

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

Editor: Stephanie Conlon

Assistant Editors:
Jeremy Mussman
Misty Marchione
Kelly Parker

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

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Do You Even Go Here?

The Misapplication of Rule 404(b) to Other Act Evidence Proffered by a Defendant

By Mikel Steinfeld, Defender Attorney

You've done your work and you have a possible third party who could have committed the offense. You have evidence of this person's prior bad acts that help support your position. Or perhaps you've found that one of the State's witnesses, an investigator in the case, has previously been disciplined for ignoring police department policies and procedures in a manner consistent with your defense. You disclose the information you have and the State objects. Relying on Evidence Rule 404(b), the State tries to prevent you from getting into these other acts, arguing they are character evidence.

Such an objection might initially seem persuasive. Rule 404(b) provides:

Except as provided in Rule 404(c) evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.¹

By applying to other acts of "a person", the rule would seem to protect witnesses. Additionally, some Arizona jurisprudence indicates that Rule 404(b) protects witnesses.² However, in light of developments in third party culpability cases, the application of Rule 404(b) has been narrowed. The purpose of this article is to provide a starting point for further research into the application of Rule 404(b) in your cases.

404(b) does not apply in cases of third party liability

The clearest guidance for the scope of Rule 404(b) comes from third party liability cases. The Court of Appeals discussed Rule 404(b) and third party liability in *State v. Machado*.³ The Court noted:

Although Arizona law is unsettled, it is the prevailing view in most federal and state courts that when evidence of other acts committed by a third party is proffered by an accused, that evidence does not fall under the exclusionary provisions of Rule 404(b). These courts generally observe that the core purpose of Rule 404(b), which is to prevent the risk that the jury will either assume the defendant's guilt from his prior misdeed or convict because the defendant has not been punished for his prior act, does not apply when an accused proffers evidence regarding the other acts of a third party in his or her defense and the other acts do not involve the misdeeds of the defendant. We agree with the reasoning found in these cases.⁴

In footnote, the Appeals Court confined its analysis “to evidence that tends to suggest a third party’s guilt of the charged offense” because other rules and statutes might limit a defendant’s presentation of other act evidence.⁵ The Court reversed the convictions.⁶

When the Supreme Court reviewed *State v. Machado*,⁷ the Supreme Court affirmed this very holding. The Supreme Court evaluated the divide in federal courts regarding the application of Rule 404(b) to third party culpability evidence.⁸ The Court noted, “In our view, the more convincing opinions have recognized that although the language of Rule 404(b) appears to apply universally, its central purpose is to protect criminal defendants from unfair use of propensity evidence.”⁹ “Rule 404(b) has its source in the common law, and the common law rule restricting the use of other acts evidence was designed to prevent the defendant from being convicted simply because the jury might conclude from the other act that he was a ‘bad man.’”¹⁰ The Supreme Court made explicit, “[t]he admission of third-party culpability evidence is governed by the standards of Rules 401 through 403 of the Arizona Rules of Evidence, not by Rule 404(b).”¹¹

Machado was the last time Arizona courts have published a decision regarding whether Rule 404(b) applies to evidence proffered by a defendant.¹² From this we can conclude that when third party culpability is at issue, trial courts should apply Rules 401 through 403 and avoid Rule 404.

Rule 404(b) should not apply to evidence offered by the Defendant

While Arizona’s discussion of Rule 404(b) has been in the context of third party culpability, the policies underlying the conclusion extend to additional forms of other act evidence proffered by the defense. In *Machado* the Supreme Court cited approvingly Judge Rosen’s concurring opinion in *U.S. v. Lucas*.¹³ Judge Rosen’s discussion of the policy goals of Rule 404(b) explains why application of Rule 404(b) should not apply to evidence proffered by a defendant. Judge Rosen found “both the source and policy underlying Rule 404(b) demonstrate that the Rule is intended to protect a party to the litigation—in particular, the criminal defendant—from the prejudice of the propensity/character taint danger.”¹⁴ Judge Rosen cited to the two main policy concerns behind Rule 404(b):

- (1) That the jury may convict a “bad man” who deserves to be punished not because he is guilty of the crime charged but because of his prior or subsequent misdeeds; and (2) that the jury will infer that because the accused committed other crimes, he probably committed the crime charged.¹⁵

Where the State seeks to offer prior act evidence against a defendant, the State must show the prior act by clear and convincing evidence under Rule 404(b). However, because Rule 404(b) does not apply to evidence offered by a defendant, a defendant need merely show that the evidence tends to create a reasonable doubt as to the defendant's guilt to satisfy his/her burden under Rules 401 through 403.



Conclusion

To be safe, we could (and likely should) still provide notice of our intent to introduce other act evidence of witnesses or third parties. This permits comprehensive litigation of the issues and protects the defendant's ability to make a complete record of what is being presented. Moreover, we should argue the offered evidence fits into the exceptions provided in Rule 404(b). However, regardless of whether an exception exists, we should continually correct any misconceptions that Rule 404(b) governs the admissibility of other act evidence proffered by a defendant.

Endnotes

1. Ariz.R.Evid. 404(b).
2. *E.g. State v. Dickens*, 187 Ariz. 1, 13, 926 P.2d 468, 480 (1996) (finding other acts of a witness were admissible if “probative of truthfulness and if they may be proved without extrinsic evidence,” or when an exception under Rule 404(b) is met) (abrogated by *State v. Ferrero*, 229 Ariz. 239, 274 P.3d 509 (2012), on 404(b) issue related to defendant’s prior acts).
3. 224 Ariz. 343, 230 P.3d 1158 (App. 2010) (abrogated on other grounds by *Perry v. New Hampshire*, 132 S.Ct. 716 (2011) as noted in *State v. Nottingham*, 231 Ariz. 21, ¶ 13 fn.4, 289 P.3d 949, ¶ 13 fn.4 (App. 2012)).
4. *Machado*, 224 Ariz. 343, ¶ 32, 230 P.3d 1158, ¶ 32 (internal citations omitted).
5. *Id.* at ¶ 32 fn.10.
6. *Id.* at ¶ 68.
7. 226 Ariz. 281, 246 P.3d 632 (2011).
8. *Id.* at ¶ 13.
9. *Id.* at ¶ 14 (emphasis added).
10. *Id.*
11. *Id.* at ¶ 16.
12. *State v. Forde*, 233 Ariz. 543, ¶¶ 42-44, 315 P.3d 1200, ¶¶ 42-44 (2014) (prior acts of defendant); *State v. Miller*, ___ Ariz. ___, 2013 WL 6842566, ¶¶ 21-22, 25 (2013) (same); *State v. Payne*, 233 Ariz. 484, ¶¶ 56-60, 314 P.3d 1239, ¶¶ 56-60 (2013) (same); *State v. Cooperman*, 232 Ariz. 347, ¶ 18, 306 P.3d 4, ¶ 18 (2013) (using Rule 404(b) as a comparison point for a Rule 403 analysis); *State v. Hardy*, 230 Ariz. 281, ¶¶ 32-35, 43, 283 P.3d 12, ¶¶ 32-35, 43 (2012) (prior acts of defendant); *State v. VanWinkle*, 230 Ariz. 387, ¶¶ 18-24, 285 P.3d 308, ¶¶ 18-24 (2012) (same); *State v. Hausner*, 230 Ariz. 60, ¶¶ 68-82, 280 P.3d 604, ¶¶ 68-82 (2012) (same); *State v. Ferrero*, 229 Ariz. 239, ¶¶ 2, 25-28, 274 P.3d 509, ¶¶ 2, 25-28 (2012) (same); *State v. Cota*, 229 Ariz. 136, ¶ 12 fn.3, 272 P.3d 1027, ¶ 12 fn.3 (2012) (evidence of defendant’s flight did not violate Rule 404(b)); *State v. Lehr*, 227 Ariz. 140, ¶¶ 17-21, 254 P.3d 379, ¶¶ 17-21 (2011) (prior acts of defendant); *State v. Yonkman*, 233 Ariz. 369, ¶¶ 10-16, 312 P.3d 1135, ¶¶ 10-16 (App. 2013) (same); *State v. Cooney*, 233 Ariz. 335, ¶ 8 fn.2, 312 P.3d 134, ¶ 8 fn.2 (App. 2013) (prior acts of defendant and noting defendant failed to raise issue before trial court); *State v. Salamanca*, 233 Ariz. 292, ¶¶ 8-21, 311 P.3d 1105, ¶¶ 8-21 (App. 2013) (prior acts of defendant); *State v. Herrera*, 232 Ariz. 536, ¶¶ 5-10, 19-34, 307 P.3d 103, ¶¶ 5-10, 19-34 (App. 2013) (same); *State v. Buot*, 232 Ariz. 432, ¶¶ 4-8, 306 P.3d 98, ¶¶ 4-8 (App. 2013) (same); *State v. Almaguer*, 232 Ariz. 190, ¶¶ 27-29, 303 P.3d 84, ¶¶ 27-29 (App. 2013) (same); *State v. Butler*, 230 Ariz. 465, ¶¶ 19-20, 26-32, 286 P.3d 1074 (App. 2012) (same); *State v. Yonkman*, 229 Ariz. 291, ¶¶ 16-21, 274 P.3d 1225, ¶¶ 16-21 (App. 2012) (same) (vacated on other grounds by *State v. Yonkman*, 231 Ariz. 496, 297 P.3d 902 (2013)); *Cal X-Tra v. W.V.S.V. Holdings, L.L.C.*, 229 Ariz. 377, ¶¶ 89-90, 276 P.3d 11, ¶¶ 89-90 (App. 2012) (prior acts of civil litigant); *State v. Vega*, 228 Ariz. 24, ¶¶ 11-13, 262 P.3d 628, ¶¶ 11-13 (App. 2011) (prior acts of defendant).
13. *See Machado*, 226 Ariz. 281, ¶ 14, 246 P.3d 632, ¶ 14 (citing *U.S. v. Lucas*, 357 F.3d 599, 610 (6th Cir. 2004)).
14. *Lucas*, 357 F.3d at 611 (J. Rosen, concurring) (emphasis original).
15. *Id.* at 611-612 (quoting *U.S. v. Phillips*, 599 F.2d 134, 136 (6th Cir. 1979)).
16. *Id.* at 612 (emphasis original).
17. *Id.* at 614.
18. *Id.*
19. *State ex rel. Romley v. Superior Court In and For Maricopa County*, 181 Ariz. 378, 382, 891 P.2d 246, 250 (App. 1995) (“[T]he rule is well established that a prosecutor does not ‘represent’ the victim in a criminal trial; therefore, the victim is not a ‘client’ of the prosecutor.”)

(citing *Hawkins v. Auto-Owners (Mut.) Ins. Co.*, 579 N.E.2d 118, 123 (Ind.App. 1991) (vacated on other grounds) (“A deputy prosecutor does not represent the victims or witnesses in a criminal proceeding, but rather, is the State’s representative.”); *Lindsey v. State*, 725 P.2d 649, 660 (Wyo 1986) (Urbigkit, J., dissenting) (“The prosecutor does not represent the victim of a crime, the police, or any individual. Instead, the prosecutor represents society as a whole.”)).

20. *State v. Machado*, 224 Ariz. 343, ¶ 32 fn.10, 230 P.3d 343, ¶ 32 fn.10 (citing A.R.S. § 13-1421 (evidence relating to victim’s chastity); Ariz.R.Evid. Rule 404(a)(2), 405 (character of the victim); also citing *State v. Fish*, 222 Ariz. 109, ¶¶ 35-36, 213 P.3d 258, ¶¶ 35-36 (App. 2009)).
21. 203 Ariz. 157, 52 P.3d 189 (2002)
22. *Id.* at ¶ 27.
23. *Id.* at ¶ 22.
24. *Id.* at ¶ 24 (citing *State v. Gibson*, 202 Ariz. 321, ¶ 16, 44 P.3d 1001, ¶ 16 (2002)) (emphasis original).
25. *Machado*, 226 Ariz. 281, ¶ 15, 246 P.3d 632, ¶ 15 (citations omitted); see also *U.S. v. Aboumoussallem*, 726 F.2d 906, 911-12 and fn.10 (2d Cir. 1984) (cited in *Machado*) (holding a symmetrical standard is not required).



MCPD Annual Awards

By **Jim Haas, Public Defender**

At the office holiday party on December 9th, the office presented the Bingle Dizon Commitment to Excellence and Joseph P. Shaw Awards, and recognized two employees 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. It is given each year to the staff member who best exemplifies Bingle’s commitment to excellent performance and this year the honor was bestowed upon Mitigation Specialist Supervisor Jennifer Gebhart. A comment provided in one of the numerous nominating petitions for Jennifer was: “She routinely goes above and beyond to gain clients’ trust, understand their stories and advocate for them to the court. Whether a probation client who needs assistance transitioning back into the community or a client receiving a sentence of natural life, she has never given up on anyone. She shows unmatched empathy for our clients and compassion for their needs. She truly demonstrates the philosophy, ‘save one soul, save the world’.”

Another said “There is not a client anywhere who will not like, respect, and trust her after meeting her. They trust her because they know she cares. They know she cares because she really does care. She has that certain something that puts the client at ease and lets them know that they really can rely on her to do what is best for them. She goes beyond assisting them with their cases; she pushes them to be better people.”

We genuinely appreciate Jennifer's unwavering compassion, commitment and leadership in mitigation. She exemplifies the client-centered focus of our representation, seeking out ways to craft case resolutions addressing root problems and helping clients to move forward in a productive manner.

This is the 20th anniversary of the Joe Shaw Award, which honors a truly remarkable man who worked in our office for 20 years, starting at the age of 65. The Joe Shaw Award recognizes the attorney who best exemplifies Joe Shaw's considerable qualities of dedication, integrity and professionalism.

Garrett Simpson, this year's recipient, was selected by the same committee that selects the Bingle Dizon Award. Garrett was nominated by 50 of his colleagues, which may be a record. He is one of the most talented, respected and beloved attorneys in the history of the office. He is a true gentleman who treats everyone with the utmost respect. He is humble despite his immense intellect and talent.

As an appellate attorney, he obtained several significant victories and became the office expert on post-*Ring* capital appeals. Once he joined our capital group, he proved to be a master at working up capital and potential capital cases to convince the state to drop or not file a death notice and offer a plea to life. This is a major victory in capital work. He has resolved 13 consecutive capital cases without one death penalty and, significantly, without having to go to trial.

In addition, Garrett teaches constitutional law to undergraduates at ASU, regularly teaches at APDA, our annual death penalty seminar, and anywhere else he is needed. He was one of the prime movers in litigation that arose from Andrew Thomas's misconduct, and is presently litigating the constitutionality of the death penalty in Arizona.

Garrett retired in December, after over 29 years of unsurpassed service to our clients and our office as a trial attorney, appellate attorney, PCR attorney, capital attorney, mentor and teacher. The phrase "end of an era" is overused, but it is appropriate in this case.

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

- **Louise Stark** joined the office in July 1989. She practiced as a trial group attorney until 1995, and then joined our Appeals Group where she practices to this day.
- **William Peterson** joined us in June 1989. In addition to being a trial attorney, he has served as a Lead Attorney, Trial Group Counsel, and Trial Group Supervisor.

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.



Writers' Corner:

Law Prose Lesson #176:

“3 Tips for a Tighter Prose”

By Bryan A. Garner

1. Remove zombie nouns from your writing.

A zombie noun—also called a buried verb or nominalization—is a noun formed from a verb by adding a suffix, usually *-tion*, *-sion*, *-ment*, *-ence*, *-ance*, or *-ity*. Here are some examples, with the verb in parentheses: admission (admit), allegation (allege), conformity (conform), enforcement (enforce), performance (perform), settlement (settle), and violation (violate). Using the verb instead of the noun will make your writing crisper and more powerful. Each revised example below is less abstract, more concrete.

Not this: Wilson’s *allegation* is that Telco Company did not take the risks under *consideration* before marketing the product.

But this: Wilson *alleges* that Telco Company did not *consider* the risks before marketing the product.

Not this: The county has stopped the *issuance* of permits until 2015.

But this: The county has stopped *issuing* permits until 2015.

2. Cut unnecessary prepositional phrases.

Notice the first example above: by removing the zombie noun (*consideration*) and replacing it with the verb (*consider*), you’ve also eliminated a preposition (*under*). Prepositional phrases bog down your writing, especially phrases beginning with *of*. Scrutinize every *of* and try to cut it. It won’t take long to get in the habit, and you’ll develop a leaner writing style.

Not this: In the brief *of* the Defendant, Allison contends that delays *on* the part *of* Tollesby hindered production *of* the categories *of* documents identified *in* the request *by* Smith.

But this: In her brief, Allison contends that Tollesby's delays hindered producing the document categories that Smith requested.

3. Stop interjecting throat-clearing phrases.

Legal writing is full of phrases that merely make noise before saying something substantive. For example:

It is important to remember . . .

It should be noted that . . .

It must also be borne in mind that . . .

As William Zinsser put it: “[H]ow many sentences begin with these dreary clauses announcing what the writer is going to do next? . . . Being told that something is interesting is the surest way of tempting the reader to find it dull . . .” *On Writing Well* 16–17 (5th ed. 1994).

Not this: *It is important to note at the outset that all parties signed the agreement on the same day.*

But this: First, all parties signed the agreement on the same day.

Focusing on these three tips alone will slash unnecessary words and tighten your prose. Once you start to recognize these weaknesses in your own writing, you'll find it easier to enliven your prose.



Jury and Bench Trial Results

November 2014 - January 2015

Public Defender's Office – Trial Division

Closed Date*	Attorney <i>Investigator</i> <i>Paralegal</i> <i>Mitigation</i>	Judge	CR Number and Charge(s)	Counts	Result
Group 1					
9/15/2014	Forner	Gottsfield	CR2013-458300-001 Unlawful Flight from Law Enf Veh, F5	1	Jury Trial - Guilty as Charged
10/7/2014	Corral <i>Moore</i>	Reinstein	CR2013-457413-001 Marijuana Violation, F6 Drug Paraphernalia Violation, F6	1 1	Jury Trial- Guilty Lesser/Fewer
10/30/2014	Hartley <i>Leazotte</i>	Whitten	CR2013-448616-001 Aggravated Assault, F5 Resisting Arrest, F6	3 1	Jury Trial- Guilty Lesser/Fewer
11/3/2014	Forner <i>Leazotte</i>	Mahoney	CR2013-444510-001 Burglary 2 nd Degree, F3 Resisting Arrest F6	1 1	Jury Trial- Not Guilty
11/17/2014	Doak <i>Noyes</i>	Myers	CR2013-456917-001 Marijuana Violation, F6 Drug Paraphernalia, F6	1 1	Court Trial - Guilty Lesser/Fewer
11/18/2014	Wilson <i>Moore</i>	Granville	CR2014-110604-001 Marijuana Violation, F6 Drug Paraphernalia Violation, F6	1 1	Court Trial - Guilty Lesser/Fewer
11/19/2014	Saldivar <i>Leazotte</i>	Nothwehr	CR2013-005009-001 Aggravated Assault, F4 Aggravated Assault, F5 Resisting Arrest, F6	1 1 1	Jury Trial- Guilty as Charged
11/25/2014	Corral <i>Leazotte</i>	Reinstein	CR2014-102802-001 False Report to Law Enforce, M1 Dangerous Drug Violation, F4 Drug Paraphernalia Violation, F6	1 1 1	Jury Trial - Guilty as Charged

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

Jury and Bench Trial Results

November 2014 - January 2015

Public Defender's Office - Trial Division					
Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(s)	Counts	Result
Group 2					
9/9/2014	Nadimi <i>Leazotte</i>	Kemp	CR2013-462033-001 Unlawful Flight From Law Enf Veh, F5	1	Jury Trial - Not Guilty
Group 3					
9/11/2014	Williams	Bernstein	CR2014-001050-001 Unlaw Copy/Sale Sounds/ Image F6 Unlaw Copy/Sale Sounds/ Images, F3 Marijuana Poss/Use, F6 Drug Paraphernalia Poss/Use, F6	1 1 1 1	Jury Trial- Guilty As charged
9/19/2014	Henager <i>Williams Hales Yalden</i>	McCoy	CR2013-114845-001 Theft, F3	1	Jury Trial - Guilty as Charged
10/17/2014	Spargo <i>Jones Tomaiko Curtis Shaw</i>	Albrecht	CR2014-110352-001 Agg Aslt-Officer, F5 Resist Arrest-Physical Force, F6 Criminal Damage-Deface, M1 Disorderly Conduct-Fighting, M1	1 1 1 1	Court Trial - Guilty But Insane
11/12/2014	Williams	Bernstein	CR2013-030247-001 Dangerous Drug Violation, F4	1	Jury Trial - Guilty As Charged
Group 4					
9/26/2014	Becker <i>Verdugo Kunz</i>	Brotherton	CR2013-428561-001 Sexual Assault, F2 Kidnap, F2	12 1	Jury Trial - Guilty Lesser/Fewer

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

Jury and Bench Trial Results

November 2014 - January 2015

Public Defender's Office - Trial Division					
Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(s)	Counts	Result
10/14/2014	Wilson <i>Verdugo</i>	Gottsfield	CR2013-458559-001 Misconduct Involving Weapons, F4	1	Jury Trial- Not Guilty
10/27/2014	McGroder <i>Verdugo</i>	Kemp	CR2013-460863-001 Marijuana-Possess/Use, F6 Drug Paraphernalia Possess/ Use, F6	1 1	Court Trial - Guilty Lesser/Fewer
10/31/2014	Becker <i>Verdugo</i> <i>Kunz</i>	Richter	CR2013-454464-001 Aggravated Assault, F6 Child/Vulnerable Adult Abuse, F4	1 1	Court Trial - Guilty Lesser/Fewer
Group 5					
9/2/2014	Champagne <i>Thompson</i> <i>Falle</i>	Mahoney	CR2013-449180-001 Burglary 3 rd Degree, F4	1	Jury Trial - Not Guilty
9/12/2014	Glass-Hess <i>Romani</i>	Svoboda	CR2014-100568-001 Theft of Means of Trans, F3 Misconduct Involving Weapons, F4	1 1	Jury Trial - Guilty Lesser/Fewer
9/17/2014	Champagne <i>Thompson</i> <i>Gebhart</i>	Gentry	CR2013-004768-001 Burglary 2 nd Degree, F3 Theft, F6	1 1	Jury Trial - Guilty Lesser/Fewer
10/16/2014	Glass-Hess <i>Romani</i>	Reinstein	CR2013-457668-001 Resist Arrest-Physical Force, F6	1	Jury Trial - Guilty Lesser/Fewer
11/4/2014	Brown <i>Thompson</i> <i>Falle</i>	Rea	CR2013-448474-001 Marijuana-Possess/Use, F6	1	Court Trial - Guilty Lesser/Fewer
Group 6					
9/24/2014	Guenther <i>McGrath</i> <i>Springer</i>	Ditsworth	CR2014-107095-001 Aggravated Assault, F3	1	Jury Trial- Guilty as Charged

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

Jury and Bench Trial Results

November 2014 - January 2015

Public Defender's Office - Trial Division					
Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(s)	Counts	Result
10/23/2014	Sheperd	Rummage	CR2014-111589-001 Agg Aslt-Officer, F5	1	Jury Trial- Not Guilty
10/28/2014	Reyes- Petroff <i>Godinez Springer</i>	Mroz	CR2014-102697-001 Forgery, F4	1	Jury Trial- Not Guilty
Capital					
10/3/2014	Parker <i>Henager Tomaiko Farley</i>	Welty	CR2013-441534-001 Murder 1 st Degree, F1 Misconduct Involving Weapons, F4	1 1	Jury Trial - Guilty Lesser/Fewer
RCC/EDC					
9/24/2014	Griffin	McMurry	JC2014-102632-001 Assault-Touched to Injure, M3	1	Jury Trial- Not Guilty
Specialty Court Group					
9/17/2014	Adinolfi <i>Schyvynck</i>	Hegy	CR2013-415852-001 Unlaw Flight from Law Enf Veh, F5	1	Jury Trial- Not Guilty
10/10/14	Adinolfi <i>Kalaman</i>	Myers	CR2012-148862-001 Murder 1 st Degree, F1 Armed Robbery, F3 Aggravated Assault, F3 Armed Robbery, F2 Misconduct Involving Weapons, F4 Resisting Arrest, F6	1 3 2 2 1 1	Jury Trial- Guilty Lesser/Fewer
10/20/2014	Knowles <i>Leazotte</i>	Ditsworth	CR2014-102640-001 Aggravated Assault, F4 Assault-Intent/Reckless/ Injure, M1	1 1	Jury Trial- Not Guilty
Training					

Jury and Bench Trial Results

November 2014 - January 2015

Public Defender's Office - Trial Division					
Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(s)	Counts	Result
9/12/2014	Roth <i>Trimble</i>	Garfinkel	CR2013-461405-001 Marijuana Violation, F6	1	Jury Trial- Guilty as Charged
10/2/2014	Roth <i>Leazotte</i>		CR2013-103113-001 Marijuana Violation, F6 Drug Paraphernalia Violation, F6	1 1	Court Trial- Not Guilty
11/26/2014	Roth	Woodburn	CR2013-443034-001 Narcotic Drug Violation, F4	1	Jury Trial- Not Guilty
Vehicular					
9/10/2014	Quesada	Miller	CR2013-440603-001 Agg DUI-Lic Susp/Rev for DUI, F4	2	Jury Trial - Guilty as Charged
9/22/2014	Hann	Kaiser	CR2013-448316-001 Agg DUI-Lic Susp/Rev for DUI, F4	2	Jury Trial - Guilty as Charged
10/3/2014	Randall <i>McGrath</i> <i>Vondra</i> <i>Williamson</i>	Richter	CR2013-420106-001 Hit and Run W/Death/Injury, F3 DUI-Liquor/Drugs/Vapors/ Combo, M1 DUI W/Bac of .08 or More, M1	1 1 1	Court Trial - Guilty As Charged
10/28/2014	Baker	Donofrio	CR2013-459741-001 Agg DUI-Lic Susp/Rev for DUI, F4 Aggravated DUI-Interlock, F4	2 2	Jury Trial - Guilty as Charged

Jury and Bench Trial Results

November 2014 - January 2015

Public Defender's Office - Trial Division					
Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(s)	Counts	Result
10/31/2014	Randall <i>Decker</i>	Kaiser	CR2013-461108-001 Agg DUI-Lic Susp/Rev For DUI, F4 Unlaw Flight from Law Enf Veh, F5 Marijuana Violation, F6	2 1 1	Jury Trial - Guilty as Charged
10/31/2014	Brink <i>Decker</i> <i>Vondra</i> <i>Williamson</i>	Kaiser	CR2014-001029-001 Agg DUI Susp/Rev for DUI, F4	2	Jury Trial - Guilty as Charged
11/3/2014	Whitney	Bernstein	CR2013-426764-001 Aggravated DUI-Third DUI, F4 Agg DUI-Lic Susp/Rev for DUI, F4	2 2	Jury Trial - Guilty as Charged

Legal Defender's Office - Trial Division					
Closed Date*	Attorney Investigator Paralegal Mitigation	Judge	CR Number and Charge(S)	Counts	Result
9/5/2014	Schaffer <i>Parzych</i> <i>McReynolds</i> <i>Williams</i> <i>Delano</i> <i>Baker</i>	Mroz	CR2009-157459-001 Murder 1 st Degree, F1 Child/Vulnerable Adult Abuse, F2	1 4	Jury Trial- Guilty Lesser/Fewer
9/12/2014	Vogel	Kiley	CR2012-153111-002 Theft-Means of Transportation, F3 Drug Paraphernalia Possess/ Use, F6 Burglary Tools Possession, F6	1 1 1	Jury Trial- Guilty Lesser/Fewer

Jury and Bench Trial Results

November 2014 - January 2015

Legal Defender's Office - Trial Division					
Closed Date*	Attorney <i>Investigator Paralegal Mitigation</i>	Judge	CR Number and Charge(S)	Counts	Result
9/23/14	Shipman	Gialketsis	CR2013-104479-002 Burglary 3 rd Degree-Unlaw Entry, F4	1	Jury Trial- Guilty Lesser/Fewer
10/10/2014	Walker Rubio	Padilla	CR2010-007477-001 Aggravated Assault, F3 Aggravated Assault, F4	1 1	Jury Trial- Guilty As charged
11/7/2014	Garner Ivy Ingram Williams	Kiley	CR2012-009267-002 Aggravated Assault, F3 Endangerment, F6 Assist Crim Synd/Lead Gang, F2	12 8 2	Jury Trial- Guilty Lesser/Fewer
11/17/2014	Tate	Richter	CR2013-420372-001 Dangerous Drug Violation, F4 Drug Paraphernalia Violation, F6	1 1	Jury Trial- Guilty As charged
11/17/2014	Tate	Richter	CR2013-442964-001 Dangerous Drug Violation, F4 Drug Paraphernalia Violation, F6	1 1	Jury Trial- Guilty As charged
11/18/2014	Lane Haney	Richter	CR2014-001136-002 Narc Drug-Transp and/or Sell, F2	2	Jury Trial- Not Guilty

Jury and Bench Trial Results

November 2014 - January 2015

Legal Advocate's Office - Dependency

Last Day of Trial	Attorney <i>CWS</i>	Judge	Case Number and Type	Result	Bench Or Jury Trial
9/26/14	Stubbs <i>Contreras</i>	Houser	JD13919 Dependency Trial	Dependency Found	Bench
9/23/14	Richardson <i>Jenkins</i>	Houser	JD27773 Dependency Trial	Dependency Found	Bench

14th Annual Arizona StandDown

The state's largest outreach event for homeless veterans.

"Clearing up Legal Matters"

Volunteers are needed! The Office of the Public Defender will join other defense attorneys, prosecutors, and the courts to address the legal needs of homeless veterans.

Thursday, February 12th, 2015

Friday, February 13th, 2015

Saturday, February 14th, 2015

3 Shifts: 8-11am, 11-2 pm, 2-5 pm

Veterans Memorial Coliseum

If you would like to volunteer, please confirm your availability with your supervisor and email Danielle Kiser: KiserD@mail.maricopa.gov

Volunteer session sponsored by Maricopa County Public Defender



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

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