



County Executive Office

Memorandum

RECEIVED

2021 MAY -4 PM 3: 58

CLERK OF THE BOARD  
ORANGE COUNTY  
BOARD OF SUPERVISORS

May 4, 2021

To: Clerk of the Board of Supervisors  
From: Frank Kim, County Executive Officer  
Subject: Exception to Rule 21

Digitally signed by Frank Kim  
DN: cn=Frank Kim, o=County of  
Orange, ou=CEO,  
email=frank.kim@ocgov.com,  
c=US  
Date: 2021.05.04 12:53:45 -0700

S43A

The County Executive Office is requesting a Supplemental Agenda Staff Report for the May 11, 2021, Board Hearing.

Agency: County Executive Office  
Subject: Appointment of Martin Schwarz as Public Defender  
Districts: All Districts

**Reason for supplemental:** This Agenda Staff Report (ASR) needs to be heard on the May 11, 2021, Board Hearing Agenda to fill the vacancy left by the retirement of former Public Defender Sharon Petrosino with the appointment of Martin Schwarz to the position of Public Defender. This ASR and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:


Andrew Do, Chairman of the Board of Supervisors

cc: Board of Supervisors  
County Executive Office  
County Counsel



**SUPPLEMENTAL AGENDA ITEM  
AGENDA STAFF REPORT**

RECEIVED  
2021 MAY -4 PM 3:58  
CLERK OF THE BOARD  
ORANGE COUNTY  
BOARD OF SUPERVISORS

**MEETING DATE:** 05/11/21  
**LEGAL ENTITY TAKING ACTION:** Board of Supervisors  
**BOARD OF SUPERVISORS DISTRICT(S):** All Districts  
**SUBMITTING AGENCY/DEPARTMENT:** County Executive Office  
**DEPARTMENT HEAD REVIEW:**   
*Department Head Signature*  
**DEPARTMENT CONTACT PERSON(S):** Tom Hatch (714) 834-2836  
Daniel Baker (714) 834-7207

**SUBJECT:** Appointment of Martin Schwarz as Public Defender

**CEO CONCUR**

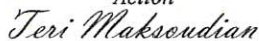


Digitally signed by Frank Kim  
DN: cn=Frank Kim, o=County of  
Orange, ou=CEO,  
email=frank.kim@ocgov.com,  
c=US  
Date: 2021.05.04 12:53:09 -07'00'

*CEO Signature*

**COUNTY COUNSEL REVIEW**  
Approved as to Form

Action



*County Counsel Signature*

**CLERK OF THE BOARD**  
Discussion

3 Votes Board Majority

**Budgeted:** Yes

**Current Year Cost:** See Financial  
Impact Section

**Annual Cost:** See Financial  
Impact Section

**Staffing Impact:** No

**# of Positions:**

**Sole Source:** N/A

**Current Fiscal Year Revenue:** N/A

**Funding Source:** GF: 100%

**County Audit in last 3 years** No

**Prior Board Action:** N/A

**RECOMMENDED ACTION(S)**

1. Appoint Martin Schwarz to position of Public Defender.
2. Approve Agreement for the Employment of the Public Defender effective May 11, 2021, at an annual salary of \$253,968 (\$122.10 per hour) and an estimated total compensation of \$396,476 including benefits.

**SUMMARY:**

The appointment of Martin Schwarz as the Public Defender will fill the current vacancy.

**BACKGROUND INFORMATION:**

In December 2020, the Board of Supervisors (Board) retained the services of Bob Murray and Associates for assistance in conducting a nationwide search for the next Orange County Public Defender. In April 2021, interviews were conducted by the Board Ad Hoc Committee with the highest-rated candidates.

Mr. Schwarz has served as Interim Public Defender at the County of Orange Public Defender's Office since June 23, 2020. In addition, he has worked in the Public Defender's office for over 20 years. He earned his juris doctor degree from the University of San Francisco School of Law and a Bachelor of Arts degree from the University of California at Santa Barbara. He is a member of the California State Bar, Orange County Bar Association, Orange County Criminal Justice Coordinating Council, Integrated Law and Justice Agency for Orange County and Countywide Integrated Law and Justice. See Attachment B for more information.

**FINANCIAL IMPACT:**

The negotiated salary for Mr. Schwarz will be an annual salary of \$253,968 (\$122.10 per hour) and an estimated annual total compensation of \$396,476 including benefits. Salary and benefit appropriations are included in the Orange County Public Defender's FY 2020-21 Budget for Budget Control 058 and will be included in the budgeting process for future years.

**STAFFING IMPACT:**

N/A

**ATTACHMENT(S):**

Attachment A - Martin Schwarz Employment Agreement  
Attachment B - Martin Schwarz Resume

**COUNTY OF ORANGE  
EMPLOYMENT AGREEMENT  
FOR  
PUBLIC DEFENDER**

This Employment Agreement for the Public Defender (“AGREEMENT”) is made by and between the County of Orange (“COUNTY”) and Martin Schwarz (hereinafter “SCHWARZ”).

**IT IS MUTUALLY AGREED:**

**1. APPOINTMENT**

In accordance with the May 11, 2021 minute order of the Orange County Board of Supervisors (“BOARD”) appointing SCHWARZ to the Office of Public Defender, the COUNTY hereby agrees to employ SCHWARZ as the Public Defender on the terms and conditions specified herein. SCHWARZ hereby accepts his appointment to the Office of Public Defender and accepts employment with the COUNTY on the terms and conditions specified herein.

**2. TERM**

This AGREEMENT is for a three-year term commencing on May 11, 2021, and ending on Friday, May 10, 2024 (hereinafter “EXPIRATION DATE”).

**3. DUTIES, RESPONSIBILITIES, AND AUTHORITY**

Acting under the administrative supervision of the COUNTY Chief Executive Officer, SCHWARZ shall be responsible for the overall operation of the Office of the Public Defender. SCHWARZ shall perform the duties and responsibilities of the Public Defender, including those duties and responsibilities set forth in Chapter 13 of Part 3 of Division 2 of Title 3 of the California Government Code, and in the Codified Ordinances of the County of Orange, as well as any other such duties that may be prescribed by law, and shall at all times competently perform such duties in a manner that is both (1) satisfactory to the BOARD, and (2) consistent with the California Rules of Professional Conduct.

**4. COMPLIANCE WITH THE LAW AND COUNTY CODE OF ETHICS**

SCHWARZ shall, during the term of this AGREEMENT, comply with all laws and regulations, all Codified Ordinances of the County of Orange, and shall also comply with the County Code of Ethics (Board Resolution No. 16-055). By signing this AGREEMENT, SCHWARZ acknowledges that, as the Public Defender, he shall be a “designated employee” required to file a Statement of Economic Interests (FPPC Form 700) and must comply with the Orange County Gift Ban Ordinance (commencing at section 1-3-21 of the Codified Ordinances of the County of Orange).

**5. PERFORMANCE EVALUATION**

The COUNTY Chief Executive Officer will evaluate the performance of SCHWARZ both formally and informally on an ongoing basis. At least annually, however, SCHWARZ shall receive a formal evaluation based on his performance as Public Defender. However, a failure to complete this formal evaluation will not affect any other provision of this AGREEMENT.

**6. COMPENSATION, BENEFITS, AND ANNUAL LEAVE**

For services rendered to the COUNTY as Public Defender, SCHWARZ shall be compensated at the rate of \$122.10 per hour. SCHWARZ shall additionally be entitled to receive the same salary adjustments generally provided to the members of the Orange County Attorneys' Association. As the position of Public Defender is overtime-exempt executive position, SCHWARZ shall not be entitled to overtime pay under either Fair Labor Standards Act or California Law.

SCHWARZ shall accrue Vacation and Sick Leave at the same rate as other COUNTY Executive Management (Group II) employees, and shall be entitled to a payoff for all accrued, unused Vacation Time, Comp Time, and Annual Leave (but not Sick Leave) at the time of separation of employment, in accordance with the requirements of California law. SCHWARZ shall receive the same benefits generally provided to other Executive Management (Group II) employees, except as otherwise provide herein or in other acts of the BOARD. SCHWARZ shall be a member of the Orange County Employees Retirement System, and shall be required to contribute toward pension benefits under the same terms as other COUNTY Executive Management (Group II) employees.

**7. RESIGNATION/TERMINATION**

In accordance with Government Code section 27703, SCHWARZ shall serve as Public Defender at the sole pleasure of the Board. This AGREEMENT may be terminated "at will" by either SCHWARZ or the Board at any time, and without notice. Upon termination of this AGREEMENT, the authority of SCHWARZ to serve as the Public Defender shall immediately terminate and the Office of Public Defender shall be deemed vacant under Government Code section 24105.

SCHWARZ is advised and, with his signature below, hereby acknowledges and agrees that he shall have none of the due process rights of a regular, full-time COUNTY employee. As a condition of his appointment, SCHWARZ knowingly, willingly, and voluntarily gives up, waives, and disclaims any and all rights he may have, express or implied, to any notice and/or hearing either before or after termination of this AGREEMENT, and to any continued employment with the COUNTY after termination of this AGREEMENT.

In the event the BOARD decides to terminate this AGREEMENT, SCHWARZ shall receive from the COUNTY a severance package, payable in a single lump sum, equal to the sum of salary and the County's share of the costs of my health insurance premiums calculated from the date of termination through the next 90 calendar days. However, this AGREEMENT shall terminate

automatically, without further action of the BOARD, and SCHWARZ shall not be entitled to this or any other severance package from the COUNTY, if (1) SCHWARZ voluntarily resigns his employment; (2) SCHWARZ elects to apply for a pension or similar defined-benefit retirement from any public pension system; or (3) the COUNTY terminates this AGREEMENT for "good cause" under the legal standard set forth in *Cotran v. Rollins Hudig Hall International, Inc.*, 17 Cal. 4th 93 (1998).

**8. MERGER**

This AGREEMENT is intended as the final expression of the agreement between the COUNTY and SCHWARZ. The COUNTY and SCHWARZ acknowledge and agree that no representations, inducements, promises and/or agreements, oral or written, have been made by any party or any person acting on behalf of any party, which are not embodied herein. The COUNTY and SCHWARZ also agree that no other agreement, statement, or promise beyond the terms and conditions expressly stated in this AGREEMENT are binding.

**9. MODIFICATION**

This AGREEMENT may be modified by mutual agreement between the COUNTY and SCHWARZ. However, no waiver or modification of this AGREEMENT shall be valid unless in writing and duly executed by the parties hereto.

**10. ACKNOWLEDGEMENT AND CONSENT**

By signing below, SCHWARZ and Chairman Andrew Do, authorized by action of the BOARD to sign this AGREEMENT on behalf of the COUNTY, acknowledge that they each have read and fully understand the terms and conditions of this AGREEMENT, and that they consent and agree to each and every term and condition contained herein.

\_\_\_\_\_  
Martin Schwarz

\_\_\_\_\_  
Date

**FOR THE COUNTY OF ORANGE:**

\_\_\_\_\_  
Andrew Do  
Chairman of the Board of Supervisors  
County of Orange

\_\_\_\_\_  
Date

Signed and certified that a copy of this document has been delivered to the Chairman of the Board per G.C. Sec. 25103, Reso 79-1535

Attest:

\_\_\_\_\_  
Robin Stieler  
Clerk of the Board of Supervisors  
Orange County, California

Approved as to form:  
Office of the County Counsel  
Orange County, California

By: \_\_\_\_\_  
Leon J. Page  
County Counsel

**MARTIN F. SCHWARZ**

801 Civic Center Drive, Suite 400  
 Santa Ana, California 92701  
 657.251.6090

**EDUCATION****UNIVERSITY OF SAN FRANCISCO SCHOOL OF LAW, San Francisco, CA**

- Juris Doctor, 1996
- Intensive Advocacy Program
- Criminal Law Clinic

**UNIVERSITY OF CALIFORNIA AT SANTA BARBARA, Santa Barbara, CA**

- Bachelor of Arts in Political Science, 1992

**ORGANIZATIONAL AND LEADERSHIP DEVELOPMENT**

- Credentialed California County Senior Executive, California State Association of Counties Institute for Excellence in County Government Credential Program, 2018-2019
- Professional Development Experience (PDX—Catalyst) Cohort 4, 2016
- Orange County Leadership Academy (OCLA) Class 22, 2014-2015

**EXPERIENCE****OFFICE OF THE PUBLIC DEFENDER, Orange County, CA**

1997 – Present

Relevant Assignments and Duties:

***Interim Public Defender (July 2020 – Present)***

As Interim Public Defender, I carry out the responsibilities of the Public Defender, which include:

- Provide administrative oversight over the Offices of the Public Defender (the Public Defender's Office, Alternate Defender's Office and Associate Defender's Office).
- Working collaboratively with the CEO's Office and the County Board of Supervisors to carry further County goals and initiatives.
- Prepare and administer the Department's Budget and work collaboratively with CEO-Budget to ensure cost-effective delivery of services.
- Set strategic priorities for the Department.
- Regularly conferring and collaborating with judges, the Superior Court's executive team, the Probation Department's executive team, the Sheriff's command staff, the District Attorney's



executive team and other County departments regarding policy matters impacting the Public Defender's Office or the criminal justice system.

- Attending a variety of stakeholder meetings with criminal justice partners which focus on issues ranging from improving work process efficiencies to improving outcomes for system-involved individuals.

***Chief Deputy Public Defender (January 2020 – July 2020)***

The Chief Deputy is responsible for the day-to-day operations of the main unit of the Orange County Public Defender's Office. Specific job duties include:

- Directly supervising three senior assistant public defenders who manage the three divisions of the main unit of the Public Defender's Office—Superior Court, Branch Courts and Special Operations.
- Responsibility for staffing within the main unit of the Public Defender's Office and working with the senior assistant public defenders to analyze and respond to staffing needs.
- Directly supervising the Department's assistant public defender in charge of training and overseeing and helping plan the training curriculum and providing training to new attorneys, investigators, paralegals and attorney managers within the Department.
- Overseeing staff selection and promotions as well as all office recruitments, including managing the peer review process for promotions which include a peer review element.
- Reviewing performance evaluations for every job classification within the main unit of the Department and overseeing bi-annual attorney staff assessments.
- Participating in internal disciplinary investigations and interactive/accommodation meetings with the human resources staff.

***Senior Assistant Public Defender (April 2014 – January 2020)***

- As a Senior Assistant Public Defender, I served as one of four senior managers under the Public Defender of Orange County. The senior management team, in conjunction with the Public Defender, sets overall office policy, creates departmental standards, manages fiscal, budget and human resource issues and directs departmental operations to ensure quality legal representation of indigent clients in the Superior, Juvenile and Appellate Courts.

- My legal and administrative duties in this assignment included assisting in developing organizational plans, policies and procedures; directly supervising assistant public defenders in my division; facilitating management meetings of assistant public defenders in my division; conducting disciplinary internal investigations and interactive/accommodation meetings with human resources; responding to claims against the department; developing standards for staff recruitments; responding to Public Records Act requests; evaluating the work of supervising attorneys; approving and evaluating Executive Management Appraisal Program goals; reviewing attorney evaluations; supervising, through subordinates, the training and professional development of attorneys and support staff; attending stakeholder meetings, authorizing expert witness expenditures within policy limits; evaluating cases for conflicts of interest; interviewing candidates for attorney, investigator, investigative assistant and paralegal classifications during recruitments; evaluating staffing needs department-wide with other senior managers and reassigning staff as appropriate; meeting with the supervising judges of the operations in my division; approving employee time cards; and representing the office at state-wide and national conferences.
- From 2019 to 2020, I supervised the office's Branch Court operations at the Central Justice Center, West Justice Center, North Justice Center and Harbor Justice Center. In this assignment, I attended a number of committees on behalf of the office as its designee including the Orange County Criminal Justice Coordinating Committee, Integrated Services working groups, the Drug/DUI Court Advisory Committee, Integrated Law and Justice Agency for Orange County, Countywide Integrated Law and Justice, Waymakers Governing Board and Orange County Family Violence Council. I also served as the Department's Legislative's Coordinator, a role I have held since 2015 and continue to hold.
- From 2016 to 2019, I supervised the office's superior court operations, which includes its felony trial unit, writs and appeals department and AB-109 unit. In this assignment, I attended a number of committees on behalf of the office as its designee including the Orange County Criminal Justice Coordinating Committee and the Stepping Up Initiative.
- From 2014-2016, I supervised special operations which includes the juvenile delinquency unit, juvenile dependency unit, truancy unit, collaborative courts, mental health unit, felony probation violations and CJ1. In this assignment, I attended a number of committees on behalf of the office as its designee, including the Orange County Children's Partnership, Juvenile Court Improvement Committee, Juvenile Court Stakeholders, Designated Facilities, Assisted Outpatient Treatment Development, Juvenile Alternatives to Detention Oversight Committee, Mental Health Stakeholders, Juvenile Justice Commission and the Blue Ribbon Commission on Children in Foster Care.

***Assistant Public Defender/Head of Court (2012 – 2014)***

- Managing Attorney of the Orange County Public Defender's Branch Office at the West Justice Center in Westminster, California. This unit handled all misdemeanor and felony cases through preliminary hearing occurring in the West Judicial District of Orange County.

- My legal and administrative duties included directly supervising the training and development of attorneys and support staff; facilitating staff meetings; attending stakeholder meetings; regularly meeting with judicial officers and the supervising judge of my branch court; resolving client complaints; compiling caseload statistics; writing monthly reports to senior management; assigning cases to attorneys; evaluating and coordinating workflow among attorneys and between attorneys and support staff; authorizing expert witness expenditures within policy limits; participating in staff reviews for promotions, assignments and professional development; approving employee time cards; approving annual leave for staff; interviewing attorney applicants during recruitments; providing court coverage for staff; interviewing internship applicants; and personally representing clients in complex and difficult trials and appeals.

***Felony Trial Panel (2001 – 2002; 2007 - 2011)***

- In this assignment, I have previously represented indigent clients facing all manner of felony charges, including homicides, sexual assault cases, gang cases, third strike cases and other serious and violent felonies.

***Writs and Appeals Unit (2003 – 2007; 2011 – 2012)***

- In this assignment, I drafted and litigated all manner of pretrial motions, pretrial writs, appeals, post-conviction habeas petitions, appeals (as both appellant and respondent), petitions for review and post-conviction petitions for writs of habeas corpus in cases ranging from misdemeanors to capital cases in the Orange County Superior Court, the Appellate Division of the Orange County Superior Court, the Fourth District Court of Appeal, Division Three and the California Supreme Court.
  - Representative published cases include *Myers v. Superior Court* (2004) 124 Cal.App.4th 1247 (the state may not justify a search of a probationer with a search and seizure condition not known to the officer at the time of the search); *People v. Herrera* (2006) 136 Cal.App.4th 1191 (the corpus delicti rule applies at preliminary hearing); *Craft v. Superior Court* (2006) 140 Cal.App.4th 1533 (failure to provide treatment toward competency to a defendant found incompetent violates the California Constitution's speedy trial guarantee); *J. D. v. Superior Court* (2007) 157 Cal.App.4th 549 (a person being civilly committed under W & I Code section 1800 may not be compelled to testify by the state at the probable cause hearing); *Lopez v. Superior Court* (2008) 160 Cal.App.4th 824 (a contempt charge for violating a gang-abatement injunction may not be enhanced with a separate gang allegation); and *Curry v. Superior Court* (2013) 217 Cal.App.4th 580 (clarifying the foundational requirements for the admission of expert witness hearsay declarations at a preliminary hearing under Pen. Code, § 872, subd. (b)).

***Domestic Violence Court (2001)***

- Represented clients charged with both felony and misdemeanor domestic violence charges. (2001)

***Felony Preliminary Hearing Calendar (2000 – 2001)***

- Represented indigent clients on all manner of felony charges through preliminary hearing. (2000 – 2001)

***Adult Misdemeanor Trials (1998 – 2000)***

- Vertically represent indigent clients at every stage of misdemeanor proceedings including jury trial.

***Juvenile Delinquency Unit (1997 – 1998)***

- Vertically represented juvenile clients charged with misdemeanors and felonies, including serious and violent felonies, at every stage of delinquency proceedings under Welfare & Institutions Code section 602.

**OFFICE OF THE PUBLIC DEFENDER, Contra Costa County, CA**

1997

- ***Capital Case Law Clerk***—Provided litigation support, primarily through legal research and drafting pre-trial motions, in capital cases.

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**AWARDS**

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**Department of Defense, Employer Support of the Guard and Reserve, Patriot Award (2020)**

- The Patriot Award recognizes agency support of its staff serving in the National Guard and Reserve.

**North Orange County Bar Association Attorney of the Year Award (2016)**

- The Attorney of the Year Award recognizes achievement, elevating professional standards and inspiring others in the legal community.

**Orange County Deputy Public Defender's Association Dean Allen Character Award (2011)**

- The Dean Allen Award is presented to a senior attorney in recognition of the recipient's mentorship of young lawyers, exemplary legal knowledge, dedication to the mission of the office and compassion to clients.

**Orange County Deputy Public Defender's Association Don Sims Award (1999)**

- The Don Sims Award is awarded to a junior attorney in recognition of strong compassion and dedication to clients.

**RECENT SELECTED PRESENTATIONS**

Continuing Legal Education instructor in the areas of strike law, litigating prior convictions, gang law, discovery in criminal cases, in limine motions, DNA evidence, *Miranda* and voluntariness, plea bargaining, felony sentencing, search and seizure, and prosecutorial misconduct at seminars and conferences presented by the California Public Defender's Association, the Training Department of the Orange County Public Defender's Office, UC Irvine School of Law, Orange County Criminal Defense Bar Association, California Appellate Defense Counsel, North Orange County Bar Association and West Orange County Bar Association, including:

- *Leadership Tomorrow Justice and Public Safety Day*, Panel Discussion, Virtual (December 2020)
- *2020 Legislative Update*, North Orange County Bar Association (January, 2020) Fullerton, California.
- *The Policing, Judicial, Prosecution and Defense Functions in Orange County*, University of California Irvine, School of Law, Criminal Law Clinic (January, 2020) Irvine, California.
- *The Duty to Collect and Preserve Evidence*, North Orange County Bar Association (May, 2018) Fullerton, California.
- *Opening Remarks*, California Public Defenders Association Juvenile Defense Conference (January, 2018) Monterey, California.
- *The California Public Defender System*, Republic of Korea, Ministry of Justice (October, 2017) Santa Ana, California.
- *Legal and Ethical Issues in Social Media Investigation*, Orange County Public Defender's Office (September, 2017) Santa Ana, California
- *Parole and Credits after The Public Safety and Rehabilitation Act*, North Orange County Bar Association (June 2017) Fullerton, California.
- *Court Appointed Dependency Counsel Funding*, Foster Youth Education Summit Team Lead Orientation (April, 2017) Webinar.
- *Defense Discovery Obligations*, Orange County Public Defender's Office (March 2017) Santa Ana, California.

- *Proposition 57*, Orange County Criminal Defense Bar Association (January 2017) Santa Ana, California.
- *Opening Remarks*, California Public Defenders Association Juvenile Defense Conference (January, 2017) Monterey, California.
- *The Duty to Collect and Preserve Evidence*, Orange County Criminal Defense Bar Association (July, 2016) Santa Ana, California.
- *The Orange County Criminal Justice System*, Orange County Korean American Bar Association/Gyeonggi Bar Association (July, 2016) Santa Ana, California.
- *Collection and Preservation of Evidence*, California Appellate Defense Counsel, Central Orange County Chapter (January, 2016) Irvine, California.
- *Finding the Courage to Address our Over-Reliance on Incarceration*, League of Women Voters, Central Orange County Area, (January 2016) Tustin, California.
- *Opening Remarks*, California Public Defenders Association Juvenile Defense Conference (January, 2016) Monterey, California.
- *Careers in Public Defense*, University of California Irvine, School of Law, Criminal Law Society (October 2015) Irvine, California.
- *Prosecutorial Misconduct: An Appellate Perspective*, California Appellate Defense Counsel, Orange County Chapter (May, 2015) Irvine, California.
- *Recognizing and Stopping Common Prosecutorial Misconduct*, Orange County Criminal Defense Bar Association (April, 2015) Santa Ana, California.
- *Felony Sentencing*, Orange County Public Defender's Office (March, 2015) Santa Ana, California.
- *Select Issues in Criminal Case Discovery*, California Public Defenders Association/California Attorneys for Criminal Justice Capital Case Defense Conference (February, 2015) Monterey, California.
- *Select Issues in Prosecutorial Misconduct*, California Public Defenders Association/California Attorneys for Criminal Justice Capital Case Defense Conference (February, 2015) Monterey, California.
- *The Orange County Criminal Justice System*, University of California Irvine, School of Law, Criminal Law Society (February, 2015) Irvine, California.

- *Opening Remarks*, California Public Defenders Association Juvenile Defense Conference (January, 2015) Monterey, California.
- *Select Issues in Prosecutorial Misconduct*, California Public Defenders Association Specialty Areas Conference (September, 2014) San Diego, California.
- *When Statements Violate Miranda*, Orange County Public Defender's Office (March, 2014) Westminster, California.
- *The Determinate Sentencing Law*, West Orange County Bar Association (March, 2014) Stanton, California.
- *Felony Sentencing*, Orange County Public Defender's Office (December, 2014) Westminster, California.
- *DNA Basics*, Orange County Public Defender's Office (January, 2014) Westminster, California.
- *The Three Strike Law*, Orange County Public Defender's Office (September, 2013) Westminster, California.
- *Involuntary Statements*, Orange County Public Defender's Office (January, 2014) Westminster, California.
- *Case Law Update*, Orange County Public Defender's Office (October, 2013) Westminster, California.
- *The Criminal Defense Attorney* (Panelist), University of California, School of Law, Legal Professions Class (September, 2013) Irvine, California.
- *Evidence Code Section 402, 403 and 405 Motions*, Orange County Public Defender's Office (June, 2013) Westminster, California.
- *Gang Law: Attacking the Hypothetical*, Orange County Criminal Defense Bar Association (May, 2013) Santa Ana, California.
- *Gang Law: Foundations*, Orange County Public Defender's Office (May, 2013) Santa Ana, California.
- *Warrantless Blood Draws*, Orange County Public Defender's Office (May, 2013) Westminster, California.
- *Plea Bargaining*, Orange County Public Defender's Office (February, 2013) Santa Ana, California.

- *Prosecutorial Misconduct during Trial*, California Public Defenders Association Specialty Areas Conference (September, 2012) San Diego, California.
- *Subpoena Duces Tecum*, Orange County Public Defender's Office (August, 2012) Westminster, California.
- *Trial Series: Motions In Limine*, North Orange County Bar Association (April, 2012) Fullerton, California.
- *The Public Defender as Cause Lawyer*, University of California Irvine, School of Law, Criminal Law Society (February, 2012) Irvine, California.
- *Defense Discovery*, California Public Defenders Association/California Attorneys for Criminal Justice Capital Case Defense Seminar (February, 2011) Monterey, California.

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**INTRADEPARTMENTAL TRAINING**

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I provide frequent, in-house training to newly hired or promoted attorneys, investigators, paralegals and law clerks in the following areas:

- Defense Discovery Obligations
- Prosecution Discovery Obligations
- Ethics in Social Media Investigation
- Confidentiality
- Witness Subpoenas and Subpoenas Duces Tecum
- Prosecutorial Misconduct
- The Orange County Criminal Justice System

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**SELECTED RECENT WRITINGS**

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- Schwarz, M. F. & Havlena, T. (2020) *A Comprehensive Review of California Discovery Law*, California Public Defender's Association (updated annually since 2008).
- Schwarz, M. F. & Havlena, T. (2018) *Prosecutorial Misconduct*, California Public Defender's Association (updated annually since 2008).



- Schwarz, M. F. & Havlena, T. (2020) *Discovery—Investigation—Penal Code § 987.9*, in The Death Penalty Defense Manual, California Attorneys for Criminal Justice (Ogul, edit., 2019) (updated annually since 2008).
- Schwarz, *Gun Violence Restraining Orders: Using the Courts to Diffuse Gun Violence before it Happens* (Nov. 2019) Orange County Lawyer, pages 45-47.
- Schwarz, *Children are Different: When the Law Catches up with Science* (June, 2017) Orange County Lawyer, pages 30-33.
- Schwarz, *Shrinking the Strike Zone—The California Supreme Court Tackles Eligibility Issues Under the Three Strikes Reform Act* (Oct. 2015) Orange County Lawyer, pages 44-47.

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**CURRENT AND PAST PROFESSIONAL ASSOCIATIONS**

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**State Bar of California**

Admitted to Practice December 3, 1996; State Bar Number 184062

**Orange County Bar Association**

Member, 1997 – Present

Judiciary Committee, 2016 - 2021

- The mission of the Judiciary Committee is to evaluate candidates for appointment to the Orange County Court upon the request of the appointing authority or as the Committee deems appropriate.

Administration of Justice Committee, 2016 – 2021

- The Administration of Justice Committee serves as a liaison between the OCBA and the judicial, legislative branches of government, and the California State Bar on all issues which affect the administration of justice.

**Orange County Criminal Justice Coordinating Council**

2016 - Present

**Orange County Community Corrections Partnership**

2020 - Present

**Integrated Law and Justice Agency for Orange County**

2019 - Present

**Countywide Integrated Law and Justice**

2019 - Present

**Orange County Collaborative Courts Steering Committee**

2020 – Present

**Integrated Services Implementation Committee**

2019 – Present

**Integrated Services Legislative Working Group**

2019 - Present

**Mental Health Services Act Steering Committee**

2014 – 2016; 2020 - Present

**Orange County Superior Court Drug/DUI Court Advisory Committee**

2019 - 2020

**Waymakers Governing Board**

2019 - 2020

**Orange County Family Violence Council**

2019 - 2020

**California Public Defender's Association (CPDA)**

Board of Directors, 2014 – 2018 Member, 1997 – Present

- Chair, Problem Solving Court Committee
  - The committee addresses state-wide issues impacting collaborative courts.
- Chair, Juvenile Committee
  - The committee addresses state-wide issues on both juvenile delinquency and dependency issues.
- Member, Legislative Committee
  - The committee reviews pending legislation, drafts letters in support or opposition on behalf of CPDA, works with members of the Legislature on sponsored legislation and on amendments to pending bills, and guides CPDA's lobbyist on the CPDA's lobbying efforts.
- Member, Amicus Committee
  - The committee is charged with drafting amicus briefs in the Court of Appeal and the California Supreme Court on issues impacting public defender offices and clients state-wide.
- Member, Sex Offender and SVP Committee
  - The committee addresses state-wide developments impacting the prosecution of sex offender cases and civil commitments under the Sexually Violent Predator Act.
- Coordinator of the annual Juvenile Defense Conference (2015-2018)

**Orange County Deputy Public Defender's Association**

President, 2006 - 2007

Board Member, 2005 - 2007

Member, 1997 - Present

**Stepping Up Initiative**

2016 - 2018

**Orange County Blue Ribbon Commission on Children in Foster Care**

2014 – 2016; 2020 – present

- Professional Development Subcommittee

**Orange County Children’s Partnership**

2014 - 2016

**Juvenile Court Stakeholders Committee**

2014 - 2016

**Juvenile Detention Alternatives Oversight Committee**

2014 - 2016

**Assisted Outpatient Treatment Development Committee**

2014 - 2016

**Juvenile Court Improvement Committee**

2014 - 2016

**Behavioral Health Quarterly Designated Facilities Meeting**

2014 - 2016

**Orange County Attorney’s Association**

Past Member

**California Appellate Defense Counsel**

Past Member