

Office of the Legal Defender

•Serving Justice since 1995•

~ FY03 ANNUAL REPORT ~

Commitment

~Office is “Paying the Rent”~

The 8-year-old Office of the Legal Defender (OLD) has become noted for its work in many arenas in addition to its original commission. Established in 1995 to provide the county the economic option of assigning conflict and overflow cases to another county defense agency, the OLD staff embraced its charge.

Succeeding in providing exceptional legal defense in an efficient manner, OLD members recognize the need to further commit themselves to serving the community as leaders in defense of other rights and freedoms. Outside of the Office, staff devoted efforts to special children and adult programs, animal rights, wildlife care, and resource preservation.

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The First Round with “Ring”

On June 24, 2002, the United States Supreme Court announced its decision in the death penalty case *Ring v. Arizona*. Shortly thereafter, the Arizona legislature, attempting to conform to the decision, enacted laws that altered dramatically the way that Arizona handled its death penalty cases. One of the major problems from these new changes that immediately faced defense attorneys was the speed with which cases had to move through the courts.

The first case at the Office of the Legal Defender (OLD) to fall under the new *Ring* laws was State v. Richard Glassel. In April of 2000, Mr. Glassel went to his homeowners association meeting and fired guns at attendees. Mr. Glassel was charged with 2 Counts of Murder 1 (F1), and 30 Counts Attempt to Commit Murder 1 (F2).

The court’s new, shorter deadlines resulting from *Ring* were of great concern for defense attorneys who struggled to collect critical mitigation while preparing for trial. After the judge in the Glassel case denied a defense Motion to Continue to allow time for adequate preparation, OLD attorneys were forced to proceed to trial, and jury selection started in the fall of 2002.

In December 2002, the defendant was found guilty as charged. In January 2003, the jury, after deliberating 1½ days, gave Mr. Glassel two death sentences on the Murder 1 charges.

The case now is under appeal [handled by the Maricopa County Public Defender’s Office].

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Some of the agencies who have benefited from the interest and involvement of OLD staff are Arizona Humane Society, Arizona Spinal Cord Injury Association, Audubon Society, Big Brother/Big Sister, Boy Scouts of America, Channel 8, Habitat for Humanity, High School Career Week, Liberty Wildlife, Little League, National Defense Investigators Association, Red Cross, Salvation Army, and unnamed animal rescue/rehabilitation programs.

Charlie Babbitt, one of the attorneys in the Office's Criminal Division, is especially active in the nature and conservation fields. His numerous articles and op-ed pieces dealing with forest restoration and fire have been published in newspapers including the *Arizona Republic*, *Tucson Star*, and *Coconino Sun*. He is or was a Board Member of Maricopa Audubon Society, Land and Water Trust Fund of the Rockies, Southwest Forest Alliance, Arizona-New Mexico Parks and Conservation Association, Sonoran Desert National Park Advisory Board, and Arizona Audubon Council. Charlie's awards include the George B. Fell Award [1999] and recognition at the Natural Areas Association National Conference in Tucson of a lifetime of professional work and personal effort dedicated to the identification protection and stewardship of the natural areas of Arizona and the Colorado Plateau.

Imbued with a sense of duty to others and nature, Office members embody the philosophy that "volunteer work is the rent we pay for living on this earth." ❖❖❖

**"Volunteers are not paid –
not because they are worthless,
but because they are priceless."**

Mother Teresa

And On Top of It All

Max Bessler, Chief Administrator of the Office of the Legal Defender since its founding, was born in Texas, though since the 2000 elections he does not admit this fact. The eldest of three children, little Max started acting as an administrator at an early age as he directed his siblings and elementary school chums in various activities and chores. Max underwent the quintessential small-town experience as he attended today's equivalent of a one-room schoolhouse where he excelled through his primary and high school grades. Facing a military tour of duty in Vietnam, Max extended his college studies to five years rather than the customary four to obtain a B.A. in Psychology. Upon graduation, however, he donned the Army's olive drab uniform to be the best he could be. After completing half the curriculum of the Officer Candidate School, Max embraced the Army's offer to remain stateside in lieu of becoming an officer and serving in Vietnam.

Following his Army discharge and with a greater vision of the world, Max forsook his native Indiana homeland and moved to Phoenix where he logically started his professional life in the probation field, taking a position with the Maricopa County Probation Department. Eighteen years of probation work, a Masters in Criminal Justice, and special projects with drug-rehabilitation and anger management programs prepared Max for his next position as Program Manager at the Administrative Office of the Courts for Arizona where he remained for four years.

In 1995, Max accepted the position of Chief Administrator at the fledgling Office of the Legal Defender. Despite little knowledge of indigent defense, he felt that creating a new agency to aid in the plight of the poor client could be both compelling and worthwhile. Eight years later, he remains convinced that it was. ❖❖❖

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.

Operational Standards

The Office of the Legal Defender continues to rival any private sector counterpart in legal knowledge, effectiveness, efficiency, and fiscal responsibility.

With the finest legal representation as the overriding goal, the Office maintains its successful operating 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 still impresses outsiders with its technological capabilities. The internal computer programs remain regularly updated. Digital equipment is provided to produce savings in outside processing. Staff members are encouraged 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 OLD to meet goals of serving clients, and subsequently the general public, in a measurable, cost-effective manner. ❖❖❖

**“The law must be stable,
but not stand still.”**

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 CONTRACT 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.

OLD Members

The Office continues to grow to meet needs. Now considered a medium-sized law firm, the staff skillfully balance efficiency and advocacy while handling an increasing number of court cases. The entire staff breaks down as follows:

Attorneys, Criminal Division – Full-time = 30
Part-time = 8

Attorneys, Juvenile Division – Full-time = 8
Part-time = 1

Support Staff, Criminal Div. – Full-time = 29
Part-time = 5

Support Staff, Juvenile Div. – Full-time = 9

The Office also believes in helping to develop the future participants in the legal system and maintains its externship program through the College of Law at Arizona State University. The year-round program immerses law students in actual casework, giving students invaluable benefit of hands-on legal experience while the Office gains legal research and case assistance. The Office's program has garnered a favorable reputation at the Law School and sees a regular flow of applicants for the limited number of externship positions.

This year's extern, Michelle Jager, is a native of Arizona who earned her undergraduate degree at Arizona State University and later returned there for law school. Even though she did not have friends who were attorneys and she was not familiar with the Phoenix legal community, she instinctively knew that she would enjoy law school.

At ASU's College of Law, Michelle participated fully in the academic experience, including working on the law school's journal, being a member of a traveling moot-court team, and involving herself in several rewarding *pro bono* activities. Her service as an extern at the Office of the Legal Defender occurred during her second year as an ASU law student. Michelle notes, "My experience as an extern was invaluable. I was able to meet directly

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with clients, participate in strategy discussions, and attend court proceedings, as well as handling research and writing assignments. As an extern, I was able to see first-hand how a legal defense attorney spends his time, and I gained insight into the workings of the criminal law system. I saw that being an attorney at the Office of the Legal Defender is a very difficult job. The attorneys are very committed, even when faced with the most difficult clients to defend. I would highly recommend the experience to anyone with an interest in criminal law.”

As to her plans after graduating from law school in 2004, Michelle looks forward to completing a clerkship with Chief Justice Jones at the Arizona Supreme Court. ❖❖❖

Select Clients

The Office of the Legal Defender clientele comes only from assignments by the Superior Court of Arizona. The Office is appointed to represent the following individuals:

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

AND

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

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Spotlights on Staff

Staff members come to OLD from various backgrounds with a wide range of talents. Some of the staff have been placed in the spotlight [below] to provide brief introductions to a few of the people who make the Office work and to create a small window into the personal side of the Office.

Diana Patton, Attorney - Criminal Division

Diana Patton was born in Ohio 19- none-of-your-business to a military family who moved frequently from state to state. (This explains why today Diana cannot get from “here” to “there” without a map.) After graduation from an Ohio high school, Ms. Patton moved to Arizona where she attended Northern Arizona University.

Graduating cum laude, she moved to Tucson to attend law school, but encountered a serious obstacle in the form of her first husband, who took her away suddenly to the United Arab Emirates, where women don’t attend law school. She did not, however, have to wear a burkha.

Upon return to the United States, she began her studies at the University of Arizona College of Law, incidentally dumping the husband, who was by then mentally ill. (Diana cannot take credit for this.) She was on Law Review and again graduated cum laude.

She practiced law briefly with a Phoenix insurance defense firm. Soon it became apparent she was never going to see the inside of a courtroom litigating personal injury, so she took a deep breath

and a hefty pay cut and joined the Maricopa County Attorney’s Office. There, she tried dozens of jury trials. She also showed no political ability, and was reprimanded several times for violating prosecutorial policy. She left for the Scottsdale City Prosecutor’s Office.

For the first time, she encountered pro per defendants on a daily basis, and discovered they were not precisely the miscreants portrayed by MCAO. Thus, she was in the right frame of mind to beg for a job from Mr. Briney at the Office of the Legal Defender. He bought her two lunches, hired her, and she lives happily ever.

Afterword: Diana has little life outside of work and sometimes wonders whether something will force her into retirement, such as

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the onset of senile dementia. She has 2 dogs and 4 cats, plays piano badly, guitar a little better, and is learning the recorder.



Robert Bushor, Attorney – Juvenile Dependency /Severance Division

Robert Bushor was born in Detroit, Michigan, the first of seven children. After an action-packed childhood, he joined the U.S. Navy where he served for six years. Bob's military duty included working as a missile and gun computer technician, and four trips to Viet Nam [1968, 1970, 1971, and 1972]. He went directly from military service to college, getting a B.S. in business from Arizona State University. He next jumped into Arizona State's College of Law and married shortly before receiving his law degree. Bob reflected that he chose the law for his career because he "saw the legal profession as an opportunity to do a multitude of different and interesting things."

Bob's legal career started in a private law firm that handled mostly criminal matters. The firm's scattered divorce cases were all immediately passed to him upon his arrival. When Bob started his own practice a year later, he took the divorce cases with him, and a career in family practice developed naturally. While maintaining his private practice, Bob took a contract with the City of Phoenix's Public Defender [PD], an

association that lasted for eight years. During that time he became the first PD for Phoenix in the jail court system. At the end of his city PD contract, Bob was selected to serve as a judge in the county jail's Initial Appearance Court, handling city and county cases for the next 8½ years. Additionally, Bob served as a Pro Tem judge in Domestic Relations and Juvenile courts, all while maintaining his private practice centering on family and juvenile law.

After years of working 12- to 15-hour days, 7 days a week, Bob decided to look for a practice that allowed him to slow down and spend more time with his family, which now included his two sons and one daughter. Bob noted, "Money wasn't the issue to me anymore." He opted to join the Office of the Legal Defender, in part to have more control over his time and in part because he admired the wealth of experience of the attorneys hired for the Office. Bob mused that in counting only the five senior Dependency /Severance attorneys, "This Office has over 125 years of Juvenile Law experience!"



Brian Abernethy, Investigator

Brian Abernethy, born in Brooklyn, N.Y., was the third of seven children in an Irish family where police work was "the family business." As Brian describes it, most of his family was "on the job," counting 13 family members

in police work in New York. One uncle, retired from the job, is known for founding the Dinosaur Squad, a group of retired policemen committed to solving cold cases. When Brian was a senior in high school, his father, a NY police officer, died. After graduating, Brian joined NYPD's civilian program to see if he, too, liked the work. He fell in love with it, was sworn in as a police officer, and spent 22 years with NYPD. Reflecting on his service in New York, Brian noted, "Every day was different. I worked in the best places imaginable and the worst. The variety was incredible."

After years of police work, Brian was unaware that defense investigation existed until he saw an ad for such employment at the Maricopa County Public Defender's Office in 1990. He took a position there that year and stayed until October of 1995 when he moved to the newly formed Legal Defender's Office. Brian reported being attracted by Bob Briney's description of the new office's goals: having expanded resources, using investigators more on cases, focusing on major felonies, and doing cases right the first time. Brian especially appreciated the Office's team approach to casework, with investigators' voices being heard on case issues and planning.

In addition to his investigative duties, Brian shares an active life with his high school sweetheart and wife, Rosemarie, and their two children. When in New York, Brian and Rosemarie served as foster parents to 11 children.

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Since relocating to Arizona, Brian has helped conduct counseling programs at the Salvation Army and been a ready volunteer for many worthwhile projects. And in the spare time that Brian can squeeze out of his full days, he enjoys remodeling/restoring old houses.



**Bernadette Chambers,
Case Manager – Juvenile
Dependency/Severance Division**

Bernadette Chambers was born and reared in Santa Fe, New Mexico. In 1988 she received her B.A. in Business Administration from New Mexico Highlands University, and in 2001 her Masters of Education in Counseling from Northern Arizona University.

From 1991 to 1998 Bernadette worked in Maricopa County for the Clerk of the Superior Court in the Family Support Unit. As a caseworker there, Bernadette “developed a monitoring procedure that made for a faster road to contempt proceedings for the parent’s failure to pay child support.” As a Conference Officer, Bernadette held the honor of “Special Commissioner” and “Special Master of the Court.” Bernadette stated, “I was responsible for a ‘Round Up’ of parents who were not paying their child support resulting in the collection of approximately 65% of the \$70,000 plus that was owed in back child support.” Local news

channels broadcast portions of these proceedings.

In 1998 Bernadette joined the Office of the Legal Defender’s Juvenile Dependency /Severance Division. As a Case Manager, she is responsible for preparing cases for court hearings, attending Child Protective Services [CPS] staffings and Foster Care Review Board [FCRB] meetings, and working with clients. Bernadette noted receiving commendations for her work from former Secretary of State Betsy Bayless, the FCRB, CPS Case Managers, attorneys, and clients.

Married for 20 years, Bernadette and her husband David moved to Phoenix in 1989. They have four daughters, ranging in age from 18 to 10 years old. Bernadette is a nationally certified instructor for self-help courses in fibromyalgia, and she is a member of the Arthritis Foundation, the Association for Addiction Professionals, and the Arizona Association of Alcoholism and Drug Addiction.



**Marisol (Maria) Poyner,
Supervisor – Records**

Marisol Poyner, the head of OLD’s Records Division from its beginning, holds a most interesting background. Marisol was born and reared in Mexico City, the youngest of six children in a very loving and close family. Both parents worked at the city’s American-British hospital – her

father as a pharmacist and her mother as a surgical technician.

After finishing high school and completing a secretarial /business program [which included several English courses], Marisol took employment as secretary /personal assistant in the raw materials industry and later the hospitality industry. After working and meeting her future [and later ex-] husband on the island of Cozumel, she moved to Phoenix in 1989.

In 1990, Marisol changed careers and took a position in the Records Department of the Maricopa County Public Defender’s Office. Although she did not have any experience in this area, she recalls meeting wonderful people who provided her with the necessary training, showing the whole process and positions of a records department of as well as an overview of the criminal justice system.

After five years Marisol left this job, and six months later received a call from the Legal Defender’s Office with a job offer to be head the new records division.

Marisol related, “I was very happy about it. I found it interesting and challenging to be able to set up the records my own way and be able to apply all the things I learned in the past. I believe it was one of the smartest decisions I’ve ever made.” She added, “I’ve always received a lot of support from my supervisors -- they’ve trusted me in the decisions I’ve made on how to run the records section; they’ve provided me with training . . . I’m

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always surrounded with great people who have the patience and willingness to teach me and believe in me.”



Lisa Bolinger, Supervisor - Capital Mitigation and Client Services Division

Lisa Bolinger followed a fairly traditional route to arrive where she is today. A native of Phoenix who obtained her bachelor's and master's degrees [centered on sociology, with an emphasis on human resources] at Northern Arizona University, Lisa began her career as a counselor in a residence for abused girls.

After a year and a half, she accepted a position with the Maricopa County Sheriff's Department where she worked in the psychiatric unit for two years until she moved into the Maricopa County Adult Probation Department. During her nine-year tenure at Adult Probation, Lisa handled cases in all areas of probation, e.g., presentence investigation, field casework, intensive probation services, and indirect services.

In 1995, she was approached about coming to the newly formed Legal Defender's Office, and the new Mitigation/Client Services Division was formed. That division, which started with a cast of one, now boasts three Client Services Assistants, one Mitigation Specialist, and three Capital

Mitigation Specialists, all overseen and molded by Lisa.

In looking back at her work history, Lisa noted that working in those various areas has given her a better balance for dealing with criminal justice issues. She now deals mainly with clients facing the death penalty. She reflected her belief that nobody is born evil, and that the justice system's prosecutors, judges, and juries have an inherent duty to defendants. "To me, when you are going to decide if someone lives or dies, you have an obligation to get to know that person as well as humanly possible – you can't discount a whole lifetime and focus only on the 15 worst minutes of someone's life."

When not devoting her time to the Office, Lisa is quite active in her children's schools and extracurricular activities – something that she believes is an important parental obligation. When able to carve out some free time, she loves to travel and marks Australia and Italy as favorite vacation spots. Lisa shares all of this with her husband of 20 years - - the man who holds the key to her heart by making her laugh every day.



*“...you can't discount
a whole lifetime and
focus only on the
15 worst minutes of
someone's life.”*

Tracy Williams, Supervisor – Paralegal Division

Tracy Williams is another Arizona native, but she bears the distinction of being a 5th generation Arizonan. While in high school, she was a member of Criada, a service club that raised money and worked on projects to help needy families and schools. At Arizona State University, she earned her criminal justice degree with the idea of later going to law school.

Tracy altered her course a bit, and obtained a paralegal degree, after which she took a position at a law firm that handled only civil matters. She stayed there for 9½ years, of which two years were devoted to the acquisition of land for Phoenix's professional baseball stadium, Bank One Ballpark. As exciting as baseball is, this type of legal work did not meet Tracy's dream of working in the criminal justice field, so she started looking for the right opportunity.

In 1997 Tracy found what she wanted in the Office of the Legal Defender. She took a position as the head of the Paralegal Division and waited patiently for almost six years until circumstances permitted the hiring of an assistant. Although a small division, the paralegals at the Office carry a mighty load, spending considerable time assisting in the representation of clients facing life imprisonment or the death penalty. Tracy concludes, "I feel that I am the luckiest person in the world – working at a job I love and helping people."



FY03 Budget Goals Met

In FY03, the Office of the Legal Defender succeeded in meeting its annual budgetary goals and saving the county money in several areas. The fiscal year's funding for the Office was provided by the Maricopa County Board of Supervisors as follows:

FY02-03

\$3,579,778 for the Criminal Division,
and
\$ 887,652 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. The Office-staff expended considerable time on the business side of operating this law firm. Working closely with county finance and budget departments, the Office 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 [NOTE: categories for statistics were changed this FY to meet new MfR standards]:

CASES:

7	Misdemeanor Assignments
313	Probation Violation Assignments
24	Witness Representation Assgnmnts.
4,046	Felony Assignments Other than First Degree Murder
33	First Degree Murder Assignments
926	Dependency Assignments
569	Dependency Recertifications,
89	Severance Assignments and
59	Perm. Guardianship Assignments.

TRIALS Completed:

38	Criminal
13	Dependency
12	Severance
6	Guardianship.

A standard review of the Office at the close of FY03 found that the Office continues to be a fiscally responsible department, a community asset, and a respected law firm with a reputation for leadership in cutting-edge legal issues. ❖❖❖

Office of the Legal Defender
-Maricopa County-
222 North Central Avenue
Suite 910
Phoenix, Arizona 85004-2237

602-506-8800
Fax 602-506-8862

Robert S. Briney
Legal Defender

Max Bessler
Chief Administrator

Georgia Bohm
Editor

**Dedicated to the
Guardians of Freedom**

—

**wherever they
are found.**