

for The Defense

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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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Lost in Translation: The Problem with Involuntary "Consent" from Spanish Speaking Defendants by Josephine "Sophie" Bidwill, Defender Law Clerk

"The knock at the door, whether by day or by night, as a prelude to a search, without authority of law but solely on the authority of the police, [needs not] the commentary of recent history to be condemned..."
Justice Frankfurter¹



This article challenges the troubling tactics some police officers have been employing when investigating suspected drug drop houses occupied by Spanish speaking indigents. As discussed below, Spanish speakers cannot give voluntary consent without a certified interpreter present or other adequate assurances that communication is clear and understood. Furthermore, Spanish speakers qualify as hearing or speaking-impaired under the Phoenix Police Operations Orders, and failure to obtain an interpreter clearly violates those policies.

I. Background

Recently, some Phoenix police officers have been engaging Spanish-speaking individuals outside their homes. All of these homes are suspected drug drop houses. Despite the individual insisting that he or she only speaks Spanish, these officers have been obtaining “consent” to search their homes without interpreters. This is contrary to the claims of the individuals once they are assigned to our office and contrary to the fact that they do not speak or understand English.

II. Standing

Standing to object is not limited to those who have a possessory or ownership interest in the place searched.² Indeed, “arcane distinctions developed in property and tort law between guests, licensees, invitees, and the like, ought *not* to control.”³ It has been explicitly recognized that “a person can have a legally sufficient interest in a place other than his own home” for purposes of the protections of the Fourth Amendment.⁴

Accordingly, under the Fourth Amendment, an overnight guest in a home, such as the clients who find themselves left in drop houses, may claim the protections of it.⁵ The United States Supreme Court has held that status as an overnight guest is enough for the guest to show a reasonable expectation of privacy in the home invaded.⁶ Article 2, Section 8 of the Arizona Constitution grants broader protections than the Fourth Amendment in search and seizure cases.⁷ Arizona has conceptually incorporated standing as a substantive part of our state’s search and seizure law.⁸ Because standing under Arizona law is a more relaxed standard, and because Arizona courts have recognized that overnight guests have standing to object to violations of their Fourth Amendment rights, as well as violations of their Article 2, Section 8 right to privacy, a finding under federal law that there is standing to object is sufficient for state law purposes.⁹

III. Privacy in the Home

“It is a ‘basic principle of Fourth Amendment law’ that searches and seizures inside a home without a warrant are presumptively unreasonable.”¹⁰ Article 2, Section 8 is “specific in preserving the sanctity of homes and in creating a *right of privacy*.”¹¹ As a matter of state law, police may not search a home without a warrant “in the absence of exigent circumstances or other necessity.”¹² Any such warrantless entry into a home is “*per se* unlawful under our state constitution [and violates] our constitution’s guarantees of the right to privacy.”¹³ Arizona has recognized consent as an exception to the warrant requirement where a “person having authority to consent to a warrantless search does so.”¹⁴ The burden is on the State when it seeks an exception to the warrant requirement.¹⁵

Courts are wary of circumstances where a warrant could easily have been obtained and was instead foregone in lieu of “consent”¹⁶ because officers are substituting their own personal judgment for the judgment of a neutral and detached court magistrate. “When the right of privacy must reasonably yield to the right of search is, as a rule, to be decided by a judicial officer, not by a policeman or Government enforcement agent.”¹⁷ This is often the case in drop house encounters. The officers will usually come to the house and knock or “stop” an individual as he or she pulls in the driveway of a home. Officers do not generally cite exigencies in these situations, but rather gain information from sources such as water bills that lead them to believe a house may be a drug drop house.



IV. The Test for Consent: Voluntariness

The test for determining whether consent to search was given so as to preclude the warrant requirement is voluntariness.¹⁸ Consent must be a result of an individual's own "essentially free and unconstrained choice," that person's will must not have been overborne, and "his capacity for self-determination [must not have been] critically impaired."¹⁹

"[I]t is only by analyzing all the circumstances of an individual consent that it can be ascertained whether in fact it was voluntary or coerced. It is this careful sifting of the unique facts and circumstances of each case and that is evidenced in our prior decisions involving consent searches."²⁰ "In determining whether or not there was consent, it is necessary that waiver and consent be proved by clear and positive evidence in unequivocal words or conduct expressing consent, and it must be established that there was no duress or coercion, actual or implied."²¹

Among those factors which courts have considered as *tending to show that the consent was coerced* are: (1) that consent was made by an individual already arrested,²² (2) that consent was obtained despite a denial of guilt,²³ (3) that consent was obtained only after the accused had refused initial requests for consent to search,²⁴ (4) that consent was given where the subsequent search resulted in a seizure of contraband which the accused must have known would be discovered,²⁵ (5) that consent was given while the defendant was handcuffed,²⁶ (6) overt acts or threats of force, either proven or claimed²⁷ (7) promises²⁸ (8) subtle coercion²⁹, (9) mental deficiency of defendant³⁰ (10) defendant being unable to exercise free choice³¹ (11) that the defendant was in custody.³²

Among those factors which courts have considered as *tending to show the voluntariness of the consent* are: (1) that consent was given where the accused had reason to believe that the police would find no contraband,³³ (2) that the defendant admitted his guilt before consent,³⁴ (3) that the defendant

affirmatively assisted the police officers.³⁵ (4) superior intelligence³⁶ (5) good education³⁷ (6) familiarity with police investigations from past experience.³⁸

These factors, if present in a case, should be argued in light of the standard set forth above. When confronted with the burden of showing “clear and positive evidence,” some of these factors may present a stumbling block for the State.

V. Spanish Speakers and Consent

Consent was held to be voluntary where it was given by a Spanish-speaking defendant through an interpreter, in a public place, and where another government agent, because of his fluency, understood the defendant’s replies and ascertained that the interpreter’s translations were indeed accurate.³⁹ In another case, a Spanish-speaking defendant provided voluntary consent to a search of his apartment where he signed a “consent-to-search” form in Spanish. The form explicitly read that the defendant had not been “threatened or forced in any way” and that he “freely consented” to the search.⁴⁰ In that case, there was no evidence, such as use of force or threat of a search warrant, to the contrary of what was stated in the form.⁴¹

In contrast, a defendant who spoke *only Spanish* could not give voluntary consent to officers who did not speak Spanish, even where there was an interpreter, because the interpreter could not adequately translate the officers’ requests for consent to search the home.⁴² Thus, “consent” may be involuntary by virtue of the language barrier between a Spanish-speaking client and officers who are not certified Spanish interpreters. So, where a client was not given a consent-to-search form in Spanish, was not provided with an interpreter, and no one was present to verify whether the interpretations were accurate or understood, a resulting “consent” may well be found to have been involuntary.

VI. Phoenix Operations Orders

Taking a different approach than usual, the court’s perspective may be shifted if a Spanish speaker’s inability to speak English is couched in terms of disability and discrimination. Under the Operation Orders of the Phoenix Police Department, employees “must furnish appropriate auxiliary aids and services (i.e., note pads, written materials, qualified interpreters) when necessary to ensure effective communication.”⁴³ When a note pad or other means of communication do not suffice, the officers are *required* to get a qualified interpreter.⁴⁴

According to the Phoenix Police Operation Order, “discrimination” is “[a]ny act taken because of race, religion, sex, age, handicap, sexual orientation, or national origin by an employee that unfairly and harmfully affects another person or employee.”⁴⁵ Relatedly, “racial profiling” occurs when an officer stops an individual based on a common trait of the group (including race, ethnic background, cultural group, or national origin).⁴⁶

Cases where Spanish speakers are treated differently because of their inability to speak English are treated discriminately and in violation of the Department’s policy by virtue of the fact that they are foreign-born and do not speak English. Officers who obtain consent without an interpreter violate the Phoenix Police Department procedures regarding non-English speakers, and as a result, deprive clients of a true and accurate knowledge of what his or her consent means legally. This situation is no different

from an elderly man who answers the door and is deaf, where the officers refuse to write down their communications and instead insist on using hand signals.

VII. Suppression

Obviously, evidence seized following consent to a search must be suppressed if the consent is tainted by a prior constitutional violation.⁴⁷ Arizona's Constitution provides for broader relief for violation of the right to privacy in one's home than the U.S. Constitution. Arizona permits suppression of direct *as well as indirect* evidence resulting from a constitutional violation such as failure to obtain voluntary consent.⁴⁸

Further, Arizona courts have declined to extend inevitable discovery doctrine "into a defendant's home ... based on a violation of Art. 2 § 8 of the Arizona Constitution[,] regardless of the position the United States Supreme Court would take on this issue. While our constitutional provisions were generally intended to incorporate federal protections, they are *specific* in preserving the sanctity of homes and in creating a right of privacy."⁴⁹

In permitting indirect evidence to come in, the U.S. Supreme Court has stated that "officers who enter illegally will recognize that whatever evidence they discover as a direct result of the entry may be suppressed."⁵⁰ Arizona has decided that the protections of Article 2, Section 8 prevent admission of both direct *and* indirect evidence obtained as a result of a constitutional violation, as before mentioned.⁵¹

It is in the client's best interest to attempt to make these arguments in a situation where police have ignored a Spanish speaker's inability to speak or fully understand English. Hopefully, the courts will recognize the potential racial connotations and public policy issues inherent in this tactic by police and find these instances of "consent" involuntary and inadequate.

(Endnotes)

1. *Coolidge v. New Hampshire*, 403 U.S. 443, 453 (1971) (quoting *Wolf v. Colorado*, 338 U.S. 25, 27-28).
2. See *Jones v. United States*, 362 U.S. 257, 266-67 (1960); *United States v. Vasquez*, 706 F. Supp. 2d 1015, 1028 (C.D. Cal. 2010).
3. *Rakas v. Illinois*, 439 U.S. 128, 142-43 (1978) (emphasis added); *Jones* 362 U.S. 263, 266; see *Mancusi v. DeForte*, 392 U.S. 364 (1968); *Warden v. Hayden*, 387 U.S. 294 (1967); *Silverman v. United States*, 365 U.S. 505 (1961).
4. *Jones v. U.S.*, 362 U.S. 263, 265 (1960).
5. *Minnesota v. Carter*, 525 U.S. 83 (1998).
6. *Minnesota v. Olson*, 495 U.S. 91 (1990); *State v. Gissendaner*, 177 Ariz. 81, 84 (Ct. App. 1993).
7. *State v. Juarez*, 203 Ariz. 441, 444 (Ct. App. 2002).
8. *State v. Juarez*, 203 Ariz. 441, 445 (Ct. App. 2002).
9. However, more specifically, in *State v. Gissendaner*, an overnight houseguest had standing to object to the search of a house where he was staying the night, where the court recognized a legitimate expectation of privacy in the house under both the United States Constitution and by article 2, section 8 of the Arizona Constitution. *Id.* (quoting 177 Ariz. 81, 84 (Ct. App. 1993)) (The overnight guest had some extra clothes with him and intended to stay the night.); compare *State v. Johnson*, 132 Ariz. 5, 7, (Ct. App. 1981) (A mere guest with no interest in the apartment did not stay the night there, had no key, and no belongings.).
10. *State v. Martin*, 139 Ariz. 466, 473 (1984) (quoting *Payton v. New York*, 445 U.S. 573, 586 (1980); *State v. Davolt*, 207 Ariz. 191, 202 ¶ 23 (2004) (citing *Mapp v. Ohio*, 367 U.S. 643, 655 (1961))(The Fourth Amendment applies to state officers through the Due Process Clause of the Fourteenth Amendment); *State v. Main*, 159 Ariz. 96, 98, 764 P.2d 1155, 1157 (Ct. App. 1988) (citing *United States v. Gomez*, 770 F.2d 251, 255 (1st Cir. 1985)). (In determining reasonableness, Arizona has stated that the following factors are among those relevant: legitimate presence in the area searched; ability to control or exclude others' use of the property; and the existence of a subjective expectation of privacy.).
11. *State v. Bolt*, 142 Ariz. at 264-65 (emphasis added); (quoted in *State v. Guillen*, 223 Ariz. 314, 316-17 (2010)); *State v. Juarez*, 203 Ariz. 441, 444 (Ct. App. 2002) (Article 2, Section 8 reflects the "framers' special concern that the sanctity of the home should be protected against warrantless entry.") (quoting *Ault*, 150 Ariz. at 466 ("Our constitutional provisions

were intended to give our citizens a sense of security in their homes and personal possessions.”)).

12. *State v. Guillen*, 223 Ariz. 314, 316-17 (2010) (citing *Katz v. United States*, 389 U.S. 347, 356–57 (1967); *State v. Jones*, 185 Ariz. 471, 480 (1996); *Bolt*, 142 Ariz. at 265).
13. *State v. Bolt*, 142 Ariz. 260, 265 (1984) (internal quotations omitted) (citing *State v. Suave*, 112 Ariz. 576 (1976)).
14. *State v. Guillen*, 223 Ariz. 314, 317 (2010) (internal punctuation omitted) (quoting *State v. Lucero*, 143 Ariz. 108, 109 (1984)).
15. E.g., *State v. Ault*, 150 Ariz. 459, 464 (1986); *State v. Fisher*, 141 Ariz. 227 (1984).
16. *State v. Ault*, 150 Ariz. 459, 466 (1986).
17. *Coolidge v. New Hampshire*, 403 U.S. 443, 449-50 (1971) (quoting *Johnson v. United States*, 333 U.S. 10, 13-14); Cf. *United States v. Lefkowitz*, 285 U.S. 452, 464; *Giordenello v. United States*, at 486; *Wong Sun v. United States*, 371 U.S. 471, 481-482.; *Katz v. United States*, 389 U.S. 347, 356-357.
18. *United States v. Rothman*, 492 F.2d 1260 (9th Cir. 1973).
19. *United States v. Watson*, 423 U.S. 411, 424 (1976); *Schneckloth v. Bustamonte*, 412 U.S. 218, 225 (1973).
20. *State v. Knaubert*, 27 Ariz. App. 53, 56-57 (1976) (quoting *Schneckloth v. Bustamonte*, 412 U.S. 218, 233, 93 S.Ct. 2041, 2050, 36 L.Ed.2d 854 (1973)).
21. *State v. Watson*, 114 Ariz. 1, 7 (1976) holding modified by *State v. Spreitz*, 202 Ariz. 1 (2002); *State v. Kananen*, 97 Ariz. 233, 235 (1965); see *Schneckloth v. Bustamonte*, 412 U.S. 218, 248 (1973) (quoted by *State v. Ballesteros*, 23 Ariz. App. 211, 214 (1975)) (“... when the subject of a search is not in custody and the State attempts to justify a search on the basis of his consent, the Fourth and Fourteenth Amendments require that it demonstrate that the consent was in fact voluntarily given, and not the result of duress or coercion, express or implied. Voluntariness is a question of fact to be determined from all the circumstances...”).
22. *State v. Knaubert*, 27 Ariz. App. 53, 57 (1976); *State v. Bastalleros*, 23 Ariz. App. 211, 214 (1975)(citation omitted).
23. *Id.*
24. *Id.*
25. *Id.*
26. *Id.*
27. *State v. Smith*, 123 Ariz. 231, 241-42, 599 P.2d 187, 197-98 (1979).
28. *Id.*
29. *Id.*
30. *Id.*
31. *State v. Smith*, 123 Ariz. 231, 241-42, 599 P.2d 187, 197-98 (1979).
32. *United States v. Rothman*, 492 F.2d 1260 (9th Cir. 1973).
33. *Id.*; *Knaubert*, 27 Ariz. App. at 57 (1976); *State v. Sherrick*, 98 Ariz. 46, 402 P.2d 1 (1965).
34. *Id.*
35. *Id.*
36. *Id.*
37. *Id.*
38. *State v. Smith*, 123 Ariz. 231, 241-42, 599 P.2d 187, 197-98 (1979).
39. *United States v. Forero-Rincon*, 626 F.2d 218 (2d Cir. 1980).
40. *United States v. Villegas*, 388 F.3d 317 (7th Cir. 2004).
41. *Id.*
42. *United States v. Angeles-Guzman*, 683 F. Supp. 2d 397 (E.D.N.C. 2010).
43. See Phoenix Police Operations Orders, Individual Disabilities.
44. *Id.*
45. See Phoenix Police Operations Orders, Definitions.
46. See Phoenix Police Operations Orders, Search and Seizure.
47. *State v. Guillen*, 223 Ariz. 314, 317 (2010).
48. *Id.*; *Coolidge v. New Hampshire*, 403 U.S. 443, 449-50 (1971) (“The point of the Fourth Amendment, which often is not grasped by zealous officers, is not that it denies law enforcement the support of the usual inferences which reasonable men draw from evidence. Its protection consists in requiring that those inferences be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime. Any assumption that evidence sufficient to support a magistrate’s disinterested determination to issue a search warrant will justify the officers in making a search without a warrant would reduce the Amendment to a nullity and leave the people’s homes secure only in the discretion of police officers.”) (quoting *Johnson v. United States*, 333 U.S. 10, 13-14); Cf. *United States v. Lefkowitz*, 285 U.S. 452, 464; *Giordenello v. United States*, at 486; *Wong Sun v. United States*, 371 U.S. 471, 481-482.; *Katz v. United States*, 389 U.S. 347, 356-357.
49. *State v. Bolt*, 142 Ariz. at 264, 265; *State v. Ault*, 150 Ariz. 459, 466 (1986)(emphasis added).
50. *Id.* at 812, 104 S.Ct. at 3390.
51. *State v. Ault*, 150 Ariz. 459, 466, 724 P.2d 545, 552 (1986).



Operation Orders, Phoenix Police Department (excerpted)

1.2 Limits of Authority

2. DEVIATION FROM POLICIES

- A. Employees may deviate from established departmental policies and procedures when it is in the obvious best interests of the department.
- (1) The necessity to deviate from established policy should rarely occur.
 - (2) Employees must be able to justify any deviation from policy.
 - (3) Employees should obtain supervisory approval to deviate from established policy when time permits.
 - (4) Employees will report deviations from policy to their supervisor as soon as possible.
- B. Supervisors may issue orders that deviate from written orders during an emergency.
- (1) Such orders will be temporary and will remain in effect only during the emergency.
 - (2) Such deviations will be reported to the next higher level supervisor as soon as practical.

1.3 Definitions

DISCRIMINATION - Any act taken because of race, religion, sex, age, handicap, sexual orientation, or national origin by an employee that unfairly and harmfully affects another person or employee.

3.5 Additional Compensation Benefits

Spanish Speaking Evaluation Committee: The Committee will evaluate the Spanish speaking and writing ability of employees seeking certification as interpreters of the Spanish language. The committee will assess the ability of the sworn employee to conduct a formal police investigation using the Spanish language.

4.11 Search and Seizure

1. OVERVIEW OF SEARCH AND SEIZURE

D. Bias-Based Profiling Stopping an individual based on a common trait of the group; this includes, but is not limited to race, ethnic background, cultural group, religion, national origin, gender, age, sexual orientation, or economic status; this is commonly referred to as "racial profiling".

12. CONSENT TO SEARCH (WITHOUT A WARRANT)

- A. Any consent search must be voluntary, without force, threats or promises.
- (1) The voluntariness of a person's consent is determined by the totality of the circumstances, using a reasonable person standard.
 - (2) A person who gives consent for the search waives the requirement for both a warrant and probable cause.
- B. The person giving consent must have the authority to give such consent.
- (1) A person has authority to consent if such person has common access or control over the area to be searched.
 - (2) If under the circumstances, the officer reasonably believes that the person granting consent has such authority, the consent will be valid, even if later it is found the person lacked the authority to consent.
 - (3) Examples of persons who may have authority to consent are:
 - Spouse
 - Parent
 - Host
 - Employer
 - Roommate (common areas)
 - Child of suitable age and discretion (determined on a case by case basis)
- C. If persons against whom the search is directed consent to the search of their persons or property, a search may be made and any fruits of a crime, instrumentalities of a crime, contraband articles, etc. may be seized.
- D. The scope of a consent search is determined under the reasonable person standard.
- (1) An officer may search based upon consent only in places a reasonable person under the circumstances would have believed were included in the consent.
 - (2) When the officer's presence on the premises is based solely on lawful consent, the officer may not search the entire premises unless the search is within the scope of the consent; for example officers may have consent to search the basement but not the bedroom.
- E. Consent may be withdrawn at any time and, should this occur, the search must be terminated, unless probable cause has been developed.

probation law in question in *Montgomery* was actually repealed in 1978. Lastly, the phrase is only dictum.

The Court of Appeals pointed out these facts in *State v. Demarce*, 203 Ariz. 502 (2002). In *Demarce*, the Court of Appeals said that a lifetime probationer does not have a right to reject probation because in essence it is a contract with the State. The Court of Appeals went on to say:

The language in *Montgomery*, although cited and discussed in several cases and articles, has not become the basis for any subsequent Arizona statute or holding permitting a probationer to elect a potentially shorter incarceration sentence after finding the terms of his probation too onerous. *Id.* 505

The Court further explains:

Even if the dictum from *Montgomery* was the law, the statute under which it was decided was repealed in 1978. Probation is currently governed by A.R.S. § 13-901 et seq., which now permits the imposition of lifetime probation for the conviction of a designated felony offense or an attempt to commit such offense as “the court believes is appropriate for the ends of justice.” A.R.S. § 13-902(E) (2001) No longer is probation, imposed in accordance with a suspended sentence, necessarily limited by the maximum possible prison term. *Id.* at 505-506.

More recently, the Court of Appeals discussed the language in *Montgomery* in a medical marijuana case. In *State v. Reed-Kaliher*, 2014 WL 3702518 (2014) a judge tried to enforce a prohibition on using marijuana while on probation against a medical marijuana cardholder. The trial judge said that if the cardholder did not like that term of probation he could reject probation quoting *Montgomery*. The Court of Appeals disagreed and held:

We observed that the statute addressed in *Montgomery* was repealed in 1978. 203 Ariz. 502, ¶ 13, 56 P.3d at 79. We concluded, contrary to the dicta in *Montgomery*, “that a defendant, who is sentenced according to a plea agreement that includes lifetime probation, does not have a right to then reject the lifetime probation and ... elect incarceration for a lesser term.” 203 Ariz. 502, ¶ 19, 56 P.3d at 80. Thus, we do not agree that *Reed-Kaliher* had the unilateral right to refuse probation if he found any condition of probation imposed unacceptable. ¶21.

Accordingly, it appears defendants do not have any unilateral right to reject probation. It is ultimately always up to the judge. Now in practice, judges in non-lifetime probation cases will normally honor the client’s request, but they are not required to do so.



Stand Up For Veterans



SATURDAY SEPTEMBER 27th 8 a.m. - 4 p.m. Glendale Community College

Employers hiring veterans and their family members on the spot

Multiple service organizations will be on site assisting veterans.

Educational opportunities available

FREE LUNCH for veterans and their families

FREE HAIRCUTS

Second Annual Stand Up for Veterans

By Cathryn Whalen, Attorney Manager, and David Jones, Client Services Manager

The Second Annual Stand Up for Veterans event was held at Glendale Community College on Saturday, September 27, 2014. More than 50 service agencies volunteered to address the needs of hundreds of veterans, including assistance for employment, education, housing, drivers license issues, and legal issues (civil and criminal).

The criminal cases were limited to the misdemeanor offenses in the municipal and justice courts in Maricopa County. Our Office assisted more than 30 veterans with criminal matters and restoration of rights.

Patrick DeMore from OET was invaluable in maintaining our remote connectivity with the Office's database during the event. Many thanks also go to Ebony Cowley who managed the volunteer list and worked behind the scenes.

A special thank you to the following attorney and non-attorney volunteers who took time out of their weekends to help out our Veterans at this event:

Renee Springer,
 Kathleen Tomaiko,
 Tennie Martin,
 Belen Olmedo Guerra,
 Ronald Schyvynck,
 Jeremy Horn,
 Christine Ortega,

Beth Houck,
 Barbara Rees,
 Rodney Mitchell, Jeremy
 Mussman,
 Dan Lowrance,
 Tim Bein,
 Lupe Landeros,

Jennine Burns,
 Nohemi Melchor ,
 Kristin Whitaker,
 Adam Adinolfi,
 David Jones,
 and Cathryn Whalen.



Law Prose Lesson #175

Just between you and ME . . .

by Bryan A. Garner

Just between you and ME . . .

The grammatical blunder **between you and I* is pervasive in writing and speech generally, and legal writers are hardly immune. Writing or saying **between you and I* (or **for you and I*, **to you and I*, and so forth) is invariably wrong: Whenever a pronoun is the object of a preposition, it must be in the objective case. *You* and *me* are the objects of the preposition *between* {keep this between you and me}.

Why is the phrasing **between you and I* so appallingly common? As Eric Partridge once wrote: “The common error of using *I* here may be due to a widespread distrust of *you and me* by those who have been correctly instructed not to use this combination as the subject, as in ‘You and me will have to talk.’” Eric Partridge, *Usage and Abusage* 47 (Whitcut ed., 1994).

It's an ingrained instance of hypercorrection. Elementary-school students learn that it is incorrect to say **Rick and me walked to school together*. So we develop a wariness about the word *me* (and specifically the combination *and me*), and people think perhaps it's safer to stick with *I* —even when the objective case is called for {Terrance gave the case files to John and *I* [read *me*]}.

Here's a little trick that should help. Read the sentence with the personal pronoun by itself:

**You and me* are going to the movies. OR You and *I* are going to the movies.

**Does she expect you and I* to help? OR Does she expect you and *me* to help?

If you're unsure, leave the other person out of it. You wouldn't say **Me is going to the movies*, so *I* is correct. Nor would you say **Does she expect I to help?*; so *me* is correct.

Another example:

**Please show the exhibit to him and I*. OR Please show the exhibit to him and *me*.

You wouldn't say **Please show the exhibit to I*, so *me* is correct. *Him* and *me* are objects of the preposition *to*: use the objective case.

Please feel free to share this tip (gently) with your family, friends, and colleagues. Don't keep it just between you and me.

**Invariably inferior form.*

Further reading:

Garner's Dictionary of Legal Usage 109, 417, 719 (3d ed. 2011).

Garner's Modern American Usage 102-03 (3d ed. 2009).

The Chicago Manual of Style § 5.36, at 212 (16th ed. 2010).

Eric Partridge, *Usage and Abusage* 47 (Whitcut ed., 1994).

Can I keep this between you and I? NO. You and me. It's you and ME. We can't be friends if you don't know when a pronoun is subjective or objective.



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

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

New Tools for Courtroom Presentations

by John Champagne, Defender Attorney

Introduction

Every day our firm receives and produces evidence and exhibits for trial. But the raw material are rarely ready for a clean presentation. This article goes through the different types of material that a lawyer may create or receive and proposes new tools and workflows for building effective courtroom presentations.

Audio

Audio really has two places in a courtroom: direct evidence or impeachment. Direct evidence is the easiest type of audio presentation to create. All the editing is done in advance, the objections and stipulations can get worked out before trial, and the end result will come into evidence after a quick set of foundational questions and simple “push play” experience. Producing this type of evidence is the same as producing a short movie: the end product should be flawless and self-explanatory.



Impeachment, however, is difficult to prepare. Editing has to occur in anticipation of what a witness will admit or deny. After an attorney commits and credits a witness through questioning, the impeachment audio needs to play on command and quickly deflate the witness’ new testimony.

Getting either type of evidence requires a smooth workflow that goes from recording to producing a final, edited clip. Below is an explanation of the tools available for moving audio from a recording device, like the iPhone, onto a computer, through an editor, and into a player that will put useful, clean evidence in front of a jury.

Recording high-quality audio

The most important maxim in audio editing is “garbage in, garbage out,” reflecting the sad reality that very little can be done to clean up and improve on a bad recording. For lawyers, this means learning to record decent audio interviews and learning to accept what can and cannot be done with mediocre *For The Record* recordings, ugly 911 calls, and poorly recorded police interviews.

For lawyers who are making their own recordings, improvements in cell phone microphones have put a full-featured recording tool in everyone’s hands. The **iPhone 5** has an incredible microphone. It is not quite professional grade, but it works very well. It works best when the bottom of the phone is pointed at the

sound source. Figure 1 shows the basic layout of the microphones on an **iPhone5**. The microphones are omnidirectional, meaning that they are fairly indifferent to where the sounds are coming from.



Figure 1: This figure shows the microphone ports on the iPhone 5

and high peaks. Lawyers should keep an eye on these levels and make sure the highest peaks aren't going beyond the top and bottom bars. They should also check to ensure that the microphone is capturing a wide range of levels from the speakers and is not too flat. See figure 3.

Finally, using Voice Memos on the iPhone comes with some phone-specific challenges. Attorneys should probably jerry-rig a set up to help them hold the iPhone in place while recording telephone calls. While recording, the phone needs to be put on Airplane mode, or any texts or phone calls will interrupt the recording.

For attorneys who want to try their hand at being audio nerds, there are a number of programs that have better levels meters. Voice Memos is called "Voice Memos" after all, not "Interview recorder," or "PCM recorder" for the more technically inclined. These proper recording programs give the attorney a better sense of what is too loud and what is too quiet and are better suited for making high quality recordings. For instance, most PCM recorders will clearly tell you the decibel levels of your recordings. With this information, you can compare your work with other professional standards. To give an example, if you are distributing your audio to National Public Radio stations in the U.S., you should align to average levels at 15 dBfs, and peaks at 3 dBfs. With a PCM recording software, it is easy to make sure that you are making recordings that will meet these quality guidelines.

The default **Voice Memos** app that ships with iOS provides some tools to help. The display shows a graphical depiction of each recording's volume. Practicing a few loud words and a few quiet words should help determine whether the microphone needs to move closer or further from a sound source to avoid bad-quality audio. When the peaks on the graph are not much higher than the center line, the audio is very quiet. When the peaks are pushing the top and bottom lines, the audio is very loud.

Good audio has a mixture of both low peaks

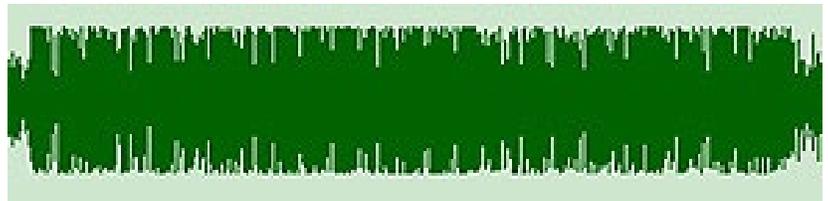


Figure 2: This is what the waveform graphic looks like if the audio levels are too high and too dense, e.g. featuring clipping and overcompression. Note that many of the vertical lines are bumping up against the top of the available range. This is what causes the grating "too loud" distortion sound in recordings.

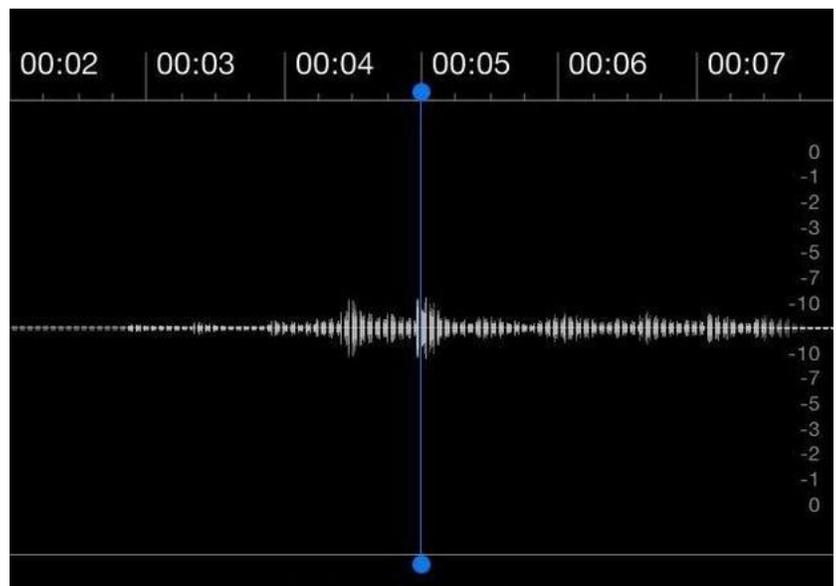


Figure 3: The Voice Memo interface. The levels in this recording look a bit low, but there may not have been any loud sounds yet. This is why it is important to test the microphone. Be loud, then be quiet. See if the microphone is too close or too far to the audio sources by checking the levels. Compare this with figure 2.

HandyRecorder is a free option that has a number of premium features. It records in WAV format, which creates very large files, but has a very high quality. You can always compress the audio at a later time and, because the iPhones have so much storage, you can record up to approximately 80 hours of material before worrying about space. HandyRecorder has a solid levels monitor and very easy to use buttons.

TASCAM PCM Recorder Mk II is another option; however, this app takes a little more setup and does not playback over the speaker by default. After fidgeting with the settings, it should provide a similar set of features as HandyRecorder. The main benefit is a better levels display that gives you a target to focus on when checking volume. There are also easy controls to adjust the microphones sensitivity while recording.



Figure 4: The flat peak in this image is a demonstration of "clipping," which occurs when the sound source is too loud for the microphone to capture. A good level meter can help prevent this type of distortion.

For professional journalists and aficionados, there is a \$30 editing suite called **Hindenburg** that provides a top-rated iPhone app with a suite of mobile journalism tools and a companion audio editor for the desktop. It is more expensive, but it is a vastly more capable audio recorder and editor.

Finally, there are a large number of other apps that are aimed at journalists and provide a good experience. Berkley has a guide for budding journalists who are looking to experiment. (For a detailed look at how journalists are using iPhones, click the link to see [Berkeley's Mobile Reporting Field Guide eBook](#).)

For attorneys who want to improve the quality of their audio recordings, there are a large number of web resources dedicated to radio journalists. First among audio websites is Transom.org, which has introductory tutorials, equipment reviews, and handy tips for iPhone users. For those just starting out, there are plenty of valuable tips: always hold the iPhone out toward your interviewee with the bottom pointing at their face; keep the microphone about 6 inches away from their mouth, and always slightly to one side in order to avoid pops from words like "pop." Also, always wear headphones while recording. **Transom.org** offers useful tutorials for different audio recording software, and there is a good article on recording telephone calls.

Getting audio on the computer

After recording audio, the next step is to get it on the computer and to treat it as discovery. **iTunes** provides some useful features, like automatically syncing all voice memos to the iTunes library (if it is set up correctly and the attorney is syncing regularly). The problem is that iTunes hides the actual files and their location on the computer. For attorneys who need to save interviews to the client file and disclose them to county attorneys, there are better options.

For iOS devices like the iPad and iPhone, there are a few third-party "file-manager" programs. Software like **iFunBox** and **iExplorer** look more like traditional file managers, e.g. **OSX's Finder** application or **Windows' Windows Explorer**. Unfortunately, although these two applications are probably the best of the iOS

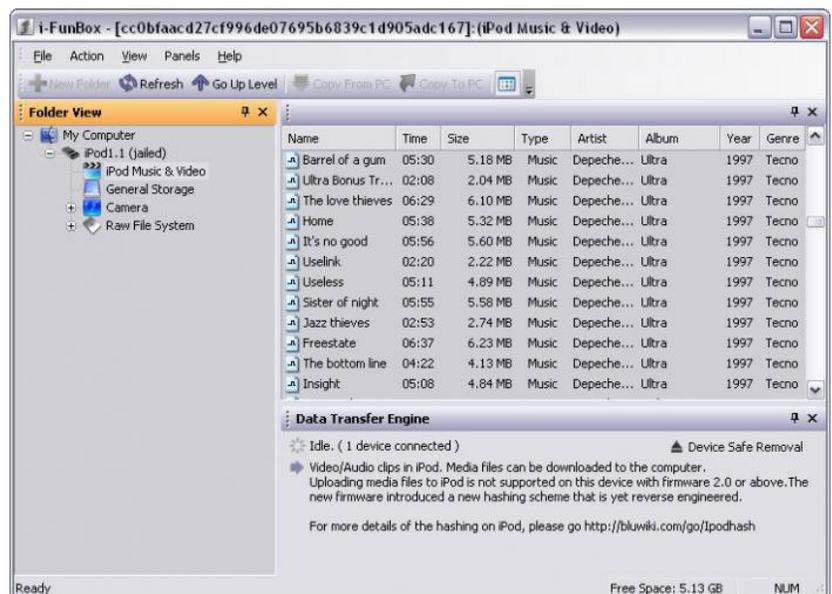


Figure 5: An example of the iFunBox interface

file managers out there, they are still pretty clunky. For instance, even if you label your voice memos in the iPhone, the file explorer will show whatever awful file name that your iPhone assigned to your recording. Even though you created a thoughtful title for your interview, you are likely to find it on the file system with a long string of numerals as the default filename.

We hope that one day we will be able to store all of the interview recordings in JustWare, but until then, quickly moving them off of the iPhone and into a case file is the best practice. Once in a folder, interviews can be burned to a CD and stored along with other client information in the physical case file.

Audio Editing

Audio editing is where it all comes together. Once the files are on the desktop, lawyers and non-attorney staff can start turning the raw product into something useful and worth listening to. The best free option and one of the best overall options is a program called **Audacity**. Audacity is a *nonlinear, nondestructive* audio editor, which basically means that you can use it to rearrange a clip however you please without altering the original.

Audacity's main interface, while not beautiful, is big, easy, readily accessible, and fairly straightforward. Depicted in figure 6, most of the buttons will be familiar to anyone who has typed in Word or used a tape player.

Section ① in figure 6 features the standard play, pause, stop, record buttons familiar on most audio equipment. Their functions here are similar. Section ② has the various Audacity tools, including a cursor for highlighting audio before playing, cutting, copying and pasting it. Section ③ shows the levels from both the

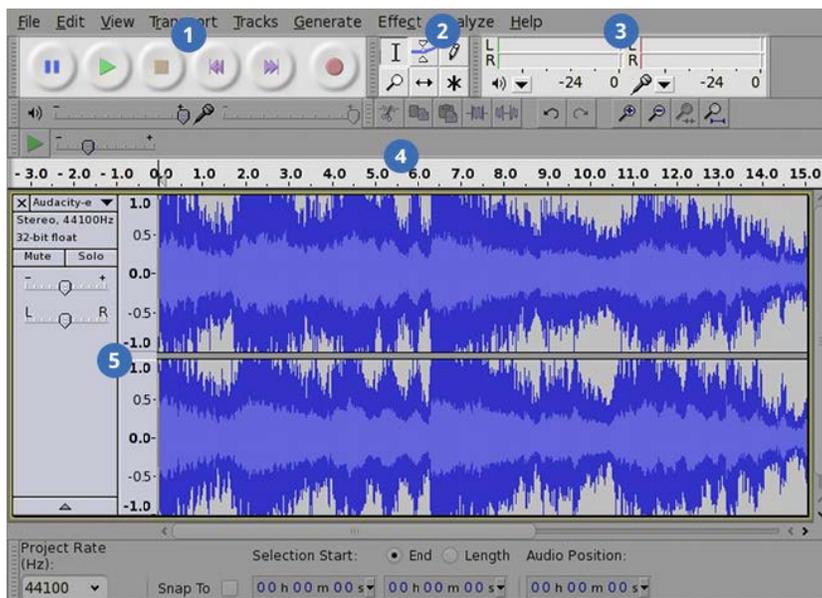


Figure 6: The Audacity user interface with some annotations and highlights

speakers and any microphones. These level guides let you know if your source audio is too loud or, if you are recording directly into Audacity, if your microphone is getting overdrive by loud noises. Section ④ shows the time. Finally, section ⑤ gives a nice graphical display of the decibel levels of the audio you are working on. This is also the area where you do all of your highlighting, cutting and labelling.

Labelling is Audacity's killer feature. Labels work like bookmarks. While listening to a file, you can insert a label at any time. These labels mark a specific point in the track and help you easily jump back and forth to important segments. The real value comes when you have annotated an entire interview with labels. After fully documenting each

question and answer segment in an interview, you can automatically export a series of files, each of which is a different, labelled clip of the interview that you just annotated.

For instance, if you have marked every question and answer with a descriptive label, e.g. "Was he free to leave?; No, he was not," then Audacity will automatically split your entire interview into a list of files, with each one containing a single question and answer. The files are usually numbered and named with whatever your label is, so they are chronological and easily identified.

The value of this feature, called "Export multiple," is apparent for impeachment. Every annotated clip is

ready to go at a moments notice. And playing a discrete clip is much easier than scrolling through a large audio file for a specific time.

But even when you don't need to impeach a witness, annotating a 911 call or other important audio file can be a boon for helping jurors listen to important information. The various audio clips can be included in PowerPoints, played from iPhones, or even given to jurors as separate, more useful exhibits. Like giving the jurors a nice map, it might be worth giving them a nice file with some useful clips of a longer interview source. In a way, the gold standard would be some sort of documentary radio program that the jury could just listen too and get all the important bits with a little bit of lawyer narrative tossed in. While this is probably too much work for every case, it is a nice goal to aim toward.



Figure 7: The For The Record Player interface. When saving, files can be converted to the Windows Media Video format, which is compatible with Audacity.

Audacity is also useful for pulling audio from *For The Record*. FTR saves audio in a proprietary format by default. But with a little finagling, you can set FTR to export a **Windows Media Video (WMV)** file. Audacity can open these video files as audio only. And after audacity opens the file, you are free to clip from any *For The Record* recording, like a preliminary hearing. It is an easy way to treat those hearings just like you would treat a simple audio interview.

Playing audio in court

Audio players are a dime-a-dozen, from **iTunes** to **Windows Media Player** and even **VLC**. For courtroom presentations, it is a matter of preference. iTunes works well with the iPhone and helps move audio onto the iPhone, even if it does a bad job of getting files off of the iPhone. In court, cases could be grouped like albums in a music library. Playing back a portion of the file is as easy as selecting the right album and the right song.

Another option is to link up impeachment in a **PowerPoint** file or a **Word** document. Both documents let users insert audio files into the text. If there is important audio that you need on hand for a closing argument, the link in the PowerPoint or Word file will help you play it on command.

The best option is probably the simplest option: loading all your files in a playlist, turning off the "play next" feature (this isn't a party!) and just clicking on audio as you need it.

The nice thing about having decent audio files is that you can get creative. **iPads** can hold audio files, and **AppleTV** will let you stream audio files from your iPad to a television or other monitor. Similarly, hooking up an iPad or a laptop to the speakers in the South Court Tower will help you tie into the courtroom's speakers. Connecting an AppleTV box to the courtroom system and playing audio, wirelessly, from an iPad would make for a very slick presentation.

AudioBoard also looks like a good option. This \$7.99 program for iPad lets the user create as many soundboards as they want. The soundboards provide nice, big blocks for the user to touch whenever they want to play a clip. See figure 8 at right.



Figure 8: AudioBoard gives iPad users an easy to use clip player with nice, big squares to press.

Video

Video presents a few more problems than audio, simply because the free software options are not as strong, and the various police agencies use terrible proprietary video formats that are difficult to open. In terms of our equipment, the iPhone is a tremendous video recorder. In terms of the surveillance, dash cam, booking video, etc. . . that we receive, there are various capture software.

Capture software “watches” a video for you and records the output. While it isn’t the best way to get video information, it is often the only way for us to get a clip out of a proprietary surveillance program. **CamStudio** is one of the leading free options. Out of the box it has decent performance and allows users to pick a limited region of their desktop’s screen to record. Using the **CamStudio Lossless Codec**, you can get very good performance while recording video that is playing in another application.

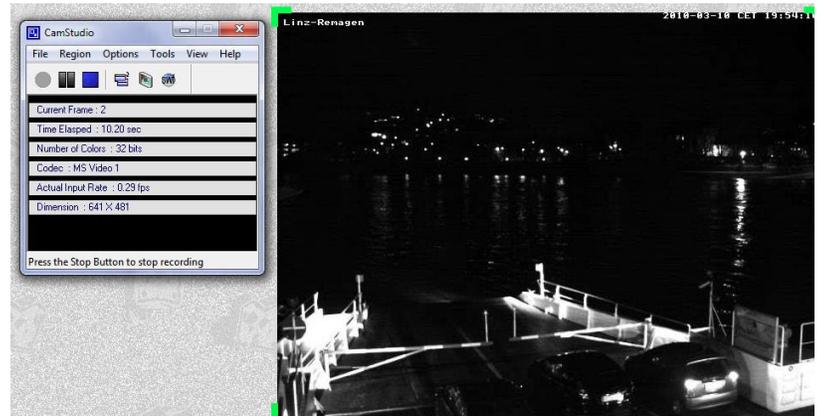


Figure 9: Here is a demonstration of CamStudio being used to record a small portion of a user’s desktop. That portion is showing a surveillance video. The green corners are the limits on the region being recorded. The box to the left has information on how fast CamStudio is recording the information.

The major issue is that most of the surveillance video that we receive has awful frame-rates. It is clunkier than what you see on TV, which runs at 29.97 frames per second. Some surveillance video captures only one to three frames per second. In order to capture this video perfectly, you have to figure out the frame rate and match it in the recording program. Alternately, you can run at about 30 frames per second, capture too much information, but have a video that will faithfully reproduce the original source.

Editing video

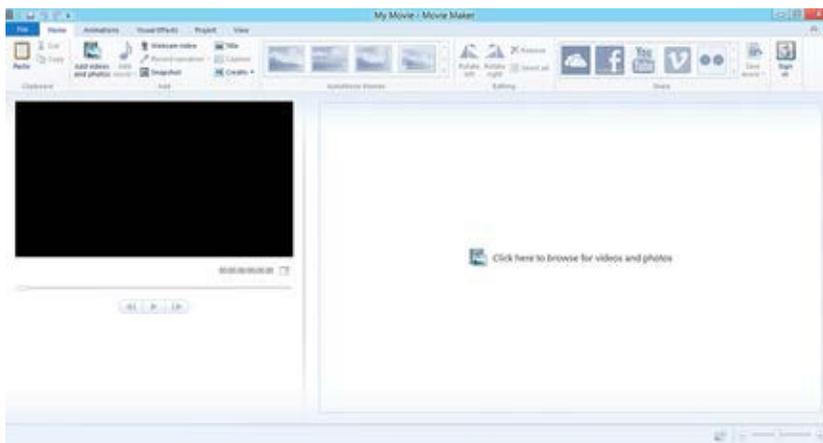


Figure 10: The Windows Movie Maker interface.

The free video editing software options for Windows are pretty miserable. OSX users can use **iMovie**, which has very advanced editing capabilities for a user-friendly video editor. **Windows Movie Maker**, the free option that ships with all Windows computers, is fairly terrible. That said, it can let you crop, clip, slow down and speed up a clip fairly easily. Most lawyers won’t need much more than this, short of producing mitigation videos.

Finally, **Adobe Premiere Pro** is a full-featured video editing program that can accomplish anything a budding filmmaker might desire: green screening, overlaying video tracks, integrating special effects from other programs, a built-in audio editor, support for massive projects, and a wide variety of video sources. The

Avidemux is another option. This simple, free, open-source video editor only produces

downside is that Adobe Premiere Pro takes hours of training and homework to get a grasp on. The learning curve is huge and most of the features are too fancy for your average attorney.

Documents

Documents are the attorney's bread and butter, but documents are also incredibly boring. Just like video and audio, care should be taken to turn a basic document into something that is worth presenting to the jury.

Simple scanning applications like the **Genius Scan** app provide an easy way to get documents on to a computer. PDF splitters, like **PDFill** tools allow users to chop larger, scanned PDFs into individual pages. Finally, photo editing programs like **GIMP** and **Paint.net** provide an easy way to edit these PDFs and other documents just like pictures.

As a short example, I recently filed a motion with a traffic stop issue. After using screen clip to cut a picture of a map out of an intersection, I used Paint.net to add shapes and arrows to the scene. The quick edits showed the movement of the police and client across the intersection and Paint.net offered some advanced features, like patterns in addition to colors (helpful for black and white printing), and tools for creating curves instead of lines (helpful for showing the paths of vehicles across roadways).

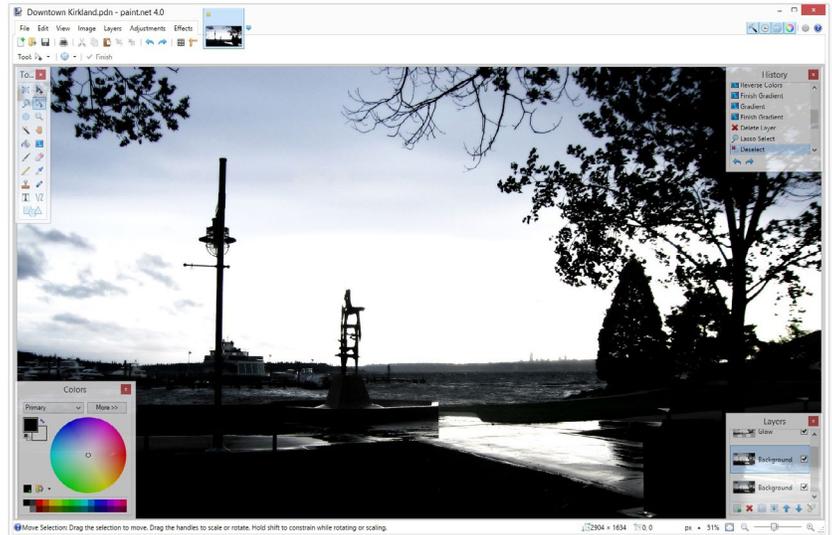


Figure 11: Paint.net, a more complex image editor than Microsoft Paint.

Conclusion

Discovery, as we get it, is barely usable. Turning that discovery into something presentable takes time, work and a bit of software. The tools in this article are free, easy to use, and there are a good number of alternatives to choose from to find tools that suit your needs.

Appendix A: A List of Free Software

1. Audio

- (a) Audacity (Audio Editor)
<http://audacity.sourceforge.net/>
- (b) LAME (mp3 Encoder)
<http://lame.sourceforge.net/download.php>
- (c) Fre:ac (Audio Converter)
<http://www.freac.org/>

2. Video

- (a) CamStudio (records video on screen)
<http://camstudio.org/>
- (b) Camstudio Lossless Codec (An encoder for video files)
http://www.free-codecs.com/download/CamStudio_Lossless_Codec.htm
- (c) DamnVid (converts video formats)
<https://code.google.com/p/damnvid/>
- (d) Avidemux (Simple video editor)
<http://sourceforge.net/projects/avidemux/>
- (e) VideoLan (Viewer)
<http://www.videolan.org/index.html>
- (f) Other useful codecs (e.g. mp4, xvid)
<http://www.codecguide.com/>

3. Images

- (a) GIMP (Photoshop-like editor)
<http://www.gimp.org/downloads/>
- (b) [Paint.net](http://www.getpaint.net/download.html) (Another photo editor)
www.getpaint.net/download.html
- (c) Dia (Diagram/Flow-chart creator)
<http://dia-installer.de/>
- (d) XNview (Image viewer, property inspector)
<http://www.xnview.com/en/>

4. PDF

- (a) CutePDF (Print to PDF)
<http://www.cutepdf.com/>
- (b) PDFTK Builder (Split/Crop/Join/Inspect PDFs)
<http://angusj.com/pdftkb/#pdftkbuilder>
- (c) Scribus (Newsletter maker)
<http://www.scribus.net/canvas/Scribus>

5. Productivity

- (a) ClipX (Extended Clipboard)
<http://clipx.en.softonic.com/>
- (b) Notepad++ (Text editing)
<http://notepad-plus-plus.org/>
- (c) AutoHotKey (Macros, text expansion)
<http://www.autohotkey.com/>

6. File Management

- (a) iFunBox (iPhone file manager)
<http://www.i-funbox.com/>
- (b) DocFetcher (indexed search of S: Drive)
<http://docfetcher.sourceforge.net/en/index.html>

Jury and Bench Trial Results

July 2014 - August 2014

Public Defender's Office – Trial Division					
Closed Date*	Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i>	Judge	CR Number and Charge(s)	Counts	Result
Group 1					
8/1/2014	Blum <i>Walker</i>	Kreamer	CR2012-121707-001 Marijuana Violation, F6	1	Court Trial-Guilty Lesser/Fewer
7/22/14	Saldivar	Mata	CR2013-418702-001 Marijuana Violation, F6 Drug Paraphernalia, F6	1 1	Jury Trial-Guilty Lesser/Fewer
8/11/2014	Knowles	Newcomb	CR2013-432302-001 Burglary Possess Tools, F6 Criminal Trespassing 3 rd Degree/ Property, M3 Burglary 3rd Deg-Unlaw Entry, F4	1 1 1	Jury Trial-Guilty Lesser/Fewer
7/18/14	Fornier <i>McGrath</i>	Newcomb	CR2013-450404-001 Endangerment, F6	1	Jury Trial-Guilty Lesser/Fewer
7/23/2014	Saldivar <i>Rankin</i>	Gottsfield	CR2013-457708-001 Dangerous Drug Poss/Use, F4 Drug Paraphernalia Poss/Use, F6	1 1	Jury Trial- Guilty as Charged
8/14/2014	Walker <i>Rankin</i>	Cohen	CR2014-108503-001 Agg Aslt-Deadly Wpn/Dang Inst, F3	2	Jury Trial- Not Guilty
Group 2					
8/13/2014	Hallam	Cohen	CR2013-457819-001 Fail Register as Sex Offender, F6	1	Jury Trial-Guilty As Charged
7/10/2014	Downs <i>Brazinskas</i>	Mahoney	CR2013-445528-001 Burglary 2 nd Degree, F3	1	Jury Trial-Guilty Lesser/Fewer
7/18/2014	Jones	Bailey	CR2013-114027-001 Dangerous Drug Violation, F2 Drug Paraphernalia Violation, F6	1 2	Jury Trial- Guilty as Charged
7/16/2014	Nadimi	Mahoney	CR2013-106154-001 Aggravated Assault, F5 Resisting Arrest, F6	1 1	Jury Trial-Guilty Lesser/Fewer
Group 3					
7/11/2014	Heade <i>Hales</i>	Vandenberg	CR2013-418744-001 Resisting Arrest, F6 Dangerous Drug Violation, F4 Marijuana Violation, F6	1 1 1	Jury Trial- Guilty Lesser/Fewer
7/18/2014	Spears	Hegy	CR2013-102965-001 Burglary 2 nd Degree, F3	1	Jury Trial-Guilty as Charged

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

Jury and Bench Trial Results

July 2014 - August 2014

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					
7/22/2014	Schachar <i>Gilchrist</i> <i>Kunz</i>	Steinle	CR2013-440658-001 Robbery, F5	1	Jury Trial-Guilty Lesser/Fewer
8/11/2014	Wilson	Gates	CR2013-459214-001 Marijuana Violation, F6 Drug Paraphernalia Violation, F6	1 1	Court Trial-Guilty as Charged
8/15/2014	Peterson <i>McFarland</i>	Richter	CR2013-420358-001 Public Sexual Indecency, F5 Sexual Abuse, F3 Molestation of Child, F2 Sexual Conduct with Minor, F2 Obscene Malt-Furnish to Minors, F4	2 4 6 5 1	Jury Trial-Guilty Lesser/Fewer
Group 5					
8/20/2014	Whitney <i>Jackson</i> <i>Leazotte</i>	Hegy	CR2011-162910-001 Murder 1 st Degree, F1 Aggravated Assault, F3	1 1	Jury Trial-Not Guilty
7/9/2014	Valentine <i>Romani</i> <i>Falle</i> <i>Gebhart</i>	Sanders	CR2013-421277-001 Disorderly Conduct, F6 Murder 2 nd Degree, F2 Aggravated Assault, F3 Aggravated Assault, F2 Endangerment, F6 Misconduct Involving Weapons, F4	4 2 1 1 4 1	Jury Trial- Guilty as Charged
Group 6					
8/13/2014	Sheperd <i>Souther</i> <i>Springer</i>	Miles	CR2013-419094-001 Aggravated Assault, F3	1	Jury Trial-Not Guilty
7/21/2014	Weinstein <i>Godinez</i>	Garcia	CR2013-417297-001 Dangerous Drug Violation, F4	1	Jury Trial-Not Guilty
Capital					
8/15/2014	McCarthy <i>Springer</i> <i>Leyvas</i>	Cohen	CR2013-002192-001 Murder 2 nd Degree, F1 Leave Accident W/ Death/Injury, F3	1 1	Jury Trial- Guilty as Charged

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

Jury and Bench Trial Results

July 2014 - August 2014

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
RCC					
7/18/2014	Cooper <i>Strumpf</i> <i>Verdugo</i> <i>Curtis</i> <i>Shaw</i>	Bailey	CR2009-169360-001 Aggravated Assault, F2 Misconduct Involving Weapons, M1	2 1	Jury Trial-Guilty as Charged
Specialty Court Group					
7/25/2014	Jones <i>Schwartz</i> <i>Hales</i> <i>Yalden</i>	Granville	CR2013-002132-001 Murder 2 nd Degree, F2 Kidnap, F2 Aggravated Assault, F3 Sexual Assault, F2 Disorderly Conduct, F6 Misconduct Involving Weapons, F4 Misconduct Involving Weapons, M1 Threat-Intimidate, M1	1 1 2 1 1 1 1 1	Jury Trial-Guilty Lesser/Fewer
Vehicular					
8/15/2014	Dehner	Kiley	CR2012-156985-001 Theft-Means of Transportation, F3 Agg DUI-LIC Susp/Rev for DUI, F4	1 2	Jury Trial-Guilty as Charged
7/11/2014	Conter	Miller	CR2012-006355-001 Agg DUI-LIC Susp/Rev for DUI, F4	2	Jury Trial-Guilty as Charged
7/11/2014	Quesada <i>Decker</i>	Bernstein	CR2013-425239-001 Agg DUI-LIC Susp/Rev for DUI, F4	2	Jury Trial-Guilty as Charged
8/29/2014	Conter <i>McGrath</i> <i>Vondra</i>	Miller	CR2013-430233-001 Agg DUI-LIC Susp/Rev for DUI, F4 Aggravated DUI-Third DUI, F4	2 2	Jury Trial-Guilty as Charged
8/15/2014	Dehner	Bernstein	CR2013-433413-001 Aggravated DUI-Third DUI, F4	2	Jury Trial-Guilty as Charged
7/16/2014	Hann <i>Trimble</i>	Bernstein	CR2013-109860-001 Agg DUI-LIC Susp/Rev for DUI, F4	2	Jury Trial-Guilty as Charged
8/29/2014	Emerson <i>Decker</i>	Holding	CR2005-034926-001 Aggravated DUI, F4	1	Jury Trial-Guilty Lesser/Fewer

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

Jury and Bench Trial Results

July 2014 - August 2014

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
7/11/2014	Shipman <i>Campbell</i>	Nothwehr	CR2013-435179-002 Dangerous Drug Violation, F4 Drug Paraphernalia Violation, F6 Misconduct Involving Weapons, F4	1 1 1	Jury Trial-Guilty as Charged
7/14/2014	Franklin	Bernstein	CR2013-004467-002 Dangerous Drug Violation, F2	1	Jury Trial- Not Guilty
7/17/2014	Sullivan	Garfinkel	CR2013-451274-001 Dangerous Drug Violation, F4	1	Court Trial-Guilty But Insane

Legal Advocate's Office – Dependency					
Last Day of Trial	Attorney <i>CWS</i>	Judge	Case Number and Type	Result	Bench Or Jury Trial
7/18/14	Haywood <i>Sanchez</i>	Palmer	JD527349 Dependency Trial	Granted	Bench
8/20/14	Timmes <i>Gill</i>	Ishikawa	JD508210 Severance Trial	Granted	Bench

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