

# Fill the Gap

## Annual Report 2004



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

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**ARIZONA SUPREME COURT  
FILL THE GAP**

**ANNUAL REPORT  
2004**

**CRIMINAL CASE REENGINEERING**

**Introduction**

Pursuant to A.R.S. §12-102.01 (D), the Supreme Court reports annually “to the governor, the legislature, each county board of supervisors, the Joint Legislative Budget Committee and the Arizona Criminal Justice Commission on the progress of criminal case processing projects and the enforcement of court orders, including the collection of court ordered fees, fines, penalties, sanctions and forfeitures.” Per A.R.S. § 12-102.02 (D) the Supreme Court also reports annually on the expenditure of fund monies for the prior fiscal year and the progress made in improving criminal case processing.

For years, federal, state and local governments made substantial investments in placing more police officers on the street and building more prisons. These efforts sought to increase public safety, but also created a backlog in the rest of the criminal justice system. In essence, funding targeted the front and the back of the criminal justice system, creating a “gap.” Funding for those entities in the “gap” did not keep 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 (superior court, clerk of superior court, justice courts, county attorney, public defender and indigent defense counsel) in the criminal justice system to develop a strategy to secure funding from the legislature to fund the "gap." The funding that resulted from this initiative has and continues to aid in the progress of accomplishing a number of improvements in criminal case processing throughout Arizona.

**Changes in 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 extended from 120 days of Initial Appearance to 180 days from the date of arraignment; and 3) A new category (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.

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* // 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.

## **Funding Sources**

A.R.S. § 41-2421, enacted in 1999, created three main funding sources for FTG 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 are administered by the AOC. The five percent set-aside of funds collected by the courts is kept and administered locally for county court use. Funds earmarked for the public defender/indigent defense counsel and county attorney are distributed through the Arizona Criminal Justice Commission (ACJC). It should be noted that counties with populations exceeding 500,000 (Maricopa and Pima) were not eligible for general fund appropriations in FY 2004, yet during FY 2004, handled 71 % of all criminal cases in the state.

## **Court Statistics**

As the population of the state continues to increase, the rise in court filings persists. Efforts to identify and implement improvements that allow the courts to address the additional workload are essential.

Table 1 shows the clearance rate for the state by county. The clearance rate is the percentage of criminal case terminations as related to new criminal case filings. The higher the clearance rate, the better the court's criminal case terminations are keeping pace with the number of new filings. The FY 2004 statewide clearance rate increased to 87.82% from 85.8% in FY 2003, showing a two percent improvement in processing criminal cases from filing to termination.

<b>Superior Court Fiscal Year 2004 Criminal Clearance Rate Table 1</b>			
<b>County</b>	<b>Criminal Filings</b>	<b>Criminal Terminations</b>	<b>Clearance Rate</b>
Apache	373	290	77.75%
Cochise	946	981	103.70%
Coconino	1,339	900	67.21%
Gila	658	699	106.23%
Graham	337	300	89.02%
Greenlee	88	69	78.41%
La Paz	525	503	95.81%
Maricopa	37,166	31,825	85.63%
Mohave	1,680	1,649	98.15%
Navajo	1,192	964	80.87%
Pima	5,513	5,275	95.68%
Pinal	1,815	1,698	93.55%
Santa Cruz	253	261	103.16%
Yavapai	2,490	2,500	100.40%
Yuma	1,703	1,334	78.33%
<b>Total</b>	<b>56,078</b>	<b>49,248</b>	<b>87.82%</b>

**Source: AOC General Jurisdiction Fiscal Year Data Report**

Table 2 compares statewide superior court felony filings and terminations in FY 2004 to FY 2003. Felony filings increased by 6.95% and felony terminations increased by 9.88% in FY 2004.

<b>Superior Court Felony Case Activity Table 2</b>			
<b>Activity</b>	<b>FY 2004</b>	<b>FY 2003</b>	<b>Variance</b>
Filings	54,420	50,844	+6.95%
Terminations	47,396	43,133	+9.88%

**Source: AOC General Jurisdiction Fiscal Year Data Report**

## **County Project Overview**

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 plan, in coordination with the chairman of the county board of supervisors or their designee that is submitted to the AOC. The proposed plan details how the funds will be used, how the plan will assist the county in improving criminal case processing and how each court entity will use the funds.

Counties may apply to use the funds for any purpose that improves criminal case flow. Solutions in each county are different due to varying constraints such as funding, caseload size and staffing. Some of the smaller counties have chosen to allow funds to build over time, as the one-year appropriation in these jurisdictions is too small to implement meaningful changes.

During the past year, courts in 13 of the 15 counties received grant funding. Apache and Pinal counties did not apply to use FTG funds. The following is a list of accomplishments for the counties receiving FTG funds.

- **Cochise County** –The superior court received funding for an adult probation pre-sentence investigator, and a pro tem judge and court staff for the criminal division. As a result, the adult probation department was able to have one probation officer produce the pre-sentence investigation reports while the field officers were able to focus on community supervision. In order to assist the new criminal pro tempore division, the court adopted an “Initial Felony Case Management Plan” which includes procedures and time standards for felony cases. The FTG funded judge pro tempore conducted all early stage events, from arraignments to plea agreements. As a result of the criminal pro tempore division, the court and county legal defender cooperated in an effort to streamline calendaring processes for arraignments, change of plea and probation revocation matters. Consequently, the legal defender assigned one attorney to cover the full arraignment calendar, resulting in reducing the arraignment calendar time from four hours to an hour and a half.
- **Coconino County** – The superior court received funding for the continuation of the DUI/drug court. During FY 2004, 54 defendants were sentenced to the DUI/drug court program; 34 graduated. The percent of passing urinalysis/breath tests was 95% for 2,400 tests for the year. The percent of FY 2004 participants re-arrested on similar charges while still involved with the program was 7%. The percent of participants still involved with the program or graduated from the program was 79%.
- **Gila County** – The clerk of the superior court received funds to purchase hardware and software for the electronic document management system. Electronic preparation and distribution of minute entries expedited criminal case processing by increasing productivity for courtroom clerks and reducing time from the date of hearing to the date minute entries are distributed. Further, staff at satellite offices was able to access court imaged documents on-line rather than waiting for the original and official file to be transported.

- **Graham County** – The superior court received funding for a judge pro tempore in an effort to improve time to criminal case disposition. The pro tem judge's docket is comprised of domestic, juvenile and adult criminal cases, thus allowing more time for the presiding judge to hear criminal cases and avoid delays when the judge is noticed.
- **Greenlee County** – The clerk of the superior court received funding for a part-time clerk to assist the courtroom clerks. Due to the part-time clerk's assistance, minute entries were prepared and distributed within 24 hours.
- **La Paz County** – The superior court and clerk of the superior court received funds to support new construction for building a judicial annex. Progress to date includes: the main building is completed; the clerk of superior court's area and the self service center is completed; and the expansion and remodel of the probation department's space is also near completion. Once completed, these changes will allow for a safer environment for victims, witnesses and probation department personnel therefore addressing disruptions which cause delays. The modifications will also create additional necessary clerical space and allow for a training center for all levels of court personnel to ensure accuracy and timeliness in case processing.
- **Maricopa County** – The superior court and the clerk of the superior court received funding for personnel to assist with Regional Court Centers for Felony Case Processing (RCC), Early Disposition Court (EDC), Direct Complaint Program, Initial Pretrial Conference Center (IPCT Center), Status Conference in Complex and Capital Cases, Probation Revocation Center (PR Center), Final Trial Management Conference, Limited Jurisdiction Court Coordination, Initial Appearance Court (IA Court), Improved Management Statistics, Improved Technology, Differentiated Case Processing and Rule 32 Management Unit. Additionally, the adult probation department received funding for personnel.
  - The RCC processed over 21,000 of 36,000 FY 2004 filings and nearly 60% of the 21,000 were resolved prior to going to trial.
  - The EDC handled over 10,000 cases in FY 2004 with nearly three quarters of those resolved, many in a single court hearing.
  - The Direct Complaint program allows felonies to be filed directly in superior court, thus eliminating the need to transfer cases from one court to another court. The court routinely receives approximately 3,000 direct-filed felonies a month.
  - At the IPTC Center two commissioners hear changes of plea and conduct settlement conferences, thereby freeing time for judges to attend to pending trials.

- Status Conferences in Complex and Capital Cases are utilized by all trial divisions to manage complex and capital case inventory through regular status conferences.
- The PR Center handled approximately 15,000 initial probation revocation arraignments during FY 2004. By disposing cases through the PR Center, probation violation proceedings have been expedited and trial divisions freed up for trial work.
- The court encourages trial divisions to hold final trial management conferences (separate from the IPTC Center caseload) just before cases are scheduled for trial. These conferences encourage settlements well before the day of trial, which reduces juror and litigant frustrations.
- Limited Jurisdiction Court Coordination allowed for consolidation of many administrative functions for limited and general jurisdiction courts resulting in administrative efficiencies.
- The IA Court increased the number of daily calendars from six to eight, thereby creating a continuous IA court operation.
- Improved Management Statistics is a project that resulted in a variety of new reports designed to depict critical indicators (such as number of active pending cases, number of trials completed, clearance rates etc.) in the court's criminal caseload. These reports improved the ability to predict trends, spot problems and analyze capacity and case flow.
- Improved Technology allows court work to be completed more efficiently and effectively. The integrated court information system, which combined the databases of two computer systems into one, has been operating for over a year and provided improved efficiencies. In addition, the clerk's office MEEDS and OnBase systems provide imaged minute entries and court documents on-line for justice partners and the general public. Lastly, the county instituted a common case number between various criminal justice agencies which allows more effective exchange of information between the courts, county attorney, public defender, probation department and sheriff's office.
- Differentiated Case Processing is utilized to manage early felony cases with the consolidated felony DUI center which handles aggravated felony DUI cases from IPTC through trial and sentencing.
- Rule 32 Management Unit effectively prepares and monitors post-conviction relief cases as they proceed to judicial decision. This unit is currently monitoring over 700 cases and creates economies of scale by bringing all post-conviction relief cases together and ensuring they reach a timely judicial decision.

- Adult probation department projects include: funding for three adult probation employees; one court liaison officer for the probation revocation center (PR Center); one domestic violence surveillance officer; and one standard field officer. These positions aid in timely probation report production which helps to avoid court continuances and potential additional jail days for defendants.
- **Mohave County** – The superior court received funds to pay court reporter transcription fees. This funding allowed the court to adhere to their case flow management plan without delays in receiving the transcripts.
- **Navajo County-** The superior court received funding for interpreter services. The justice courts received funding for an initial appearance master/justice of the peace pro tempore position.
  - Interpreter services are contracted out with two interpreters, one for Spanish speakers and the other for Navajo speakers. Having interpreters available has decreased the number of cases needing continuances due to language obstacles.
  - Four Initial Appearance Masters were used by the justice courts to improve the flow of weekend and holiday initial appearance paperwork. As a result of processing paperwork on weekends, 851 initial appearances were conducted during FY 2004. The courts report that this process decreased processing time by 283 judicial and staff hours during regular court hours. The Justice of the Peace Pro Tempore project was delayed due to a lack of qualified applicants.
- **Pima County** – The superior court, clerk of the superior court and justice courts received funds for staff and equipment necessary to continue the Criminal Case Reduction and Process Improvement Project. The overall project is composed of ten discrete but interrelated projects, including: Adult Probation Assessment Center/Expedited Pre-Sentence Report Processing, Pro Tempore Judicial Division, Bench Warrant Process, Pre-Trial Services Intake Unit, AZTEC Field Trainer, Case/Document Processing/Imaging Center, Probation Fine/Fee Assessment Billing, Consolidated Justice Court Adult Probation Supervision, Green Valley Justice Court Video Project and the Ajo Justice Court Initial Appearance/Felony Case Consolidation. Following are the results for each project.
  - Adult Probation Assessment Center/Expedited Pre-Sentence Report Processing Center received a monthly average of 336 referrals. FTG funded staff prepared the pre-sentence reports for all cases in 29 days and 26 days for in-custody cases. The expedited report writing resulted in saving the county money in jail costs.

- The Pro Tempore Judicial Division adjudicated 347 criminal cases, expediting the time to disposition.
  - The Bench Warrant Project allowed a dedicated full-time employee to initiate contact with the defendants who failed to appear and bring them to court for the next scheduled appearance date. As a result, the number of warrants issued at arraignment was cut in half, which expedites case processing.
  - The Pre-Trial Sentence Intake Unit added four pre-appearance release specialists to meet the demand of an increasing caseload.
  - The AZTEC field trainer spent 1840 hours training court staff to use the case management system, ensuring consistency in data entry across courts resulting in quality data and management reports.
  - Case/Document Processing/Imaging Center provides streamlined distribution, imaging and docketing of criminal cases, resulting in minute entry distribution to parties, attorneys, and the court in less than 24 hours.
  - The Probation Fine/Fee/Assessment Billing project utilized IT personnel to automate monthly billing notices for probationers. The total outstanding and past due collectibles has been reduced since the automated billing was implemented.
  - The Consolidated Justice Court Adult Probation Supervision project consists of two adult probation officers who supervise justice court defendants convicted of DUI, extreme DUI and domestic violence offenses. The two officers supervised 260 cases.
  - The Green Valley Justice Court Video project established a video link between the court and jail to conduct arraignments. Although the equipment was installed during FY 2004, the project was not implemented until FY 2005 due to construction at the jail.
  - The Ajo Justice Court Initial Appearance/Felony Case Consolidation project was intended to develop an automated system to electronically transfer case information to the jail. Due to construction at the jail, the initial appearance/felony case consolidation project was never realized.
- **Santa Cruz County** – The justice of the peace court in Nogales received funding for a position to reduce the backlog in processing criminal cases. No annual status report has been received.
  - **Yavapai County**- The superior court received continuation funding for the voluntary, post-adjudication drug court program for nonviolent adult offenders who have pled to a second offense for possession of drugs. In addition, the court received 50% funding for a pro tempore division. This allowed the number of criminal divisions to increase from 2.8 to 4 in May 2004.

- **Yuma County-** The superior court, the clerk of the superior court and justice courts received funds to continue implementation of their case flow management project. The court reported that the AZTEC calendaring module was being used for case calendaring and relied upon by other criminal justice entities for accuracy. Statistics for case reassignments were collected and maintained to track change of judge, recusal of judge and administrative assignments. Judges were provided with pending case aging statistics on their daily criminal calendars

## **Collections Efforts**

In FY 2004, statewide court revenues increased by 9.8%, or \$22.4 million while total case filings decreased by 1.2 %. The FY 2004 revenues (\$252.2 million) represents a 182.2 million increase over the \$70 million benchmark established in FY 1988. Superior court restitution collections decreased by 2% to \$13,415,699 in FY 2004 from \$13,696,376 in FY 2003.

Key to the statewide collection efforts are the Fees, Fines and Restitution Enforcement (FARE) and the Debt Setoff (DSO) programs. Both are essential to the progress being made in enforcing compliance with court orders.

During FY 2003, the FARE program was established to increase compliance with court orders, specifically focusing on collections efforts. The AOC contracted with Affiliated Computer Services (ACS) to provide various collection options to Arizona courts. Collection services presently offered by ACS are; courtesy notices, payment acceptance in English or Spanish through a dedicated internet website and via an IVR telephone line, various collection notices, standard collection agency collection activity and assignment to the Debt Setoff Program and/or the Motor Vehicle Division's Traffic Ticket Enforcement Program (TTEAP). Defendants whose cases have been referred to TTEAP are not able to register their vehicle until their court obligation is satisfied. Additional collection techniques are being developed during FY 2004 and will be implemented in FY 2005.

As a result of FARE, a total of \$2,237,800 was collected in FY 2004, as below:

- \$1,461,106.2004 for Show Low and Tucson Municipal Courts beginning September 2003;
- \$632,028.58 for the Maricopa County Justice Courts, Clerk of the Superior Court and Juvenile Probation beginning February 2004;
- \$130,658.68 for Flagstaff Municipal Court beginning April 2004;and
- \$14,021.60 for Wickenburg Municipal Court beginning April 2004.

On average, \$35,000 is collected monthly through the WEB/IVR (interactive voice response system); 20% were out-of-state residents.

Since 1992 courts and other related agencies have been able to participate in the Debt Setoff (DSO) program and, more recently, lottery interception. The DSO program was established to hold offenders accountable for financial obligations owed, to assist in the

enforcement of court orders, and to increase collections in the Arizona court system. The agency (such as the court, probation department or county attorney office) provides the name, social security number and the full amount of the debt, to the DSO program and if a debt claim matches with a taxpayer's refund or lottery winning, an intercept will occur. During CY 2004 there were 140 (agency) participants in the Arizona Supreme Court's DSO program. During CY 2004, the DSO program intercepted 44,451 tax and lottery claims which revealed an increase of 11.48% from CY 2003. Lastly, during CY 2004, DSO revenue was \$4,653,000 which revealed an increase of over 8% from CY 2003.

## **Conclusion**

The AOC and participating counties continue to work toward establishing programs that aid courts in implementing solutions to further improve case flow processing and enforcement of court orders. As shown by the achievements in many counties, funding for these projects have significantly improved criminal case processing in Arizona. These improvements assist in bettering Arizona's entire justice system. Although progress has been made, courts continue to struggle with increased criminal caseloads and limited available funds. Case flow reengineering is a continuous process of improvement and a continued commitment to case delay reduction strategies can prove effective throughout Arizona. The achievements made so far in Arizona mark significant progress towards achieving swift, fair justice for Arizona's citizens.