reparation to victim and rehabilitation of the offender.”).

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.

Is there ever a good reason to use “hereby” in your writing?

ANSWER: Hereby is usually needless legalese akin to other here- and there- incantations (herein, thereafter, hereof, thereto, heretofore, thereunder, herewith). These words summon up a supposed aura of legal ceremoniousness. They make legal writing an easy target for satirists. Good legal writers avoid them.

But hereby occasionally serves one useful function: as a “performative” adverb -- one that transforms a statement into what lawyers call a verbal act. That is, hereby can sometimes make it clear that the sentence in which it appears constitutes the legally operative act by which something is done. For example, writing You are hereby my successor makes it clear that with that very statement I'm naming you as my successor. The same sentence without hereby -- You are my successor -- might refer instead to my actions taken in another document or at a different time; the sentence itself might not be the operative act. Among the verbs that hereby can support in this way are assign, disclaim, give, reinstate, reserve, resign, revoke, terminate, and withdraw. For an informed discussion of this issue by a noted plain-language advocate, see Richard C. Wydick, True Confessions of a Diddle-Diddle Dumb-Head, 11 *Scribes J. Legal Writing* 57, 68-74 (2007).

As Wydick notes, the decision about when hereby really contributes something can be a close call. Yet it's usually no help. A New York document now on my desk demands a signature attesting that “I do hereby certify that all statements made by me in this application are true.” The first five words in that sentence could be safely omitted -- it's the signature and not any magic words that bind the signer to the statement. Hence: “All my statements in this application are true.” I do hereby declare that an adequate replacement.

Sources:

Garner's *Dictionary of Legal Usage* 407 (3d ed. 2011).

Black's Law Dictionary 794 (9th ed. 2009).

Richard C. Wydick, True Confessions of a Diddle-Diddle Dumb-Head, 11 *Scribes J. Legal Writing* 57, 68-7(2007).

Why Can't We Be Friends

The legal ethics of friend requests on social networking sites

By Scott Bennett and Jim Belanger

Decisions about who to become friends with on Facebook and other social networking sites are tricky. How will your husband or wife feel if you become Facebook friends with your high school boyfriend or girlfriend? Should you friend your law partners? Staff members? What about your kids – do you really want to know everything that they are doing and saying with their friends?

Websites like Facebook also raise ethical issues for lawyers. For this inaugural edition of our somewhat-regular ethics newsletter, we want to focus on one particular issue that comes with the use of social media—the ethics of online friendships. Our goal is to provide some guidance for lawyers about who you should, and should not, friend online.

First, some very brief background. Social networking sites like Facebook, MySpace, and LinkedIn allow people to connect online. Some information on these sites is publicly available – anyone can view it, although they might need to create an account first. But other information is available only to those who have become “friends” on the site. “Friend” is the Facebook term for those with an online relationship, who can access to some of each other’s information. Other sites have their own terminology, but the concept is the same. By creating an online relationship with another person, you give that person access to some or all of your information on the website. That might include professional and personal background, status updates, and photos.

With that, let’s consider the ethical and practical reasons for and against lawyers becoming online “friends” with different categories of people.

Judges

In some ways, we feel sorry for judges. One day they are lawyers doing the things that lawyers do—drafting motions, drinking too much coffee, trying to keep up with email. Then they earn a judicial robe, and . . . life changes. Sequestered in their chambers, feverishly working to mete out justice, they can lose their frequent contact with their former colleagues and friends. And then there are the lawyers who appear in their courts, some smiling a little too broadly, and laughing a bit too hard at their jokes. Professional friendships must be difficult for judges.

And now there are limits on judges’ ability to become Facebook “friends” with lawyers, let alone actual friends. The [Florida Bar](#) concluded that lawyers and judges may not become friends on Facebook because it creates the impression that “these lawyer ‘friends’ are in a special position to influence the judge.” Other states’ bar associations have also limited judge-lawyer friendships on Facebook. The Arizona Bar has not addressed the issue.

Our advice: Limit online friendships to those judges who would have to recuse themselves anyway in a case where you appeared. By sending a friend request to a judge, you increase the chances that the judge will never hear one of your cases. And that is ironic, because the same thoughtful and interesting judges who you might want to friend on Facebook are the same ones you probably want to hear your clients’ cases. Don’t eliminate them as potential judges in your cases by establishing Facebook friendships with them.

Unrepresented Parties and Witnesses

The ethical rules do not prohibit lawyers from sending friend requests to unrepresented people, whether they are parties in civil litigation (see the next section regarding crime victims), or witnesses.

But we recommend against becoming online friends with an opposing party – even one not represented by an attorney. Remember that information flows both ways between online friends. Do you really want to give that angry, unreasonable, maybe-slightly-unbalanced *pro se* litigant access to all of your personal information on Facebook? We didn't think so.

As for unrepresented witnesses, the bar associations have considered the issue have concluded that lawyers may send them friend requests. But there is a split of opinion about whether the lawyer needs to disclose his or her reason for sending a friend request. The [New York State Bar Association](#) has said no – all that is required is disclosing the lawyer's real name and identity. But the [San Diego Bar Association](#) reached the opposite conclusion – that lawyers must disclose not only their name and identity, but their attorney-client affiliation and reason for sending the friend request. As far as we know, the Arizona Bar has not weighed in on the issue.

We have not personally dealt with sending a friend request to an unrepresented party. But our thought is that, under Arizona's ethical rules at least, it is generally not necessary to affirmatively disclose your reason for sending the friend request. Now, it is very clear that you may not make a false statement to the potential online friend. You may not, for example, misrepresent your reason for sending the friend request, or set up a fake online profile to hide your identity. (Yes, that has happened.) And on a related issue, you may not get an investigator or any other person to do anything that the ethical rules prohibit you from doing yourself. But we do not believe that Arizona's rules of professional conduct require a lawyer to disclose the reason for a friend request to a witness who is not represented by counsel.

Represented Parties

When it comes to represented parties, the same rule applies in the virtual world as the real one. You may not contact them. That means no friend requests. With corporate parties, it is perfectly acceptable to "like," "follow," or otherwise review any information they make publicly available. But you should not send friend requests to high-ranking employees of the represented company, or any employee whose acts or omissions are at issue in a legal dispute.

Crime Victims

This restriction is specific to criminal defense attorneys. Everyone else, feel free to skip this section.

[Arizona law](#) prohibits defense attorneys from initiating contact with alleged victims of crime. We know—trust us, we know—how tempting as it is to try to find out what an alleged victim has posted on Facebook or another social media site about your client or an alleged offense. But sending a friend request is not an acceptable way to get that information.

On the other hand, if a victim has posted material on Facebook that is publicly available (meaning anyone can access it, without first becoming online friends), that material is fair game. Scott once got an excellent result at a sentencing because he was able to impeach the alleged victim's story using publicly available photos from her Facebook page.

Conclusion

Social networking sites are a powerful way to connect with others, and a valuable source of information for lawyers. Attorneys should learn about the most popular sites, and the opportunities and information they can provide. Mining publicly-available portions of social networking sites is perfectly acceptable, and should be a standard practice for every attorney. But the rules are more complicated when it comes to creating virtual relationships.



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Scott Bennett and Jim Belanger advise attorneys on issues of professional ethics, and represent lawyers in investigations and disciplinary proceedings by the Arizona State Bar. They also represent clients in government investigations, criminal prosecutions, and civil disputes

Maricopa County Public Defender New Attorney Training Series

This new training program is designed to develop attorney skills, including basic criminal defense, pretrial practice, and trial advocacy.

The New Attorney Training Series is primarily designed for attorneys practicing in Maricopa County; however, the topics and techniques are applicable to attorneys practicing in other counties. All New Attorney Training is open to the defense community. There is no fee for Public Defense Offices. There are fees for Private and Contract Counsel. Materials are provided on CD and paper. If you have questions about the content of a course or the training program in general, please contact Stephanie Conlon, Training Director, at conlons@mail.maricopa.gov

Each class is scheduled twice this winter. We recommend students take classes in this order: intro to defense, pretrial, practice, trial skills. If you would like specific course agendas or would like to register, please contact Celeste Cogley by phone at 602-506-7711 X37569 or via email cogleyc@mail.maricopa.gov

New Attorney Training #1: Intro to Criminal Defense

Feb 25— March 1, 2013

This four and a half day training introduces the basics of criminal defense practice. Topics include: Conflicts, Commencement of Proceedings, Modifying Release Conditions, Preliminary Hearings, Trebus Letters, Client Communication, File Documentation, Prior Felonies, Negotiation and Written Deviation Requests, Explaining Plea Offers, Sentencing Charts: First Time Offenders, Repeat Offenders and Enhancements, Preparing for Sentencing, Presentence Reports, Spotting Mental Health Issues and Gathering Documentation, Competency Determination, Drug Possession Cases, Immigration and Collateral Consequences, Intro to DUI, Probation and DOC, and Restitution.

New Attorney Training #2: Pretrial Practice

Jan 29—Feb 1 & April 9—12, 2013

This three and a half day training focuses on improving pretrial skills and motion practice in order to achieve a favorable settlement or work up the case for trial. Topics include: Making the Record for Appeal, Pre and Post Accusation Delay, Insufficiency of the Indictment, Special Actions, Severance and Joinder, Remands, Competency Hearings, Requesting Specific Discovery, Miranda and Voluntariness, Suppression, Bad Acts, Identification and Dessureault, Daubert and Experts, Interviews, Subpoenas, Victim's Rights, Settlement Conference and Memoranda, and Useful Cases in Criminal Law.

New Attorney Training #3: Trial Skills

March 5—March 8 & May 21—May 24, 2013

This three and a half day training takes a hypothetical case to trial to give new attorneys a chance to practice trial advocacy techniques. Topics include: Developing a Theme and Theory, Motions in Limine, Jury Selection, Opening Statement, Direct and Cross Examination, Evidence and Objections, Jury Instructions, Closing Argument, Trial on Priors, and Aggravation Hearing.

Office Presents Awards at Holiday Celebration

By: Jim Haas, Public Defender

At the office holiday party on December 13, 2012, the office presented its two annual awards, the Bingle Dizon Commitment to Excellence and Joseph P. Shaw Awards, and recognized seven attorneys who reached their 25 year anniversary with the office.

The 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.

The 2012 Dizon Award was presented to Legal Secretary **Guadalupe Landeros**.

In the nomination for the award, Lupe was described as “dedicated, efficient, cares about our clients and is generally a beautiful person to be around. Any task she is given is done that day. She sets up files perfectly and right away. She finds settlement conferences when no one else can. She cares about our clients – she reads the case file notes and asks her attorneys what happens with the cases. She is always cheerful and ready to help. She organizes meals and celebrations for birthdays, baby showers and farewells. She knows everyone. She bakes cakes for co-workers’ birthdays, and shares her fabulous salsa recipes.”

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.

The 2012 Shaw Award was presented to Mesa RCC Attorney **Chelli Wallace**.

Chelli joined our office in 1995. She has always been known as an extremely hard worker who is very dedicated to her clients. She routinely goes the extra mile for her clients, even after her official representation has ended. She has helped clients who are sent to DOC find child care. She has helped clients who have legal issues that we cannot handle find free legal assistance

A few years ago, Chelli learned from former clients that, even though they had successfully completed probation on class 6 undesignated offenses, their offenses were left undesignated. These clients had earned misdemeanors, but were still dealing with the adverse impact of having felonies on their records. She began to track these cases to find out how this could happen so she could put a stop to it.

Chelli thus created the “6 open project.” She worked with our administration to create a method of gathering and reporting the needed information, then worked with Records to ensure that needed information was inputted in IRIS and 6 open cases were flagged. She enlisted the help of her colleagues at Mesa RCC. She created a process and refined it.

This project is ensuring that clients get misdemeanor designations where in the past many would have remained undesignated despite successful completion of probation. While it is still a work in progress, this project has improved our representation.



As the nomination for this award stated, “there is no one in this office more committed to indigent defense and her clients than Chelli.”

In addition to our two annual awards, the following attorneys were recognized for reaching their 25-year anniversary with the office:

Peg Green joined the office in December 1987, practiced as a trial attorney in Group A, served as a supervisor, and then joined our Appeals Division where she practices today.

Carlos Daniel Carrion joined the office in November 1987, served as a trial attorney in Group D, became the first supervisor of our DUI Unit, handled major state-wide systemic litigation for the office in 2000, won our Joe Shaw Award that year, then became manager of our Early Representation Division.

Terry Bublik joined the office in November 1987, practiced as a trial attorney in Group B, then served as a trial group supervisor for many years, before transferring to our Capital Group.

Bud Duncan joined the office in June 1987, served as a trial attorney in Group B, represented juveniles in our juvenile division, then became one of the founding members of our Juveniles in Adult Court Unit. Bud was the first attorney to win the Joe Shaw Award.

Gene Barnes joined us in June 1987, served as a trial attorney in Group A, then in Mesa, then back downtown. After 25 years as a trial attorney, Gene recently transferred to RCC.

Larry Matthew joined the office in February 1987, served as a trial attorney in Group B, then joined appeals where he practiced for several years before transferring to our Capital Group.

Brian Bond joined the office in October 1987, after having served a prior stint of 14 months in the office. He served as a trial attorney, then as a trial group supervisor, then RCC supervisor, then RCC attorney.

Our office is recognized as one of the best public defense offices in the country, largely because of the incredible talent and dedication of these individuals, and many others. Congratulations to all who were honored!



Sponsored by Maricopa County Public Defender

Spring Trial College

March 14 & 15, 2013

The Maricopa County Public Defender's Office is sponsoring a two-day Spring Trial College. The college is intended for attorneys who have handled at least one trial and are ready to take the next steps in developing their trial skills.

The format includes large group lectures and demonstrations and small group breakout sessions focusing on individual exercises on:

- ◆ Cross-examination
- ◆ Impeachment
- ◆ Objections
- ◆ Motive & Bias

This format facilitates the learning process and enables attendees to hone their trial skills while receiving constructive critiques.

During those sessions, each attorney will be given an opportunity to cross-examine and impeach one of our witnesses. The witnesses are professional actors who have studied the different roles and are prepared for the attorneys. Materials will be provided. This is a very challenging part of the program and one that the attorneys and the actors love.

Dates:

Thursday, March 14, 2013

8:30am Check in

9:00am—4:30pm (lunch on your own)

Friday, March 15, 2013

8:30am Check in

9:00am—4:45pm (lunch on your own)

Location:

Downtown Justice Center (DTJC)

620 W. Jackson,

5th Floor Training Room

Note: DTJC is a secured building and opens at 8:00am. Please allow time to go through security.

Free Parking:

Open Visitor Lot on Madison and 5th Ave., just north of DTJC.

May qualify for up to 10.75 hours CLE

Please fill out and return the registration form; see the second page.

There is no cost to Public Defense Agencies; the registration fee is \$100.00 for private/contract counsel.

Maricopa County Public Defender Spring 2013 Trial College

March 14 & 15, 2013
Downtown Justice Center
620 W. Jackson, 5th Floor
Phoenix, AZ 85003

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Registration Form

Please return form and payment (if applicable) by 02/15/13,
For Defense Community Only (No Refunds after 03/01/13)

Trial College March 14 & 15, 2013

- \$0.00, No Fee for Public Defense Agencies
- \$100.00, Court-Appointed/Contract Counsel; City Public Defenders/Private

Total Cost \$ _____ \$ 15.00 Late Fee (Postmarked after 02/15/13)

Last Name _____ First _____ MI _____

AZ State Bar # _____

Title/Office _____

Office Address _____

City _____ ZIP _____

E-Mail Address _____

Phone () _____ FAX () _____

Year Admitted: _____

Number of Felony Trials: _____

- This form must be filled out completely and legibly.
- Enclose a check or money order payable to **Maricopa County Public Defender**,

Send to: Maricopa County Public Defender, **Attn: Celeste Cogley**
Downtown Justice Center
620 W. Jackson, Suite 4015
Phoenix, AZ 85003

If you have questions regarding registration or
if you need ADA Accommodation, please contact Celeste Cogley
by phone at 602-506-7711 X37569 or by email at cogleyc@mail.maricopa.gov

Jury and Bench Trial Results

September 2012 – November 2012

Public Defender's Office – Trial Division

Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(s)	Counts	Result
Group 1					
10/4/2012	Schulz	Gentry-Lewis	2011-145516-004 Trafficking In Stolen Property, F3	1	Jury Trial-Guilty As Charged
Group 2					
10/5/2012	Cole James	Svoboda	2011-146420-001 Drug Paraphernalia-Possess/Use, F6 Marijuana-Possess/Use, F6	1 1	Court Trial-Guilty Lesser/Fewer
10/8/2012	Covil Munoz Beal	Miles	2011-164218-001 Armed Robbery, F2 Aggravated Assault, F3	1 1	Jury Trial-Guilty Lesser/Fewer
11/14/2012	Vandergaw Brazinskas	Gentry-Lewis	2011-159225-002 Marijuana Violation, F6 Drug Paraphernalia Violation, F6 Dangerous Drug Violation, F4	1 1 1	Jury Trial-Guilty Lesser/Fewer
11/19/2012	Jones James	Bailey	2011-120025-001 Drug Paraphernalia Violation, F6 Marijuana Violation, F6 Crim Tresp 1st Deg-Res Struct, F6	1 1 1	Court Trial-Guilty Lesser/Fewer
11/29/2012	Jones Beal	Pineda	2012-005530-001 Burglary Tools Possession, F6 Theft, M2, Attempt to Commit Burglary 3rd Degree, F4 Criminal Trespass 3rd Deg, M3	1 1 1 1	Jury Trial-Guilty Lesser/Fewer
11/30/2012	Alagha Wozniak Brazinskas	Bassett	2011-107821-002 Theft, F3	1	Jury Trial-Guilty As Charged
Group 3					
10/12/2012	Schwartz Salvato	Passamonte	2012-106250-001 Resisting Arrest, F6 Aggravated Assault, F5 Shoplifting, M1	1 2 1	Jury Trial-Guilty Lesser/Fewer

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

Jury and Bench Trial Results

September 2012 – November 2012

Public Defender's Office – Trial Division

Closed Date*	Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i>	Judge	CR Number and Charge(s)	Counts	Result
Group 4					
9/7/2012	Wallace	Brotherton	2012-111261-001 Drug Paraphernalia Violation, F6 Marijuana Violation, F6	1 1	Court Trial-Guilty Lesser/Fewer
9/20/2012	Tivorsak <i>Verdugo</i>	Svoboda	2009-007018-001 Child/Vul Adult Abuse-Intent, F2 Child/Vul Adult Abuse-Reckless, F4	1 1	Jury Trial-Guilty Lesser/Fewer
10/10/2012	Tivorsak	Cohen	2012-117659-001 Aggravated Assault, F3 Threat-Intimidate, M1	1 1	Jury Trial-Guilty Lesser/Fewer
10/19/2012	Wallace <i>Verdugo</i>	Brotherton	2012-006739-001 Aggravated Assault, F3 Misconduct Involving Weapons, F4	1 1	Jury Trial-Guilty As Charged
10/23/2012	Kalman	Gass	2012-119764-001 Aggravated Assault, F6, Attempt to Commit Disorderly Conduct, M1 Threat-Intimidate, M1	1 1 1	Court Trial-Guilty Lesser/Fewer
11/2/2012	Becker <i>Flannagan</i> <i>Kunz</i>	Mccoy	2011-149258-001 Misconduct Involving Weapons, F4	1	Jury Trial-Guilty As Charged
11/27/2012	Swenson <i>Gilchrist</i> <i>Kunz</i>	Mulleneaux	2012-109357-001 Drug Paraphernalia Violation, F6 Marijuana Violation, F6	1 1	Court Trial-Guilty Lesser/Fewer
11/29/2012	Wallace <i>Verdugo</i> <i>Kunz</i>	Starr	2012-108162-001 Arson of Structure/Property, F4	1	Jury Trial-Not Guilty
Group 5					
9/19/2012	Glass-Hess <i>Romani</i>	Gass	2011-008268-004 Narcotic Drug Violation, F3, Attempt to Commit Marijuana Violation, F2 Narcotic Drug Violation, F2	1 2 1	Jury Trial-Not Guilty

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

Jury and Bench Trial Results

September 2012 – November 2012

Public Defender's Office – Trial Division

Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(s)	Counts	Result
9/20/2012	Whitney	Bailey	2011-150473-001 Unlaw Flight From Law Enf Veh, F5 Drive w/Lic Susp/Revoke/Canc, M1	1 1	Jury Trial-Guilty As Charged
Group 6					
11/2/2012	Mccarthy Souther Farrell	Martin	2011-153086-001 Endangerment, F6 Arson of Occupied Structure, F2	2 1	Jury Trial-Guilty Lesser/Fewer
Capital					
9/6/2012	Whelihan Brunansky Zaporowski Gonzalez	Barton	Cr2001-011704-001 Murder 1st Degree, F1	3	Jury Trial-Guilty As Charged
Probation Violation					
11/16/2012	Salter Thompson	Barton	2007-157447-001 Drug Paraphernalia Violation, F6 Dangerous Drug Violation, F2	1 1	Jury Trial-Guilty As Charged
11/16/2012	Salter Thompson Farley	Hegyí	2011-155142-001 Aggravated Assault, F3	1	Jury Trial-Guilty Lesser/Fewer
RCC					
9/7/2012	Braaksma Jarrell	Cahill	2012-104761-001 DUI-Liquor/Drugs/Vapors/Combo, M1 DUI w/Bac of .08 or More, M1 Extreme DUI-Bac .15 -.20, M1 Drive w/Lic Susp/Revoke/Canc, M1	1 1 1 1	Jury Trial-Not Guilty
9/24/2012	Jolley Kunz	Kaiser	2011-128357-001 Misconduct Involving Weapons, F4 False Report to Law Enforce, M1	1 1	Jury Trial-Guilty Lesser/Fewer
9/27/2012	Noble Rankin Christiansen	Mccoy	2011-123657-001 Criminal Trespass 1st Deg, F6	1	Court Trial-Guilty Lesser/Fewer

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Jury and Bench Trial Results

September 2012 – November 2012

Public Defender's Office – Trial Division

Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(s)	Counts	Result
10/18/2012	Goodman Berko	Fine	2011-153334-001 DUI-Liquor/Drugs/Vapors/Combo, M1 DUI w/Bac of .08 or More, M1	1 1	Jury Trial-Guilty Lesser/Fewer
10/25/2012	Braaksma Hayes	Cahill	2011-154991-001 Harass-Follow in Public, M1	1	Court Trial-Not Guilty
11/16/2012	Houck Jarrell	Jones	2012-133600-001 DUI-Liquor/Drugs/Vapors/Combo, M1 DUI w/Bac of .08 or More, M1	1 1	Jury Trial-Not Guilty
11/29/2012	Goodman	Fine	2012-149397-001 DUI w/Bac of .08 or More, M1 DUI-Liquor/Drugs/Vapors/Combo, M1	1 1	Court Trial-Guilty Lesser/Fewer
Specialty Court Group					
10/3/2012	Turley Menendez	Hegy	2011-030533-001 Armed Robbery, F2	2	Jury Trial-Guilty As Charged
11/9/2012	Turley Beal	Potts	2011-135132-001 Aggravated Assault, F3 Misconduct Involving Weapons, F4	1 1	Jury Trial-Guilty As Charged
Training					
10/24/2012	Roth Hayes	Starr	2012-100763-001 Marijuana Violation, F6	1	Court Trial-Guilty Lesser/Fewer
Vehicular					
9/26/2012	Brink	Miller	2005-032668-001 DUI-Liquor/Drugs/Vapors/Combo, F6	2	Jury Trial-Guilty Lesser/Fewer
10/3/2012	Shah	Bernstein	2010-160384-001 Agg DUI-Lic Susp/Rev for DUI, F4	2	Jury Trial-Not Guilty
11/8/2012	Potter Renning	Svoboda	2009-168370-001 Agg DUI-Lic Susp/Rev for DUI, F4 Aggravated DUI-Third DUI, F4	2 2	Jury Trial-Guilty As Charged

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Jury and Bench Trial Results

September 2012 – November 2012

Public Defender's Office – Trial Division

Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(s)	Counts	Result
11/28/2012	Conter	Bernstein	2012-105930-001 Aggravated DUI-Third DUI, F4 Agg DUI-Lic Susp/Rev for DUI, F4	2 2	Jury Trial-Guilty As Charged
11/30/2012	Foundas Jarrell	Reinstein	2011-165692-001 Agg DUI-Lic Susp/Rev for DUI, F4 Aggravated DUI-Third DUI, F4	2 2	Jury Trial-Guilty Lesser/Fewer



Jury and Bench Trial Results

September 2012 – November 2012

Legal Advocate's Office – Trial Division

Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(S)	Counts	Result
9/26/2012	Rose	Granville	2011-006379-002 Murder 1st Degree, F1 Marijuana Violation, F3 Dangerous Drug Violation, F2	1 1 1	Court Trial-Guilty Lesser/Fewer
11/27/2012	Roskosz	Granville	2011-007684-001 Murder 1st Degree, F1	1	Jury Trial-Guilty Lesser/Fewer

Legal Advocate's Office – Dependency

Last Day of Trial	Attorney CWS	Judge	Case Number and Type	Result	Bench Or Jury Trial
9/5/2012	Smith Contreras	McNally	JD18130 Dependency	Dependency Found	Bench
9/25/2012	Smith Contreras	Grant	JD21755 Dependency	Dependency Found	Bench
10/9/2012	Smith Contreras	Anderson	JD20911 Severance Trial	Severance Granted	Bench
11/20/2012	Youngblood Armbrust	Blakey	JD20218 Temporary Custody Hearing	Temporary Custody Granted	Bench



Jury and Bench Trial Results September 2012 – November 2012

Legal Defender's Office – Trial Division

Closed Date*	Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i>	Judge	CR Number and Charge(S)	Counts	Result
9/21/2012	Amiri Alkhoury	Mulleneaux	2011-144412-001 Dangerous Drug Violation, F4	1	Jury Trial-Guilty As Charged
11/30/2012	Tate	Miles	2011-137642-001 Theft-Means of Transportation, F3	1	Jury Trial-Guilty As Charged

Legal Defender's Office – Dependency

Last Day of Trial	Attorney <i>Case Manager</i>	Judge	Case Number and Type	Result	Bench Or Jury Trial
9/7/2012	Sandler	Adelman	JD19572 Severance	Severance denied	Bench
9/27/2012	Sanders	Blakey	JD19826 Severance	Severance denied	Bench
11/28/2012	Van Doren	Harrison	JD21996 Severance	Severance granted	Bench

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for The Defense

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