

**Christopher Boscia - IAC Chart - Professor Larry Benner's Report**

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**From:** "Irene Jozefczyk" <ijozefczyk@pubdef.lacounty.gov>  
**To:** "Christopher Boscia" <CBoscia@scu.edu>  
**Date:** 4/15/2008 10:04:25 AM  
**Subject:** IAC Chart - Professor Larry Benner's Report

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Please distribute.

DATE: April 14, 2008

TO: John Van De Kamp, Chair  
CFAJ

Jerry Uelmen, Executive Director  
CFAJ

Chris Boscia, Executive Assistant  
CFAJ

FROM: Michael P. Judge  
Public Defender

SUBJECT: IAC Chart - Professor Larry Benner's Report

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My Appellate staff reviewed cases from Los Angeles and reported the following:

**Classification of Trial Counsel**

For *People v. Robinson* 2002 WL 973244, the chart incorrectly indicates that trial counsel was a member of the private bar. Trial counsel was a deputy alternate public defender.

For *Aguirre v. Alameda* 120 Fed. Appx.721, *People v. Holguin* 2002 WL 31862857, and *In re Beltran* 2003 WL 21153291, the chart fails to specify the "type" of defense counsel representing the defendant at trial. In all of these three cases, the trial lawyers were members of the private bar.

For *In re Lucas* 33 Cal.4th 682, and *Bloom v. Calderon* 132 F. 3d 1267, the chart describes trial counsel as “appointed counsel.” In both of these criminal matters, the “appointed” attorneys were members of the private bar.

### **Description of Ineffective Assistance of Counsel Claim**

For *People v. Robinson* 2002 WL 973244, the chart describes the IAC claim as “Failure to submit complete jury instructions on self defense.” It should be noted that the claim was rejected. Here is the actual holding: “We agree that defense counsel should have tendered the omitted instructions to the court. However, whatever trial counsel's shortcomings in this regard, the record does not support Robinson's claim of ineffective assistance of counsel because there is no prejudice.”

For *People v. Paredes* 2003 WL 1958452, the description of the IAC claim reads, “Counsel representing two co-defendants mistakenly waived any objection to one co-defendant’s taped statement which implicated the other defendant.” “Counsel” is one of those bizarre words that can be singular or plural, and here the context is unclear. But it is only Marvin Part, private counsel for co-defendant Anthony Halas, who is found IAC for an *Aranda/Bruton* waiver.

**From:** "Bellas, Diane; Public Defender" <diane.bellas@acgov.org>  
**To:** "cboscia@scu.edu" <cboscia@scu.edu>  
**Date:** 4/16/2008 12:12:11 PM  
**Subject:** Fw: Fwd: Prof Benner's report

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Sent using BlackBerry

----- Original Message -----

From: Michael E. Cantrall, M.A. <webmaster@cpda.org>  
To: Michael P. Judge <Jozefczyk@pubdef.lacounty.gov>; Bellas, Diane; Public Defender  
Sent: Wed Apr 16 11:41:08 2008  
Subject: Fwd: Prof Benner's report

This is from Kern County for John Van De Kamp.

>Date: Wed, 16 Apr 2008 11:09:43 -0700  
>From: "Mark Arnold" <arnoldm@co.kern.ca.us>  
>To: "Michael Cantrall" <webmaster@cpda.org>  
>Subject: Prof Benner's report  
>  
>Don't have the addresses, can you please forward this. Thanks, Mark  
>  
>DATE: April 16, 2008  
>  
>TO: John Van De Kamp, Chair, CFAJ  
>  
> Jerry Uelmen, Executive Director, CFAJ  
>  
> Chris Boscia, Executive Assistant, CFAJ  
>  
>FROM: Mark A. Arnold, Public Defender, Kern County  
>  
>SUBJECT: IAC Chart - Professor Larry Benners Report  
>  

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>  
>My Appellate staff reviewed cases from Kern County and reported the following:  
>  
>Classification of Trial Counsel  
>  
>For People v. De La Cerda 2002 WL 21224079, the chart incorrectly  
>indicates that trial counsel was a deputy public defender. Trial counsel  
>in that case was private attorney Robert Dowd. This Office handled the  
>case only after the reversal and remand.  
>  
>Description of Ineffective Assistance of Counsel Claim  
>  
>For People v. Donaldson 2002 WL , the chart describes the IAC claim as (1)  
>Failure to object to Prosecutor's testimony before she took the stand; (2)  
>Failure to object to Prosecutor's closing argument, where she expressed  
>her personal belief in D's guilt. The Chart attributes these failures to

>(1)Lack of Knowledge of Law/procedure and (2) Lack of Trial Skills:  
>failure to object to prosecutor's closing argument. The Court condemned  
>the prosecutor for her outrageous misconduct (testifying in the case and  
>expressing her personal beliefs during argument). Trial counsel did  
>object at sidebar; his failure consisted of not reiterating those  
>objections on the record.