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**2000-2001 Annual Report**

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**Office of the Legal  
Defender  
~Maricopa County~**

***"Innovation & Tradition in  
Indigent Defense"***

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~Maricopa County~  
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**Dedicated to  
the Guardians of Freedom  
-- wherever they are found.**

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## **Mission**

The mission of the Maricopa County Office of the Legal Defender is to provide quality legal representation to indigent individuals assigned to us by the court, thus safeguarding the fundamental legal rights of each member of the community.

## **Vision**

By providing our indigent clients with the highest quality legal representation, the community will benefit significantly from our work, including

1. setting a legal standard with our adherence to exceptional, innovative representation of clients' interests by attorneys, investigators, mitigation specialists, and other team members, all while observing fiscal responsibilities;
2. preserving the constitutional rights of all citizens with our dedication to protecting the rights of the accused;
3. enhancing the citizenry's confidence in our legal system by consistently demanding just and equitable treatment for all.

## Goals

- I. Develop an effective representation for each client in an ethical fashion that protects his or her rights and ensures equal protection under the law.
- II. Provide the county a cost-effective method of representation for indigent clients who would otherwise be represented by the Maricopa County Office of the Public Defender, the Office of the Legal Advocate, or the Office of the Court-Appointed Counsel.
- III. Retain and develop attorneys and staff highly regarded for their respective skills in representing, investigating, or supporting the defense of assigned clientele.
- IV. Create an environment in which professionalism and respect for clients and fellow employees are inherent.
- V. Endorse measures to provide effective alternatives to imprisonment and incarceration.
- VI. Maintain workloads that do not jeopardize any client's defense.

## History

The Office of the Legal Defender was created in 1995 to provide the county an alternate indigent defense office that could render excellent legal defense while efficiently and cost-effectively handling the burgeoning number of indigent defense cases. Having the option of assigning conflict and overflow cases to another county agency allowed the county to significantly reduce the costs of directing these cases to private counsel.

The founding philosophy of the Office of the Legal Defender, which concentrated on acquiring exceptional staff and providing them with modern equipment, quickly attracted experienced and respected attorneys and support staff. Initially, the Office operated with eight attorneys and five support staff members handling only criminal matters. The Office expanded by FY01, now handling both criminal matters and civil matters in juvenile dependency / severance cases and including 32 full-time attorneys, 7 part-time attorneys, 35 full-time support staff members, and 3 part-time support staff.

Throughout the six years of operations, the Office has maintained its high standards of traditional representation while incorporating the latest technology in an economical fashion.



## Clients

The Office of the Legal Defender clientele comes from assignments by the Superior Court of Arizona in Maricopa County. We are appointed to represent the following individuals:

1. people charged with serious criminal offenses, or parents in juvenile dependency/severance actions,

AND

2. individuals who the court has determined are unable to afford a private attorney.

## Operations

While maintaining the traditional Office standards to ensure the finest legal representation, the Office continued its practice of

- conducting self-assessments to confirm that established policies and procedures conform to legal, ethical, and government standards and goals;
- participating in inter-agency activities to maintain currentness and cooperation;
- updating Office members on legal issues, court matters, and governmental policy changes;
- supporting the in-house and inter-agency use of advanced technology; and
- providing training opportunities to Office members to enhance their skills.

The Office's technological capabilities remained competitive with local standards. Our internal computer programs saw regular updating. The Office provided digital equipment to produce savings in outside processing. Staff

members continued to take advantage of the county's electronic programs for gathering information, communicating with other agencies, and handling routine business. Increased use of advanced technology allowed us to meet our goals of serving our clients, and subsequently the general public, in a cost-effective and measurable manner.

Our members strove to be of service to other government agencies with an eye to discovering and developing more efficient ways to utilize the justice system's resources. Representatives from the Office sustained their associations with court administration, public officials, and members of the community on Criminal Justice issues, Juvenile Dependency/Severance issues, and legislative matters.

The Office continued its relationship with the College of Law at Arizona State University, sharing the benefits of externships. Our year-round program with the college immersed students in actual casework. This arrangement gave students the invaluable benefit of hands-on legal experience while the Office gained legal research and case assistance at a minuscule budgetary expense. The Office's program has garnered a favorable reputation at the Law School that translated into a regular flow of applicants for the limited number of externship positions.

### **Community Service**

In step with the county's philosophy of engaging in community service, the Office sponsored or supported staff participation in the following activities/organizations:

- AACJ, Rules Committee
- Arizona Supreme Court, Rule 8 Subcommittee

- Arizona Supreme Court, Rule 15 Subcommittee
- Arizona State University, Blue Ribbon Committee
- Bring-Your-Child-To-Work Day
- Community Punishment Advisory Committee
- Courthouse Experience
- Cub Scout Adventure Camp, Medical Staff
- Cub Scouts and Scout Council
- Inns of Court
- KAET, TV Pledge Drive
- Little League Chapter Board
- Maricopa County Human Resource Department's Job Fair
- Red Cross Blood Drive
- Salvation Army Food Drive
- Shemer Art Center
- Soccer Team Coaching Staff
- South Mountain Behavioral Health Center
- St. Agnes School Board
- State Bar of Arizona, Board of Legal Specialization, Criminal Law Advisory Committee
- State Bar of Arizona, Criminal Rules Committee
- United Way Campaign
- U.S. Savings Bonds Campaign.

## **Training**

The Office of the Legal Defender maintained its founding standard of 15 hours of training per year for each staff person – a minimum training level established to ensure the maintenance and/or expansion of staff members’ skills and knowledge. Office members easily met that measure with training opportunities offered or funded by the Office.

In this fiscal year, the Office continued its practice of taking advantage of any free training that met the Office’s needs and goals. For training that had a cost attached, the Office paid whenever possible from the Public Defender Training Fund (PDTF). This tradition reduced the expense to the taxpayers since the PDTF is funded through fines paid by convicted offenders. The PDTF granted 153 training opportunities for the Office: 84 for attorneys, 10 for investigators, and 59 for other support staff members. Additional training opportunities were *gratis* or supported by a minimal amount of general funds. By the end of the fiscal year, the PDTF had paid for 96% of any Office training requiring registration fees.

NOTE: The aforementioned training numbers do not include the number of Office members who attended the death penalty seminar that the Office sponsored with the Office of the Public Defender of Maricopa County. This co-hosted event has become a tradition for the two indigent defense offices, and it allows countless individuals to hear specialized speakers at various times through the course of the two-day event, which is funded by the PDTF. The Office’s continued focus on the issues of death penalty cases was in keeping with the Office’s growing voice in capital casework. [See “Murder1/Death Penalty Cases” section of this report for elaboration.]

**Staff**

Attorneys, Criminal Division – Full-time	=	24
Part-time	=	7
Attorneys, Juvenile Division – Full-time	=	8
Support Staff, Criminal Division – Full-time	=	27
Part-time	=	3
Support Staff, Juvenile Division – Full-time	=	8

## **Attorneys:**

The Office's attorneys possess a range of talents, from death penalty and white-collar crime expertise to juvenile dependency and severance skills. Our attorneys are assigned, based on their levels of experience and their fields of interest, to handle cases in one of three areas: major felonies, regular felonies, and juvenile dependency and severance matters. The attorneys' exceptional backgrounds continue to make them not only respected courtroom advocates, but also sought-after speakers and writers in their respective fields.

Attorneys in the Criminal Division routinely work on complex felony cases that require extensive knowledge of the intricacies of Arizona's court system, criminal and constitutional law, and the various rules of procedure. They confront the daily challenge of presenting ardent, creative defenses while juggling heavy caseloads and remaining mindful of the Office's budget constraints. The criminal division also amplified its work in the area of Murder 1/Death Penalty cases. [*See "Murder1/Death Penalty Cases"* section of this report.]

Attorneys in the Juvenile Division, who represent parents in dependency/severance cases, deal with similar caseload and budget concerns while meeting the special challenges of the juvenile system's civil courts. These attorneys strive to protect the parents' rights and preserve the integrity of Arizona Families. The delicate issues in dependency and severance cases require a sensitive approach to family situations in addition to a wide-ranging knowledge of the laws covering not only dependency and severance, but also divorce, child support, guardianship, and paternity matters.

**Investigation:**

Investigators, who come to the Office with extensive and varied experience, play a critical part in the defense team's representation of indigent clients. They routinely engage in locating and interviewing potential witnesses, obtaining and evaluating physical and documentary evidence, and assisting in the development of defense strategies and case theories. In the course of their duties, investigators maintain contact with clients, other agencies, and interested parties, and they present oral and/or written investigative reports. In certain cases, Office investigators are uniquely qualified to provide critical information at the trial level and are called upon by our attorneys to testify in court.

**Client Services Division:**

The Client Services Division primarily assists attorneys with the preparation of death penalty cases for trial and mitigation hearings. In addition, assistance is provided for developing case strategies, selecting jurors for trials, and formulating sentencing plans on major and regular felony cases. Client Services staff regularly perform the following functions: obtaining relevant social history records, interviewing clients and interested parties, serving as liaison to social and government agencies, providing clients with general information about the court process and representation, and assessing current information on community resources. By serving in these areas, this division is able to assist attorneys in determining how to appropriately resolve cases in a cost-effective manner while maintaining the highest level of quality representation.

### **Juvenile Dependency Severance Division:**

The Juvenile Dependency/Severance Division was specifically designed by the Office to utilize a new team concept. The Division's Case Preparation Managers (CPMs) are organized to assist the attorneys in the representation of parents in dependency and severance actions by maintaining contact with and drawing information from the clients, court programs, state agencies, and other pertinent interested parties. By providing a base of current information and helping develop case strategies, the CPMs free their attorneys to concentrate on legal issues, court hearings, and trial work.

### **Legal Assistance Division:**

The Legal Assistants (paralegals) assist attorneys in legal research and trial preparation. In the area of legal research, the Legal Assistants serve as the WESTLAW researchers and in-house instructors for the entire Office. During the trial preparation phase of a case, Legal Assistants may assist with discovery, organize evidence, prepare summaries and trial materials, and help with jury selection.

### **Administration/Information Systems/Records Division:**

While perhaps not as "glamorous" as other divisions, this staff group provides critical support to the more visible members of the Office by covering the behind-the-scenes functions that move the casework. The often-unsung work of the Records staff ensures that vital information is current and easily accessible. The Information Systems staff works toward the smooth delivery of electronic devices, programs, and communications so that the important court work and fieldwork of attorneys and their assistants flow unimpeded.



And, Office Administration strives to maintain a true course in attaining Office goals, to meet personnel needs, and to keep resources up-to-date and available, while minimizing spending to conform to budget mandates.

## Murder 1/Death Penalty Cases

*~ One of life's enduring issues is how mankind treats mankind. ~*

As noted earlier in this report, the Office attorneys' work on Murder 1/Death Penalty cases has been amplified since the Office's inception. The reasons for this stem from our attorneys' dedication to the law and its founding principles and from the environment of today's society.

*The law is a bridge, taking man from brutishness to humanity; and the law, like each element of a bridge, must be carefully tended, maintaining each bolt and truss, lest the whole collapse – leaving man lost.*

Today, one cannot read a periodical/newspaper or view a news show without seeing some reference to an area of growing concern in America, and, indeed, in international circles. That controversy is the handling of criminals and more specifically the treatment of people found guilty of murder. Many government and private studies have been devoted to determining the effectiveness of incarceration and the use of the death penalty in the United States. Added to this penal mix are rapidly advancing scientific tests and devices -- technology that changes evidence for court and attitudes toward human behavior. And capping the controversy is the continued review of the laws and their applications.

Responding to the legal climate and public policies surrounding Murder 1 and Death Penalty cases, the Office increasingly devoted its resources and manpower to these cases.

[NOTE: Murder 1 cases are those where a client was charged with 1<sup>st</sup> Degree Murder as defined in Ariz. Rev. Stat. § 13-1105. Death Penalty cases are those where a client has been charged with 1<sup>st</sup> Degree Murder and the county attorney has filed a Death Penalty Notice proclaiming the state's intention of seeking the death penalty for the defendant in that matter. The State of Arizona mandates that if the court appoints counsel in these serious cases, that attorney must meet a certain level of experience.]

In FY01, the Office of the Legal Defender assumed representation of 26 new clients in Murder 1 cases, of which 12 carried the potential for the death penalty. Since its inception, the Office served as legal representation in a total of 180 Murder 1 cases, of which 91 carried the potential for the death penalty. We are particularly proud that of the 91 clients facing the death penalty, only one client has been sentenced to death.

The current legal and social environment not only increased the Office's level of involvement in these major cases, it also affected the nature of the Office's work. Staff members, dedicated to the standard of providing the best possible defense for clients, strove to remain informed on latest methods of examining and often creating evidence, as well as to sharpen their understanding of and approach to the human elements of any criminal case and the ultimate sentencing stages. They also battled expedited court dates and inflexible court calendars, juggling deadlines with legal research, case preparation, and client/witness/family interaction.

Office attorneys and their assistants refined their work patterns to manage their massive responsibilities regarding constitutional concerns, ethical issues, legal elements, and sociological influences in the handling of Murder 1 and Death Penalty cases. They developed team approaches and case techniques that maximize their efforts in an oppressive setting – limited time, funds, and public encouragement. Over time, their work has come to be admired and their input sought on local levels. Our “Murder 1” attorneys and their Mitigation Specialist find themselves requested as speakers at legal seminars and criminal justice classes, and consulted as authorities by other attorneys and experts. As our Office comes to be known as an excellent source of expertise and reference point on resources in this sensitive area, recognition and respect for the work grows – meeting both Office and county goals for service.

Examples of the Office’s growing reputation as a commendable source of legal representation for the most serious of cases can be found in recent communication from expert witnesses. One expert, consulted on a recent Murder 1 case, wrote,

*Most of my work as an expert witness in Arizona has been with the Arizona Capital Representation Project, Office of Court Appointed Counsel, the Federal Public Defenders, and private attorneys. In addition, I have had the pleasure of working with members of your staff on cases and in the training of one of my graduate students.*

*In working on actual cases, I felt that the attorneys were much more professional than what I have encountered in other contexts and phases of the post conviction process. Your attorneys provided me with clear questions that allowed me to focus my examination on the most salient legal aspects of the case. In consultation with client services personnel, they also maintained realistic expectations about appropriate theories of mitigation. In*

*addition, they were responsive to my calls and questions about the cases.*

*Similarly, I was impressed by the collateral information provided by Client Services Staff. Members of the client services staff have a wealth of experience with a diverse range of offender needs and pathology. Their investigations of the cases were organized, substantive, and well documented. Whenever I asked them to follow-up on leads, they were consistent and diligent in exploring all possibilities. Moreover, they are polite and sensitive to the needs of experts and try their best to make the expert's job as easy as possible.*

*Overall, I have had only excellent experiences in my dealings with your client services staff. In addition, I would like to thank you and members of your staff for the excellent training that you provided for one of my students who is now employed by your agency. This is an invaluable professional training opportunity for members of our community.*

Similar feedback from out-of-state experts lauds the work and standards of Legal Defender staff members. One expert from the state of Washington wrote:

*This is to thank you for inviting my consultation on \_\_\_[client name deleted]\_\_\_. . . . I think it vitally important to include expert testimony for a capital case such as Mr. \_\_\_'s from the field of anthropology. Certainly, Mr. \_\_\_'s experiences in wartime \_\_\_[country name deleted]\_\_, his flight to the United States, and his life as a refugee have influenced his ideas, values, and life choices. And maybe of greatest importance, the cultural influences he acquired in \_\_\_[country name deleted]\_\_ as a child and after resettlement from his parents expose themselves in his actions as an adult.*

*Thank you also for the hospitality with which you received me. The warmth and concern you displayed for your client, your colleagues, and your visiting consultant impressed me. Your*

*professionalism, courtesy, hospitality, and cooperativeness were outstanding, and greatly eased my ability to learn more about Mr. \_\_\_\_\_. I was especially impressed by your willingness to look at this case from an anthropological viewpoint, and by the extent to which you welcomed my knowledge of \_\_[culture deleted]\_\_ and the immigrant experience. . . .*

*I commend you and thank you.*

## Budget

Funding for the Office for FY01 was provided by the Maricopa County Board of Supervisors as follows:

### FY00-01

\$3,358,059            for the Criminal Division, and

\$ 962,810            for the Juvenile Division.

In using the budgeted monies, the Office maintained a balance between representing the rights of individuals accused of criminal or negligent behavior and showing fiscal responsibility in the application of public funds.

Considerable Office-staff time was expended on the business side of operating this law firm. Working closely with county finance and budget offices helped to ensure the refinement of accounting procedures and coordination of records. Much of this work was accomplished through the timesaving Intranet, allowing rapid exchange of information, confirmation of data, and updating of records.

These monies served the county in the handling of the following:

### CASES --

16	Misdemeanor Assignments
312	Probation Violation Assignments
21	Witness Representation Assignments
3,627	Regular Felony Assignments
74	Major Felony Assignments
786	Dependency Assignments
693	Dependency Recertifications,
and	

	100	Severance Assignments.
TRIALS --	59	Criminal
APPEALS –	7	Juvenile Dependency/Severance.

The Office of the Legal Defender respectfully submits that the close of FY01 found the Office a fiscally responsible department, a community asset, and a respected law firm with a growing reputation for Murder1/Death Penalty expertise.