

A Jury of Teenaged Peers

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Delinquent youths participating in the Teen Court diversion program appear before juries of teenaged peers. The program achieves a 98% success rate, which is significantly higher than any other youth diversion program. Even more astounding is the recidivism rate - only nine percent of teen court participants will reoffend, while fifteen percent of juveniles involved in other diversion programs will receive a new referral.

Maricopa County Teen Court began more than sixteen years ago as a teaching exercise by Bill Graham, then a teacher at Tempe High. Mr. Graham, without the knowledge of his students, would orchestrate a mock robbery. The school resource officer would interview witnesses and write a police report. Eventually the culprit would be caught. The students then participated in trying of the accused under the guidance of Deputy Public Defender Dan Lowrance and Deputy County Attorney Hugo Zettler. The jury trial was presided over by a Justice of the Peace. After a number of years, Margaret Trujillio, Tempe Justice of the Peace, recognized the potential of this exercise and requested the Superior Court, Juvenile Division, to begin an official teen court program. The court agreed and Mr. Graham was selected as Maricopa County Teen Court Moderator.

For fifteen years the Public Defender's Office had little involvement with the exception of Russ Born who has mentored the Glendale youth for three years. That changed in October of 2005 when attorneys with the Maricopa County Public Defender's office began serving as Teen Court mentors at all six of the teen court sites. Bill Graham contacted the managing attorney for the juvenile division and requested assistance with the program. With their usual eagerness to serve the community, public defenders willingly volunteered their time to assist with the program.

The process for Teen Court begins when a youth accused of a delinquent act is selected for Teen

Court diversion. The youth and a parent arrive at a Teen Court site in their community. A juvenile probation officer interviews the child and parent. If the child denies the charge, the matter is sent to superior court, juvenile division, for further proceedings. If the child admits the charge and agrees to participate in Teen Court diversion, the child's case is placed on the Teen Court docket for that day.

High school students serve as defense and prosecuting "attorneys." These student "attorneys" work under the guidance of mentors from the Maricopa County Public Defender's Office. At least one faculty member from a local high school volunteers at each Teen Court. Justices of the Peace preside over the proceedings.

Each teen court hearing occurs before a jury of teenaged peers. Some of the jurors are volunteers, while others serve as part of a Teen Court diversion consequence. In teen court, the "defendant" has already admitted the allegation. The purpose of the hearing is to decide the "sentence" the child will receive for his delinquent behavior. Prior to the hearing, "defense counsel" meets with the client to gather positive information to persuade the jury that only a minimal consequence is needed. During the hearing the student "attorneys" assist the jury by telling the story of the case through witnesses, including the delinquent child. The student "attorneys" then present aggravating and mitigating factors and recommend consequences. The proceedings include opening statements, evidentiary objections and closing arguments.

To prepare the students for their roles as attorneys, Russ Born provides training at Washington High School. Unbeknownst to these students, they undergo a "mini public defender training course" to enhance their ability to affectively present their peers. Thus, while the "attorneys" begin the program insecure and shy, they leave as zealous advocates.

Teen Court serves our community well. Ninety-eight percent of the diverted youths are successful and only nine percent will ever reoffend. The student “attorneys” gain valuable experience, enjoy their participation, and often are inspired to join our profession. The mentors have a sense of accomplishment based upon the achievements of the “attorneys”.

Maricopa County’s Teen Court program is one of the longest running in the nation. The program has Teen Courts in Central Phoenix,

Tempe, Chandler, Gilbert, Fountain Hills, Glendale, and Maryvale. For the 2005 to 2006 school year, mentors from the Maricopa County Public Defender’s Office were Alysson Abe, Russ Born, Bryn DeFusco, Tom Garrison, Judy Huddleston, Jason Leach, Art Merchant, Chris Phillis, Suzanne Sanchez, Eleanor Terpstra, Ann Whitaker, and Terri Zimmerman. On June 7, 2006, these volunteers along with Jim Haas and Dan Lowrance, were recognized at a ceremony at the Maricopa County Board of Supervisors’ Auditorium.



Continued from Missing Persons p. 2

Subsection (b) limits the grounds for granting the continuance: “A continuance of any trial date shall be granted only upon a showing that extraordinary circumstances exist and that delay is indispensable to the interests of justice.” It also limits the permissible period of the continuance: “A continuance may be granted only for so long as is necessary to serve the interests of justice.”

Subsection (b) also requires that in ruling on the motion, the court consider the victim’s constitutional right to a speedy disposition of the case in conjunction with the defendant’s constitutional right to a fair trial. The court must state specific reasons for the continuance on the record. Rule 8.5(b).

The comment to Rule 8.5 speaks of a continuance for no more than 30 days, but that dealt with the prior law; Rule 8.5 currently has no time limit. A certification now takes the place of a formal affidavit. See *Midkiff v. State*, 29 Ariz. 523, 243 P. 601 (1926).

Appellate Review/Abuse of Discretion/Not Law of Case

The decision whether to grant or deny a motion for continuance is solely within the sound discretion of the trial judge. The appellate court will not disturb this decision unless there is a clear abuse of discretion and the ruling is shown to be prejudicial to the defendant. *State v. Amaya-Ruiz*, 166 Ariz. 152, 164, 800 P.2d 1260 (1990), cert. denied, 500 U.S. 929 (1991); *State v. Lukezic*, 143 Ariz. 60, 68, 691 P.2d 1088, 1096 (1984).

The prejudice that a defendant must show to establish an abuse of this discretion concerns his inability to present a defense, not the state’s ability to make its case. *Kasten, supra; Zuck, supra*. To the appellate court, the explanation a defendant provides to justify a request for a continuance constitutes a critical factor in determining whether the trial court abused its discretion in denying the request. *State v. Lamar*, 205 Ariz. 431, 437, 72 P.3d 831 (2003).

If one continuance is denied a party can still ask again as a ruling denying a motion for a continuance in a criminal case does not constitute the “law of the case.” *State v. Reynolds*, 123 Ariz. 117, 597 P.2d 1020 (App. 1979), *rev. denied*, July 10, 1979.

Unavailability of Main Players/ Vacation Not Sufficient

Continuances prior to trial have been granted because of the unavailability of police officers, *Vasko, supra*, (Army Reserve training course); but cf. *State v. Strickland*, 27 Ariz. App. 695, 558 P.2d 723 (1976) (error to grant continuance where motion filed on morning of trial and merely alleged police officers on vacation and unable to testify; police officers like prosecutors should be required to make some adjustments in their schedules to be available for trial), *rev. denied*, Jan. 11, 1977, unavailability of a prosecutor, *State v. Mendoza*, 170 Ariz. 184, 823 P.2d 51 (1992) (in another trial), although a prosecutor’s vacation is not an extraordinary circumstance justifying a continuance, *State v. Corrales*, 26