

# Fill the Gap

**A Unique Effort in  
Collaboration  
2002-2003**



*Court Services Division  
Administrative Office of the Courts  
Arizona Supreme Court*

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**ARIZONA SUPREME COURT  
FILL THE GAP**

**A UNIQUE EFFORT IN COLLABORATION**

**PART ONE  
CRIMINAL CASE REENGINEERING  
2002-2003**

**Introduction**

Pursuant to A.R.S. §12-102.01 (D), the Supreme Court shall report annually to the governor, the legislature, each county board of supervisors, the Joint Legislative Budget Committee and the Arizona Criminal Justice Commission on the use of monies from the Criminal Case Processing and Improvement Fund and the State Aid to Courts Fund, also known as the “Fill the Gap” program funding. Additionally, the report shall address progress of criminal case processing projects and enforcement of court orders, including collection of court fees, fines, penalties, assessments, sanctions and forfeitures.

Fill the Gap is a unique, collaborative effort involving the superior court, justice courts, clerk of superior court, county attorney, public defender and indigent defense counsel from around the state in an effort to improve criminal caseload processing in the State of Arizona. Notably, Arizona is the only state that has attempted to reengineer its criminal caseload policies and procedures at a statewide level.

For years, federal, state and local governments have made substantial investments in placing more police officers on the street and building more prisons. These efforts have sought to increase public safety, but they have also created a backlog in the rest of the criminal justice system. In essence, funding has been targeted for the front and the back of the criminal justice system, creating a “gap.” Funding for those entities in the “gap” has not kept pace. The Fill the Gap initiative was intended to address this problem. In 1997, the Administrative Office of the Courts (AOC) convened a work group of stakeholders in the criminal justice system to develop a strategy to secure funding from the legislature to fund the “gap”—those criminal justice entities who are responsible for the processing of felony cases following arrest and through final disposition of the case.

The funding that was the result of this work has been imperative in accomplishing a number of improvements in case processing throughout Arizona:

- < Consultants have worked with twelve counties to develop case management reengineering plans. A portion of this work involved increasing awareness of the importance of caseload management.
- < A number of counties have hired caseload managers so that there is a person on staff specifically dedicated to tracking progress and spearheading efforts to continually improve caseload processing.

- < Fifteen Drug Courts have been established. These programs remove cases from the trial track and serve the long-term benefit of reducing rates of recidivism.
- < Statewide case processing goals have been established, providing a benchmark for courts to work toward achieving.
- < While criminal filings increased by less than one percent in FY02, felony filings showed a more significant increase over the fiscal year of four percent and, fifteen percent since FY1998. At the same time, felony terminations increased by five percent from FY01 to FY02 which indicates terminations are still outpacing filings.

As the population continues to increase throughout the state, the rise in court filings persists. The efforts to identify and implement improvements that allow the courts to handle the additional workload continue to be essential.

### **Funding for Reengineering Efforts**

During the 1998 legislative session, a one-time amount of \$350,000 was appropriated to re-engineer the criminal justice system to reduce delay in the processing of criminal cases. These monies were appropriated to the Criminal Case Processing and Enforcement Improvement Fund pursuant to A.R.S. §12-102.01, distributed to courts to conduct an analysis of caseload and case processing practices and procedures and to develop strategies for reducing unnecessary delay in the handling of felony cases.

During the 1999 legislative session additional funding resources for the courts, county attorneys, public defenders and attorney general were appropriated so those entities could add staff and other resources to handle the criminal caseload and to implement reengineering plans as the result of caseload studies noted previously.

A mechanism has been established to provide state aid to courts on an ongoing basis. There are three main sources of funding for these efforts: a general fund appropriation; a seven percent Fill the Gap surcharge; and a five percent set-aside of funds collected by local courts. The general fund appropriation and the surcharge earmarked for the courts are deposited in the State Aid to the Courts Fund pursuant to A.R.S. §12-102.02, and administered by the AOC. The five percent set-aside of funds collected by local courts is kept and administered locally. Funds for the county attorney and public defender/indigent defense counsel are distributed through the Arizona Criminal Justice Commission (ACJC).

As defined by statute, the purpose of the State Aid to the Courts Fund is to provide state aid to the superior court, including the clerk of the court and the justice courts in each county for the processing of criminal cases. Within each county the presiding judge of the superior court, the clerk of the court and the presiding justice of the peace must develop a coordinated plan, in consultation with the chairman of the board of supervisors or a designee. Additionally, funds are available for municipal courts for the purpose of improving, maintaining or enhancing collections and management of money, and improving court automation, case processing or the administration of justice.

## **Court Statistics and Caseflow Management**

The Supreme Court has established a statewide performance standard for criminal case dispositions of 90 percent within 100 days and 99 percent within 180 days. One of the biggest challenges to courts attempting to reengineer felony case processing is obtaining timely and reliable case statistics. Automated case aging reports help courts track their progress in meeting this goal. To assist with this problem, the Administrative Office of the Courts (AOC) worked with the courts in the following areas:

- < Provided the courts a series of automated reports to produce management statistics on the aging of disposed cases. These management reports are extremely valuable to those who are responsible for tracking the aging of cases and identifying delays in the system.
- < Developed additional reports regarding pending cases; these reports are nearing completion using the AOC's data warehouse. These reports will assist the courts in identifying cases that may need additional attention. A new case aging report specific to DUI cases has been created and is now available for use by limited and general jurisdiction courts to view pending cases, terminated cases and time-to-disposition percentiles. The DUI reporting program may provide a model for future reports dealing with other case types.
- < Continued its work with the caseflow managers' user group. Meetings are held on a quarterly basis to share experiences, solutions and any special reports produced by the caseflow managers that facilitate criminal case processing. The group has identified a "wish list" of eighty reports to be used to monitor cases. The AOC is creating the necessary automation programs to make these reports a reality.

## **Recent Changes in Supreme Court Rules and Statutes Impact Case Processing**

In May 2002, upon recommendation of the Rule 8/Rule 15 Committee, and following a comment period, the Supreme Court ordered changes to Rule 8.2, Rules of Criminal Procedure, effective December 1, 2002. As adopted, these changes to Rule 8.2, expanded existing timelines for processing criminal cases as follows: 1) For in-custody defendants, the time to disposition was extended from 120 days of Initial Appearance to 150 days from the date of arraignment; 2) For out-of-custody defendants, the time to disposition was expanded from 120 days of Initial Appearance to 180 days from the date of arraignment; and 3) A new category established, complex cases, provides for disposition within 270 days from arraignment for those defendants charged with first degree murder in other than capital cases, offenses requiring consideration of evidence gained from wiretaps, electronic or oral communication, or complex cases determined by written factual finding by the court.

These changes bring about a simplified method of tracking timeliness, allow more realistic time for discovery and processing scientific evidence, and promote firm trial dates.

In June 2002, the U.S. Supreme Court issued a ruling in the case of *Ring v. Arizona* that declared Arizona's death penalty statute unconstitutional on the grounds that sentencing by a judge, rather than a jury, violated the Sixth Amendment. A special session of the

legislature amended A.R.S. § 13-703 to conform Arizona law to the *Ring II* mandate. The amended sentencing procedure provides that the jury serving during the guilt phase of the trial also serves as the trier of fact during the sentencing phase. Subsequently, the Arizona Supreme Court again modified Rule 8.2 to allow courts eighteen (18) months to dispose of cases where the state is seeking the death penalty.

## **County Overviews**

Counties apply to use the funds for the purpose of improving criminal caseflow. Solutions in each county may be different due to varying constraints. A number of counties have faced obstacles over the course of the last fiscal year. Reduced funding combined with turnover in administrative and judicial staff challenge the courts as they strive for improvement. Some of the smaller counties have prudently chosen to allow funds to build over time, as the one-year appropriation in these jurisdictions is too small to implement meaningful changes. A brief review of accomplishments by county follows.

### **Cochise County**

- < The Superior Court in Cochise County hired a new judge pro tempore and accompanying staff devoted to early stage felony case management. The court also instituted a new schedule for managing felony cases and corrected data errors to improve the quality of their statistical reporting and tracking.
- < With these improvements in place, the court's time-to-disposition for criminal cases as of October 2002 has shown dramatic improvement. This court now closely approaches the statewide standard for disposing of 99 percent of all criminal cases within 180 days.

### **Coconino County**

- < Coconino hired a drug court coordinator and clerk and funded part of a judicial officer's salary. The court shows continued reductions in the time it takes to move a criminal case through the system; the court's current disposition rate is 89.4 percent within 180 days. Over the last two years, this court has dramatically reduced the number of days to adjudicate 90 percent of all its criminal cases from 693 in FY 2000 to 185 in 2002.
- < Forty defendants participated in the drug court program in 2002. Nineteen Drug Court participants have "graduated" and another six are scheduled to graduate by the end of the year. Eighty-three percent of participants are employed or enrolled in college. The recidivism rate among participants is ten percent. The program's retention rate is ninety-five percent.
- < In the Fall of 1999, the Flagstaff Justice Court embarked on a caseflow management and calendaring study. Over the course of several months, justice court administration assembled a task force, including judges, court staff, probation, prosecutors, public and legal defenders, municipal administration and five primary law enforcement agencies, to review the court's performance in case processing.

In FY02, several of the initiatives identified by the task force were revisited. First, justice court administration is preparing a proposed case assignment system to equalize the judicial workload between the two full-time judicial officers. Secondly, court staff have been trained on the AZTEC calendar module, and administration is considering moving the court from a WordPerfect-based calendar to the AZTEC module. Assuming Coconino County fully funds two phased-in grant-funded positions in FY04, additional task force recommendations will be considered and implemented.

## **Gila County**

- < Gila County established an in-house collections department. The position of judicial collections manager was offered to a highly qualified applicant who declined because of the county's and the state's financial condition, the potential for layoffs, and the possibility that the position could not be funded after the first year. The position was not filled because no other comparably qualified candidate came forward.
- < The software used by the clerk's office was modified to increase information that could be pulled for collections reports. Probation department staff learned to use the Tax Intercept Program software and entered five years of old unpaid accounts receivable totaling \$1,594,279 from 790 cases. New debt is now reported to the Tax Intercept Program after it becomes two months old. The probation department also has written a collections policy and procedures manual. In November 2002, the clerk began accepting payments by credit card. The overall collection rate has improved by 12 percent over FY 2001, including a dramatic 123 percent increase in collection of detention fees, 57 percent increase in collection of juvenile probation service fees and 39 percent increase in collection of adult probation service fees.
- < Despite turnover of judges and county attorneys, criminal case processing has been rendered more efficient by implementing portions of the felony caseflow management plan initially approved in October 2001. More cases are now settled earlier in the process thanks to increased judicial case management, and old cases involving bench warrants are being reviewed and dismissed when appropriate. The court has seen a 30 percent improvement in the number of cases resolved within 140 days over the prior fiscal year. This number is particularly impressive when viewed in the context of a ninety-three percent increase in criminal case filings between FY1993 and FY 2002 with a full time bench of only two judges throughout this period of time.

## **Graham County**

- < A digital recording system was purchased and installed to alleviate delays relating to a chronic shortage of court reporters. The record produced by this system also will assist clerks in creating the necessary minutes of proceedings with less manual input.
- < An AZTEC field trainer has trained court staff in use of the case management software, data cleanup, monitoring case flow and identifying cases that have undergone no docket activity for more than twenty days. In the past, these cases might have gone unnoticed for extended periods of time.

- < As of July 2001, the court hired a new court administrator who is devoted to monitoring case flow and identifying ways to reduce case processing times. The presiding judge and the administrator have instituted a practice of integrating weekly case aging reports into decision-making about continuances and other rulings and to stay on top of the caseload in other respects.
- < With the assistance of its new court administrator, the court has identified a criminal case bottleneck at the initial pretrial conference stage, and has cut in half the time it generally takes to move a criminal case from arraignment to pretrial conference hearing.

### **Greenlee County**

- < Greenlee Superior Court obtained a state of the art digital recording system which provides a complete and accurate record of proceedings.
- < This court disposes of 93 percent of all criminal cases within 180 days. This represents a four percent improvement over last year. The statewide standard established by the Supreme Court for this time frame is a not-too-distant ninety-nine percent.
- < Indigent defense funds reduce the delay that would normally occur in obtaining quality legal defense from distant locations.

### **La Paz County**

- < LaPaz County installed digital recording equipment for courtroom use. This was a collaborative project involving the superior court, the clerk of the superior court, the justice courts and the municipal courts. The uniform recording devices installed throughout the county have had a significant impact in the office of the clerk, where quality recordings have assisted staff in producing an accurate and efficient record of the proceedings.
- < It is anticipated that this equipment will save time currently spent duplicating recordings for cases on appeal. It is still too early to assess the reduction in trials *de novo* (new trials after appeal) which the use of this equipment may produce. Qualitative improvement of minute entries has already occurred. The original preparation of the minute entry and corrective action or amendments occur in a more timely fashion as the clerk no longer has to wait for the court reporter to read back from his or her notes to determine the actual order of the court.
- < To avoid case processing delays due to the probation department's inability to produce the increasing number of pre-sentence reports required, a part-time probation officer was hired in FY02. As a result, pre-sentence investigations in LaPaz County are now being filed well before the forty-eight hour deadline prior to sentencing.

- < LaPaz County's expansion of the current justice complex will allow more people to be serviced and create more space for filing of documents related to criminal cases. In addition, a training room will be built to hold inter-agency meetings, facilitate discussions on criminal caseflow processing, and to conduct training on the automated case management system. This is a shared project with a fifty percent match from the county general fund.

## **Maricopa County**

- < Regional Court Centers (RCC). Three Regional Court Center sites provide a centralized forum for processing preliminary hearings, pleas, and felony arraignments. Prior to this program, cases were filed in each of twenty-three justice courts throughout Maricopa County's 9,200 square miles. Delay was previously built into the system as cases were "bound over" from justice to superior court. The RCC's have eliminated the previously experienced nine-day delay associated with bindovers. One adult probation employee produces pre-sentence reports for the RCCS, expediting sentencings processed through the RCCs.
- < Early Disposition Court (EDC), originally established in 1997, was expanded to the Southeast Court Facility in Mesa in fiscal year 2002. Over 6,700 cases were resolved at this division of the court, many in a single court hearing. Two adult probation employees assess offenders' treatment needs and their risk of re-offending. This information is used in making sentencing recommendations and producing the pre-sentence report on an expedited basis, allowing for earlier sentencing.
- < Direct Complaint Program. Starting in May 2002, all felonies are now filed directly in superior court, bypassing the justice courts and the delay inherent in transferring cases from one court to the other. The court continues to monitor this new process with the Clerk, the Justice Courts, the County Attorney, Public Defender and the Sheriff's office to streamline information processing and sharing to maximize the productivity gains offered by direct filing. A recent preliminary evaluation by a nationally respected consultant concluded that this program is meeting its objectives and has improved felony case processing in many ways. Benefits of direct filing include:
  - T Improved and standardized judicial review of felony complaints;
  - T Elimination of the need to file motions to dismiss complaints due to a supervening indictment;
  - T Consistent decisions on preliminary hearings grounded in knowledge of the law;
  - T Better accountability for persons accused of felonies due to all felony processing taking place in a single court; and,
  - T Maintenance of an effective collaborative environment among the criminal justice agencies

- < Initial Pretrial Conferences (IPTC) and the IPTC Center. Experience has shown that settlements occur most often at scheduled court hearings. During FY02, the court moved IPTCs up from fifty-six days after arraignment to thirty-five days. This change has advanced settlements and plea negotiations in many cases by almost a month. In July 2002, the court assigned two commissioners to handle IPTCs, changes of plea and settlement conferences, thereby releasing judges to attend to pending trials.
- < Motion to Continue Panel. Created in July 2000, this panel has considerably reduced trial delay and uncertainty by keeping lengthy continuances in check.
- < Probation Revocation Center (PRC). Implemented in July 2002, this Center handles all initial probation revocation proceedings and disposes of many cases, expediting probation violation proceedings and freeing up trial judges for trial work. A court liaison officer from the adult probation department assists the court with probation information. Probation officers handled 11,600 probationers last year.
- < Final Trial Management Conferences. In February 2002, the court launched a major effort to hold final trial management conferences in most cases just before they are scheduled for trial. These conferences reduce the last minute settlements that frustrate jurors and victims and waste court time.
- < Improve Management Statistics. Court staff have developed a variety of reports designed to track critical indicators in the court's criminal caseload, predict trends, spot problems and analyze capacity and caseflow.
- < Maricopa County Justice Courts Extreme DUI Program. This program was modeled after the more familiar drug court concept to offer intensive probation to eligible DUI offenders with high blood alcohol levels (.18 and above) who met certain other criteria. The program was established as a pilot project at one justice court (a co-located courthouse for the Central, East Phoenix #1 and West Phoenix Justice Courts) and was cancelled after a few months due to low enrollment. Judges and court staff received pertinent training; all necessary court forms, procedures, informational materials, screening and measurement instruments were partially developed.
- < According to monthly reports submitted by Maricopa Superior Court to the Administrative Office of the Courts, the superior court made significant progress in reducing the age of pending criminal cases in the face of an ever-increasing rate of new case filings (6.7 percent over FY01).
- < The percentage of cases resolved by guilty plea to a reduced misdemeanor charge is virtually the same as when the cases were handled by the Justice of the Peace court; these cases are being resolved in roughly two thirds the time they took when the cases were in the Justice of the Peace court.
- < Based on information submitted by Maricopa Superior Court, of the cases disposed between March 2002 and June 2002, the court reports they were able to dispose of

60 percent within 100 days and 84 percent of criminal cases within 180 days. The median number of days from filing to termination in June 2002 was eighty-three days, down significantly from the 100-day median in June 2001. The 90<sup>th</sup> percentile of cases in June 2002 was at 250 days, down from 276 days in June 2001. Comparing June 2002 to June 2001 the percentage of the oldest active cases (over 365 days old) has dropped from 5 percent to 3.8 percent, while the percentage of youngest cases (0 to 150 days) has increased from 81.9 percent to 85.5 percent.

## **Mohave County**

- < Mohave County has seen a 7.5 percent increase in felony cases between FY99 and FY02.
- < In FY02, the court processed 61 percent of cases in 100 days or less compared to 48 percent in FY01.
- < A consultant conducted a comprehensive evaluation of Mohave County's case processing system, administration and overall management of both the superior and justice courts. This examination, conducted by the National Center for State Courts, produced a set of recommendations targeting specific changes necessary to improve case flow in general and enable greater coordination in criminal case processing between the superior and justice court levels.
- < The report's primary recommendations are currently being implemented in the areas of facilities, personnel, and automation.
- < Mohave County has expanded its ability to acquire Court reporter transcripts, court security services, court interpreters and bailiffs to assist in the court process, all of which is central to the court's ability to adhere to its criminal case flow management plan.
- < The addition of two staff members (a courtroom clerk and a felony processing clerk) allows the clerk's office to better assist the court. Because of the addition of a courtroom clerk, the court provides more current information to the parties at the time of court appearances and processes additional paperwork in a more timely manner. It also enables the court to produce more meaningful management information reports, aids in the court's efforts to improve its time-to-disposition statistics and allows the clerk's office to improve communications with the probation officers to improve the enforcement of court order and collections.

## **Pima County**

- < The Superior Court in Pima County now processes 67 percent of their criminal cases in less than 180 days and 52 percent in less than 120 days. This court continues to have one of the highest criminal trial rates in the country (12.5 percent in FY02). By comparison, the trial rate in Maricopa is around three percent. Despite the high trial rate, the superior court was able to clear thirteen percent more felony cases than were filed in FY02, attributable to the following FTG projects:

- T The Document Processing Center managed by the clerk's office handles copying and distribution of minute entries and calendars with more efficiency. Electronic access to calendars affords more flexibility and time savings in making last-minute changes to judges' calendars.
  - T Electronic imaging of criminal case records permits immediate access by court staff and clerks and allows more than one person to view a document online at the same time. Most records are available within six hours of filing.
  - T Bar codes affixed to case files permit instant information on location of files, thereby reducing delay incurred in searching and retrieving hard copies of case files.
  - T Four probation officers and two in-take specialists make up a unit known as the "Jail Team," devoted to reducing the time between the change-of-plea hearing to sentencing by expediting the processing of pre-sentence reports for defendants in custody. The Jail Team has decreased this time period from an average forty-three days to twenty-four days.
  - T Four pretrial intake positions have relieved understaffing in the pretrial release assessment function. This unit works 24/7 and must conduct background investigations, interview newly arrested individuals and produce reports for the court all within twenty-four hours of arrest. The increased number of staff persons (the first increase in ten years, despite a twenty percent increase in arrests) has improved the quality of information used by judges to determine the suitability of pretrial release for the 33,000+ people arrested each year. Better information produces fewer warrants for failure to appear and fewer re-arrests.
  - T One staff person assigned to the Bench Warrant Project contacts people who fail to appear for arraignment to advise them to self-report to the court and avoid being arrested on a bench warrant. Many of the people who fail to appear for an arraignment do so because they do not receive adequate notice of when and where to appear. Since the inception of this project, the number of warrants being issued for failure to appear for arraignment has decreased by forty-four percent.
  - T An AZTEC field trainer has trained 214 court staff from all the courts in Pima County on increasing their use of the automated case management and case tracking features of AZTEC. This person also evaluates the courts' business practices, recommends modifications to improve efficiency and accuracy and trains employees in case processing, ensuring proper documentation and caseload information is available.
- < The Pima County Justice Court Caseflow Improvement Project was established to aid in improving criminal case processing in Pima's justice courts. The project includes two full time employees who perform much of the automation-related

functions needed by the justice court to support its automated case management system. One of the two positions is also assigned to the weekend and holiday initial appearance coordination function, maintenance of online information on individual cases used by staff in-house and expanded implementation of time-saving merge documents for public and agency notifications as required by statute.

### **Pinal County**

- < To reduce the number of pending criminal/juvenile delinquency cases and to expedite the time from arraignment to disposition, Pinal County hired a judge pro tempore, courtroom clerk, and a deputy clerk. In addition, to improve the management of cases assigned to the pro tempore position, the judge was provided with a full-time judicial assistant to maintain the pro tempore's schedule, correspondence, etc. In FY02 the pro tempore judge diverted approximately 116 cases from each of the superior court's six judges.
- < In 2001, criminal filings outpaced terminations by 37.34 percent in Pinal County, compared to 13.26 percent in FY02. While criminal filings continued to increase slightly (2.72 percent) from 881 in 2001 to 905 in 2002, criminal terminations increased 42.21 percent over 2001. In June 2002, terminations were up 140 percent when compared to June 2001. Filings increased only 2.19 percent during the same time period.

### **Yavapai County**

- < The Yavapai County Adult Drug Court (established in September 2000) emphasizes breaking the cycle of repeat offenders and addiction through a structured schedule of mandatory court appearances every other week, daily twelve-step meetings, and treatment three days a week. Drug court participants follow this schedule for the first ninety days and normally require a year to complete the program. The program has successfully pulled together a large network of support groups to follow up with participants after they "graduate." In FY02 there were forty-two new referrals to the Adult Drug Court and twenty-three successful completions. Drug Court participants who benefit from FTG funds continue to have high rates of compliance regarding payment of court ordered fines, fees and restitution, as well as court ordered community service obligations. Drug Court participants have expressed gratitude for the program, attributing their recovery to the structure and accountability inherent in the program.
- < Case aging reports for FY02 show the court is continuing to process criminal cases in a timely fashion, 53 percent within 100 days and 84 percent within 180 days. The average (median) days-to-disposition is ninety-six days.

### **Yuma County**

- < Yuma County continues to experiment with changes in its system of assigning cases among judges to maximize judicial productivity. Using a system of differentiated case management, the court now divides its criminal cases into complex and non-

complex tracks and assigns these cases according to a formula. The county attorney's office has redesigned its practices to facilitate the resolution of more cases at an earlier stage of the proceedings.

- < A superior court judge, sitting as a magistrate, presides at the new preliminary hearing/arraignment/change of plea calendar. This new system reduces delay by offering defendants the opportunity to enter a guilty plea at their initial hearing. The case is then set for sentencing. This avoids the delays inherent in the traditional system in which a case is transferred after the initial hearing to superior court from justice court.
- < A new training coordinator position provides instruction to court staff on use of the AZTEC case management software, and supports data cleanup and other aspects of data management necessary to monitor the progress and aging of pending cases.
- < The Superior Court in Yuma County was able to dispose of nearly 70 percent of its criminal cases within 100 days and 93 percent within 180 days. The average (median) age of a case at disposition was seventy-seven days; this is the lowest average of any superior court in Arizona.

### **Conclusion to Part One**

The individual counties and the AOC continue to work toward establishing tools to aid courts in tracking progress as well as implementing projects and solutions to further improve caseload processing. As shown by the achievements of many counties, reengineering can have significant impact on criminal case processing. These improvements assist in bettering Arizona's entire justice system. Many long-time practices have been changed in order to gain efficiency. Although progress has been made, courts continue to struggle with increasing caseloads and limited available funds necessary to work toward a better system. Caseload reengineering is a continuous process of improvement and commitment to case delay reduction strategies that have proven effective throughout Arizona. The achievements made so far in Arizona mark significant progress towards achieving swift, fair justice for Arizona's citizens.

## PART TWO

### COURT COLLECTION EFFORTS

Courts have historically struggled with the enforcement of court orders to pay fines, fees and restitution. Difficulties include indigent or imprisoned defendants who are unable to pay and lack of court resources to track and follow up on outstanding accounts. Arizona courts have begun to look at these issues more closely and pilot potential improvements.

The success of these efforts can be seen by looking at statewide revenue collections compared to case filings. The total number of case filings decreased by 0.7 percent from FY01 to FY02. In contrast, FY02 collections increased 9.1 percent from \$197.4 million in FY01 to \$215.3 million (includes a \$9.2 million settlement in Maricopa Superior Court) in FY02. This exceeds the \$70 million benchmark set in FY1988 by \$145.3 million and a total increase over the 1988 benchmark in excess of approximately \$1 billion. Specifically, the total restitution collected showed an increase of 67 percent from \$15.6 million in FY01 to \$26 million in FY02, increasing the restoration of justice to victims of crime in the state of Arizona. Estimated FY 2003 collections are projected to be \$208.5 million.

The Administrative Office of the Courts is also engaged in statewide strategic projects to improve court collections as follows:

- < In October 2002, in response to the State's budget crisis, the Judicial Branch proposed a collaborative solution, referred to as the Penalty Enforcement Plan (PEP), which would generate \$51 million to \$114 million dollars in new revenue without increasing taxes or raising fees. The Judicial Branch plan proposed a four-phase approach which included: 1) expansion of the State Tax Intercept Program, 2) utilization of the IRS Tax Intercept Program, 3) implementation of ARS 28-1631, the Traffic Ticket Enforcement Program (TTEAP) to assist in collecting delinquent fines and penalties by denying vehicle registration renewals for those who have not paid and, 4) implementation of centralized collection activities when determined to be cost effective and feasible. As part of its plan to increase the courts' collections rate, the Supreme Court ordered all county presiding judges to report on their plans for enrolling in this program by December 31, 2003, or as soon as reasonably practicable.
- < As a result of research of other jurisdictions around the country that have successfully implemented programs to centralize and/or outsource the non-judicial aspects of traffic and criminal citation processing, the Supreme Court has formed a public/private partnership with ACS, Inc. to enhance the enforcement of courts orders, thereby reducing noncompliance and increasing revenues. This project, FARE (Fines/Fees And Restitution Enforcement) program, builds upon the past successes of increasing collections by the Arizona courts, implementing the programs centrally to benefit from the economies of scale and adding services such as WEB/IVR and payment plan opportunities as well as courtesy and delinquency notices. This partnership also allows the implementation of the program adopted by the Arizona State Legislature in 1993, the Traffic Ticket and Enforcement Program (TTEAP) and continued expansion of the Tax Intercept Program.

- < Until implementation of FARE, the AOC continues to administer the Tax Intercept Program which allows Adult and Juvenile Probation departments, divisions of county attorney offices, and courts in the state of Arizona to intercept state income tax refunds in excess of forty-one dollars (ARS §42-1122). The Tax Intercept Program's primary benefits are twofold: increased compliance with monetary orders and reduced case backlog. Regardless of the amount intercepted, many individuals are encouraged by the notice of intercept to pay off their overdue debts with the courts. The program also helps courts to identify debtors' current addresses, phone numbers and employers. FY02 program highlights include:
  - T The Tax Intercept Program Software received a major overhaul which was implemented in October 2001. The new program requires significantly less data entry and virtually eliminates transfer of paper files by the courts. Although migration to the new software has not been completely flawless, the major bugs have been identified and solutions were programmed into an update that was sent out to participants in June 2002.
  - T In the 2002 calendar year the program improved its collections over the 2001 calendar year by twenty-one percent. Despite a reduction in the number of participants in calendar year 2002, the program collected \$2,307,510 on behalf of 91 courts, probation departments and county attorney offices. In calendar year 2001 the program collected \$1,877,237 on behalf of 97 participants. Additionally, the number of tax refunds and lottery winnings intercepted increased from 15,910 in 2001 to 19,199 in calendar year 2002.
  - T In calendar year 2002 Maricopa County Juvenile Court collected \$230,669 representing nearly a 54 percent increase over calendar year 2001. Pima County Juvenile Court collected \$195,311, an approximate 41 percent increase over calendar year 2001. The court that collected the most in the 2002 calendar year was Mesa Municipal Court -- \$270,009, a nearly 87 percent increase over the 2001 calendar year.
  - T Thus far, in the 2003 calendar year, the Tax Intercept Program has collected more than 5.8 million, more than doubling the 2002 collections in just 6 months.
  - T Federal Tax Intercept Program: Nationally, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators endorsed a proposal to seek congressional support of federal legislation to implement the federal tax intercept program. To that end, meetings have been held with: staff to Senator Kyl (R-AZ), Senator Hatch (R-UT), Representative Hayworth (R-AZ) and representatives of the U.S. Conference of Mayors, National League of Cities, Government Finance Officers Association, National Conference of State Legislatures, and National Association of Counties.
- < The AOC continues to administer the Judicial Collection Enhancement Fund (JCEF) and the Traffic Case Processing Fund (TCPF) to improve automation and enhance collection efforts.

- < The AOC continues to work with the Arizona Judicial Enforcement Network (AJEN), a workgroup composed of judicial collection officers from all levels of the court system. The group meets at least twice per year to discuss mutual problems and share collection “best practices” and practical solutions. The AOC has provided intensive collections training to this group.

Individual counties have also had considerable achievements in the area of collections:

- < The Superior Court of Apache County is engaged in a concentrated effort to reduce the receivables balance of the court. The clerk’s office is in the process of reconciling defendant cases and referring outstanding balances to a collection agency. The clerk is also using the Tax Intercept Program from which the court has already begun to receive payments. Judgments are timely recorded with the county recorder, and staff have been utilizing the Supreme Court’s Web site case lookup system to locate defendants.
- < Revenues generated for the general fund of Cochise County have increased by nearly 14 percent since FY1998. The Judicial Fines Enforcement Program, a division of court administration, provides several avenues for the collection of delinquent accounts, ranging from the implementation of credit card terminals at all courts, to intercepting tax refunds and active use of various credit bureaus and skip tracing. Base revenues (qualified for the revenue set-aside program) collected for the county general fund were \$2.1 million in 1998 and almost \$2.5 million in 2002. Total revenue collected by all courts in Cochise County in FY2002 reached \$7.8 million.
- < Coconino County Superior Court continues to effectively enforce court orders. The court collections department monitors installment account payments and utilizes the Tax Intercept Program to enforce collections. All cases that have active warrants and active bonds are currently under review. Bond forfeiture hearings will be scheduled as necessary.
- < Gila County – see discussion in Part One.
- < Graham County Superior Court has established a Collections Committee which has already established formal procedures for recording civil judgments against defendants and created a culture in the courthouse that emphasizes the enforcement of court ordered financial sanctions. The Clerk’s Office now accepts credit card payments. Over the past year, average monthly collections have increased twenty-two percent for fines and fees and twenty-nine percent for restitution.
- < Collections in the criminal court in LaPaz County have increased by three percent from FY 01 to FY 02. The monthly rate of collections started showing a substantial increase in March of 2002 and steadily increased the first five months of FY 03. One of the projects that is credited with creating this increase is the Pre-Sentence Team which permits probation officers to supervise their case loads more effectively as they are no longer expected to do pre-sentence investigations.

- < In Maricopa County, three adult probation department positions assist in producing recommendations to the court, which include financial orders for restitution, probation fees and fines; these recommendations include the defendant's ability to pay these orders along with reasonable monthly payment recommendations.
- < In the past two years, the Mohave County Probation Department has increased collections from probationers by thirty percent. Probationers now receive monthly payment reminders, and probation officers have better access to payment information from the clerk's office.
- < Pima County's "Probation Billing Project" has dramatically increased collection amounts paid by probationers. The previous *annual* average collected from unsupervised probationers was \$1,200. Under this new program, the *monthly* average is now \$2,300.
- < In FY02 the Pinal County Clerk of the Superior Court on average added 20-25 claims per week into the TIPS program and currently has 2712 active claims for a total of \$10,755,117.06. FY02 TIPS intercepts received by the Clerk of the Superior Court totaled \$47,536. The total amount of TIPS intercepts in FY01 was approximately \$18,000 for a 164 percent increase.
- < Participants in the Yavapai County Drug Court Program continue to have high compliance rates with court-ordered fees, fines and restitution. In hearings before the drug court judge, participants' records of payment are reviewed in open court and appropriately awarded or penalized. The emphasis placed on compliance by the judge is a powerful incentive.
- < Yuma County employs a highly structured and and successful collections program that has produced a sixfold increase in fee collections from 1999 to 2002. The court follows a policy that favors fee deferrals over fee waivers. In FY02, indigent defendants receiving court appointed counsel repaid the county \$228,100 in indigent defense costs. Attorney collections are expected to increase in misdemeanor cases in the future because the county attorney now includes an indigent assessment as part of the plea agreement for cases with appointed counsel. The court's Judicial Assistance (collections) Unit works closely with the Department of Corrections, probation and parole officers to collect from released inmates and probationers. In FY01, this unit collected \$61,416; in FY02, it collected \$111,113. Anticipated revenue in FY03 should approach \$165,000.

## **Conclusion to Part Two**

A great deal has been accomplished in the area of collections over the last several years. Efforts are underway to implement other means of increasing collections and adopting statewide strategies that have been effective in local courts.