

Fill the Gap

Annual Report 2005



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

December 2005

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ARIZONA SUPREME COURT FILL THE GAP

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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 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 2005, yet during FY 2005, handled 76% 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.

Chart 1 (all counties except Maricopa, Pima) and Chart 2¹ (Maricopa, Pima and Total for Arizona) shows the clearance rates 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 2005 statewide clearance rate increased to 92.8% from 87.8% in FY 2004, showing a five point improvement in processing criminal cases from filing to termination.

¹ These charts are split into two separate illustrations because of the disparity in the number of cases for rural counties vs. filings in Maricopa and Pima Counties.

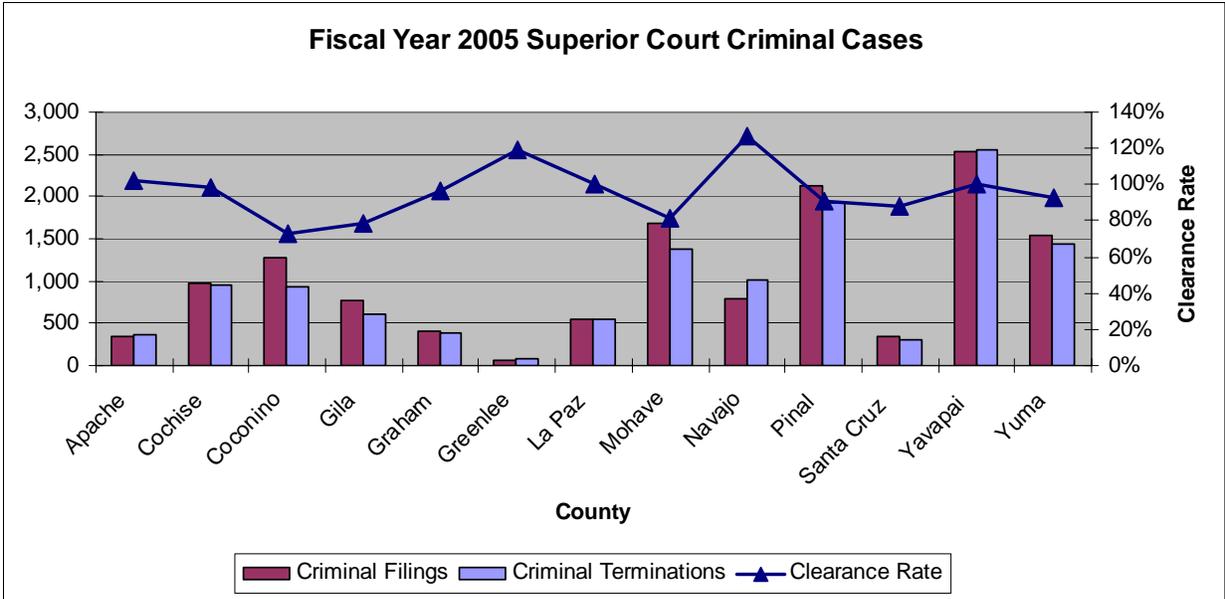


Chart 1 – Criminal Filings, Terminations and Clearance Rate for all counties except Maricopa and Pima.

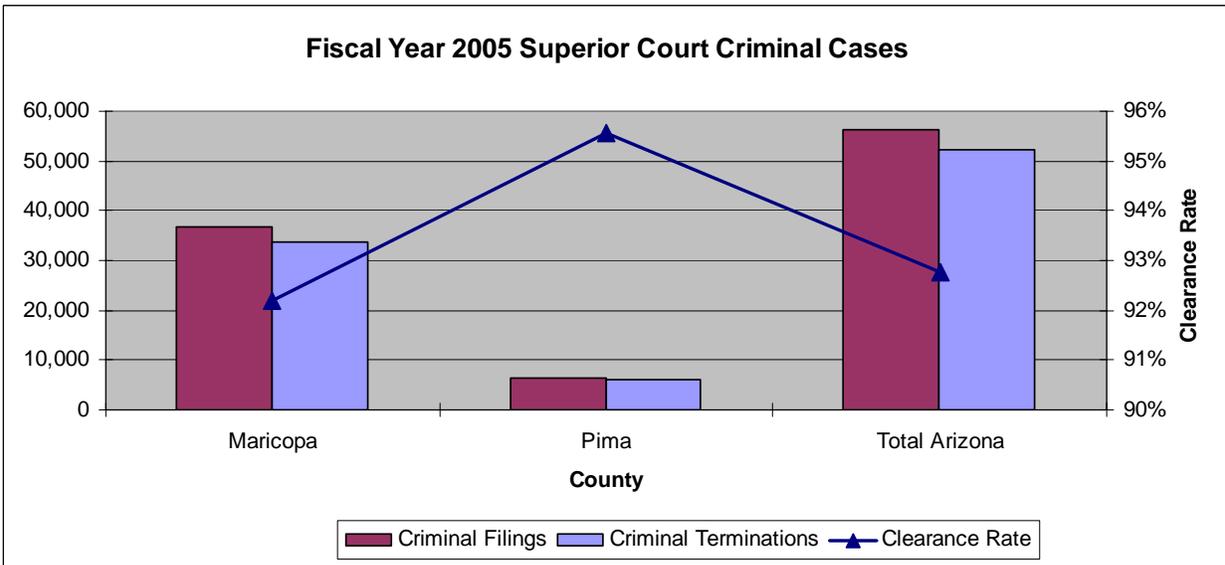


Chart 2 – Criminal Filings, Terminations and Clearance Rate for Maricopa, Pima and Total Arizona.

Source: AOC General Jurisdiction Fiscal Year 2005 Data Report

Chart 3 compares statewide superior court felony filings and terminations in FY 2005 to FY 2004. Felony filings increased by 7.95% and felony terminations increased by 6.19% in FY 2005.

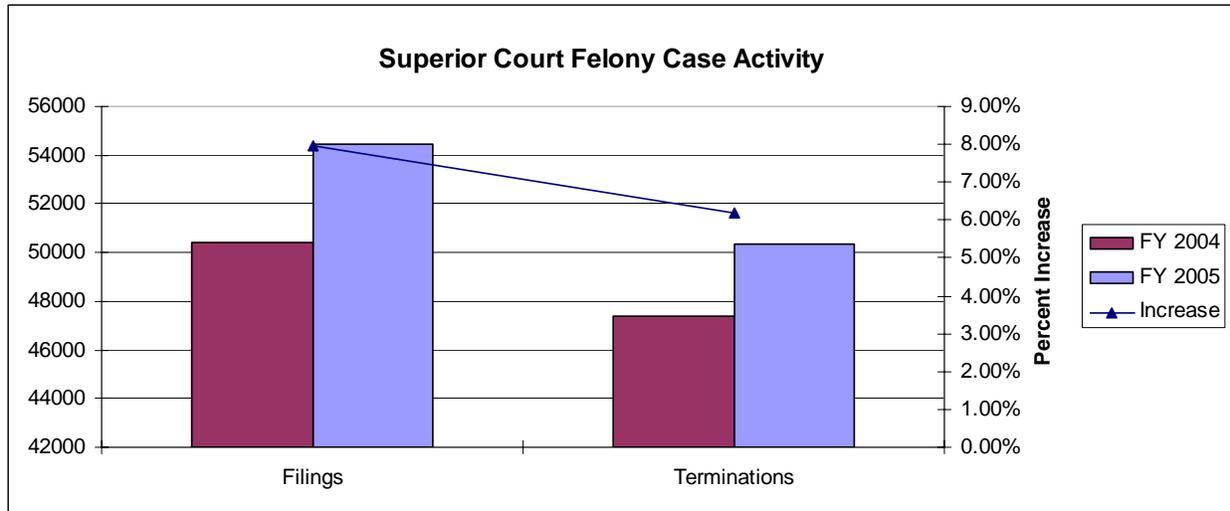


Chart 3 – Superior Court Felony Case Activity FY05 vs. FY04

Source: AOC General Jurisdiction Fiscal Year 2004 and 2005 Data Reports

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 Superior 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 caseload. Solutions in each county are different due to varying constraints such as funding, caseload size, staffing, geographic constraints and interaction with local criminal justice agencies. 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.

The following is a list of accomplishments for the counties receiving FTG funds.

Apache County

A problem was identified that Apache County judges were burdened with many non-judicial activities and as a result, the criminal caseload was falling behind. The Court Administrator position was created with the help of the Fill the Gap funding in FY05 to manage the Court's criminal calendar and to take care of the non-judicial duties that the judges were completing. Fill the Gap funds were also used to partially fund a part-time Judge Pro Tempore position. This funding enabled the Court to deal with its growing criminal caseload and trial calendar and to achieve a 102% Criminal Case Clearance rate in Fiscal Year 2005. Sixty-five percent of criminal cases were disposed within 180 days and 32% were disposed within 100 days.

Cochise County

Cochise County identified three problems in their felony caseflow enhancement project – more judicial involvement was needed in managing felony cases, the pre-sentence investigation resources needed to be increased within the adult probation department and consistent and uniform procedures and forms were needed in the initial appearance hearings. Funding was granted through the Fill the Gap grant process. The following results were achieved:

- Judicial involvement was increased by providing additional judicial resources to enhance criminal case processing, implementing early stage management reports and conferences in appropriate criminal cases and monitoring the case management system to assess effectiveness.
- The cost of Initial Appearance (IA) Masters to cover IAs on weekends and holidays for the justices of the peace. The IA Masters began on October 30, 2004 and worked a total of 76 days through the end of the 2005 fiscal year. The total number of initial appearances conducted for the justice courts in Cochise County was 2,717.
- The establishment of initial appearance (IA) Masters for all justice courts has further resulted in consistent training and uniformity in paperwork – benefiting the case processing system of criminal matters.
- In FY 2005, Cochise County had 60.8% of their criminal cases disposed within 180 days and 24.4% were disposed within 100 days.

Coconino County

Beginning in FY 2004, Coconino County used FTG funds to establish DUI and Drug specialty courts. Specialty courts have been seen to improve processing in particular case types as well as reducing recidivism in some studies. This funding continued in FY 2005. During FY 2005, 52 defendants were sentenced to the DUI/drug court program; 33 graduated. The percent passing urinalysis/breath tests was 95% for 4,192 tests during the year. The percent of FY 2005 participants re-arrested on similar charges while still involved with the program was 9%. The percent of participants still involved with the program or graduated from the program was 85%. Coconino County had 80% of all criminal cases disposed within 180 days and 51% were disposed of within 100 days.

Graham County

Graham County established a goal of improving criminal case processing through adding judicial resources. The superior court received funding for a judge pro tempore and their docket was comprised of juvenile and most of the domestic case load as well as criminal cases that were a conflict with the presiding judge. In FY05, 79% of criminal cases were disposed within 180 days and 41% were disposed within 100 days.

Greenlee County

Cases in Greenlee County were falling behind due to a lack of staff time to file and docket cases. The clerk of the superior court received funding for a part-time clerk to assist in case processing, counter work, filing and docketing and other basic clerical duties in order to free the full-time clerical staff to cover the courtroom clerking, financial duties and the increase in domestic hearings. Uncompensated overtime for the full-time clerks was decreased. The time in which minute entries were completed and distributed was decreased. In addition, the part-time clerical assistants have done the bulk of the docketing in AZTEC, leaving only the sentencing and disposition data entry for full-time clerks to complete. Consequently, the full-time clerks now complete criminal case document processing, preparation of appeals and delivery of commitment packets to the Sheriffs Department in a far more timely manner. From a sample of approximately two thirds of the court's criminal filings, 95% of criminal cases were disposed within 180 days and 61% were disposed within 100 days.

La Paz County

La Paz County found that space constraints were negatively impacting case processing. The lack of space prevented storage, work surface, and space for defendants and members of the public to enter the court building. In Fiscal Year 2002, the specific needs for more space were for the Probation Department, Court space for witnesses, defendants and law enforcement, document imaging center and a Court Training Facility. The superior court and clerk of the superior court received funds to support new construction for building a judicial complex. This expansion improved case processing by: providing an adequate and safe environment for the Probation Department employees and visitors to the Department, separating physical location of the Public Defender and County Attorney which separates witnesses, defendants and law enforcement and minimizes fear and harassment, providing room for a new electronic document imaging project and self service center and providing a new Court Training Center for all levels of court personnel. On average, La Paz County disposed 68.1% of their criminal cases in 180 days and 54% in 100 days.

Maricopa County

Maricopa has taken a multi-faceted approach to improving specific areas of caseflow management over several years. An analysis of Maricopa's courts indicated a number of areas that could be re-tooled to make the entire system more effective. Primarily, Maricopa has focused on three areas of concentration: Centralized or specialized processing, improvements to existing processes and improved technology. Fill the Gap funds were instrumental to bringing these visions into reality.

Centralized and Specialized Processing

- Regional processing centers have been established which provide for central processing of appearances under the jurisdiction of justice courts including preliminary hearings, pleas and felony arraignments
- The Early Disposition Court was also created to handle non-violent drug court cases, welfare fraud and spousal support fugitive matters.
- Mentally ill defendants in the criminal justice system need special treatment and oversight, for both the benefit of the defendant and for the protection of the community. The Court has organized a new Mental Health Department that now oversees both the Mental Health Court and the Rule 11 calendar. Defendants in the Rule 11 process are evaluated to determine if they are competent to stand trial. Work is under way to identify and treat these defendants at the earliest possible stage in the criminal justice system.
- The Court continues to support a variety of specialty courts including the DUI Court, the Adult Drug Court, Family Drug Court, Juvenile Drug Court, the Juvenile Transferred Offender Program, and the Mental Health Court (now part of the Mental Health Department). Plans are under way to create a Homeless Court, which will address the plight of homeless individuals within the County.

Improvements to Existing Processes

- In March of 2005, the court implemented a program to encourage pleas in cases with class four, five and six severity. Commissioners ensure that discovery has been exchanged, a plea offer has been made, and that this offer has been discussed with the client. Thus far this program is showing an improved plea rate in these cases.
- A practice of Direct Complaint has reduced time to disposition by allowing felonies to be filed directly into Superior Court rather than justice courts, eliminating the time-consuming task of transferring court cases. Approximately 3,000 felonies are filed in this manner each month.
- The Court has long struggled with orphan complaints. The County Attorney files a complaint, but indicates its intent to pursue a supervening indictment through the Grand Jury. If the Grand Jury fails to hand down an indictment in a timely manner, the complaint remains active but without a future court date, (an "orphan complaint"). Court administration now aggressively monitors these complaints, and asks the County Attorney for a determination while taking the complaints to a commissioner for quick resolution. Now, most orphan complaints are resolved within 30 days.
- Maximizing judicial resources requires the Court to "multi-book" scheduled trials for trial judges. With an average 1.4 percent trial rate, most trials settle prior to the scheduled date. Occasionally, a division ends up with more scheduled trials on its calendar than a single judge can handle in a given week. To maximize judicial resources, maintain trial time standards set by rule, and spread trials to other open divisions, judges place cases scheduled for trial into *Case Transfer*- so they can be placed with other available judges. *Case Transfer*- helps locate judges who are available to try cases on short notice.

Improved Technology

- An Assign-Attorney Module that automatically updates the court case management system iCIS with assigned trial attorneys has helped eliminate scheduling conflicts which can result in continuances. This has been further improved by the addition of an electronic version of the alphabetical inmate list which helps identify those that have been in custody for longer periods of time.
- The Minute Entry Electronic Distribution System (MEEDS) and the OnBase imaging application work together to allow automated distribution of electronic minute entries which previously had to be routed manually to necessary individuals throughout the court system.
- The clerk's office has inaugurated a pilot program to accept the electronic filing of court documents in 2 DUI divisions and one trial division. This is expected to be installed courtwide after an initial trial period. E-filing streamlines the processing of cases by reducing data entry and lines at the counter for filing documents.
- The Court continues to expand the use of electronic audiovideo recording as the official court record. Work is also underway to expand the use of videoconferencing in more courtrooms. This saves the time needed to transport individuals from the Sheriff's office.
- An electronic bulletin board is under development to show a schedule of divisions available for settlement conferences.

Mohave County

Mohave has found that a 10.2% increase in population and 14.7% increase in criminal case filings have increased the demand on limited judicial resources. As a result of the rapid population growth and to help with case processing, Mohave County had been given clearance for a new constitutional division. Mohave received State Fill the Gap Funds to fund a portion of the salary for a Field Trainer and Judge Pro Tempore along with the salaries for two courtroom clerks to provide support for the judges in efficiently processing appearances in the courtroom and two security guards. The Fill the Gap funds were also used to purchase new x-ray machines for Superior and Justice Courts in Kingman and the Consolidated Courts in Lake Havasu City as well as pay for court reporter transcription costs. On February 1, 2005, Division VI was successfully established with the appointment of Honorable Richard Weiss by Governor Janet Napolitano. According to Mohave's Criminal Case Aging Report, 90% of the criminal cases were disposed within 180 days and 61% were disposed of within 100 days.

Pima County

Pima County examined their processes and found a duplication of effort. They looked to technology to improve data sharing which would result in expediting criminal cases. 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 Pima County courts' proposals have focused mainly on the use of technology and other resources to eliminate duplication of effort, to facilitate and accommodate data sharing, and in other direct ways, to expedite the processing of criminal cases. The intent has been to seek ways to eliminate redundant activities, ensure timely notification of grand jury indictments to detention personnel and

defendants, streamline pre-sentence processing and minute entry distribution, and to provide timely criminal case disposition and reporting. They have attempted, through Fill the Gap, to expedite case processing by reducing the length of time required for events that occur outside of the courtroom thus reducing the amount of time between court events. Seventy-nine percent of the criminal cases were disposed within 180 days and 50% were disposed in 100 days. What follows is a status of projects funded by FTG in FY 05.

- The Consolidated Justice Court Technical Programming Support project received funding from the Fill the Gap for full time programmer analyst. New reports were created for aging, purging, and statistical information. Information such as this is key to managing cases. In addition, the employee segregated civil traffic cases from criminal cases so the civil traffic portion could be sent to a collections agency.
- The Pro Tempore Judicial Division adjudicated 458 criminal cases, expediting the time to disposition.
- The Ajo and Green Valley Justice Court Web Page Development project purchased VLA Frontpage 2003 software and staff was trained to utilize this software to develop the web page. Once the staff training is complete, the AOC will assist in the process of developing a web page to enhance access to court information for the public and attorneys. The Ajo Justice Court also purchased a new HP Laserjet 3380 All-In-One Copier/Fax Machine with FTG funds. This was done in an effort to reduce the calls coming in with routine questions so that staff can devote more time on processing cases.
- The Pre-Trial Sentence Intake Unit added four part time internships to meet the demand of an increasing caseload. These positions have been critical in giving the flexibility needed to continue to provide adequate coverage to the twenty-four hour, seven day a week operation that must meet court sensitive deadlines of 9:00 AM and 9:00 PM initial appearance hearings seven days a week.
- The AZTEC field trainer spent 1,669 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. This center has dramatically reduced wait times and has allowed for a more efficient and effective system without adding personnel or incurring additional hardware costs.

- The Probation Fine/Fee/Assessment Billing project has continued to successfully allow for accurate and timely processing of all probation fees and fine collections. The number of probationers paying on time continues to increase. Those probationers who do not see a probation officer on a regular basis (unsupervised probation) are billed monthly as a reminder of their obligations. The total outstanding and past due collectibles for this category have gone down since instituting this program.

- 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 308 cases in FY05.

- The Green Valley Justice Court Video project was developed in FY 2004 with FTG funds and has saved the County thousands of dollars per year in defendant transportation costs. FTG funds were utilized in FY 2005 to maintain the video system and to continue funding personnel who coordinate with jail personnel in the preparation and processing of these cases. A third day of video court was incorporated recently, which will produce further cost savings.

- The Ajo Justice Court and Green Valley Justice Court Digital Audio Recording project used FTG funds to purchase a digital recording system for both justice courts. The system has saved hours of tedious staff time required for duplication of records. The ability to copy a record for appeal on an audio CD has also eliminated the need for transcripts, which has been a cost savings for appellees and the court. The ability for the Judge to access any record in seconds for review, has enhanced the judicial process.

- The Green Valley Justice Court Case Management Specialist: project used FTG funds to supplement an existing position to serve as a case management specialist. This position assists the court administrator in providing effective and efficient criminal case management processes.

- The Consolidated Justice Court Pretrial Services project received funding to staff one position for a new program in Justice Court which targeted those defendants charged with a misdemeanor DUI and still had outstanding warrants. This program was implemented in February 2005. To date, there have been 649 cases assigned and 602 of them have been closed. Of the closed cases, 224 (37.2%) were closed by the defendant surrendering to the court.

Pinal County

Pinal County identified a problem that Case Processing could be enhanced if an additional Pro Tempore Judge, judicial assistant, courtroom clerk and a deputy clerk were added to their court. The superior court received funding for these four positions. They were able to alleviate the backlog and to accommodate the increasing growth in Pinal County. Eighty-three percent of the criminal cases were disposed of within 180 days and 39.33% in 100 days.

Yavapai County

Yavapai County identified a problem with the need for a continuation of the post-adjudication drug court, for a part time pro tempore division and for various technology improvements for their courts. 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. The court also received 50% funding for a pro tempore division. In addition, the court received funding for audio digital recording hardware, software, installation, training and 1 -year technical support for 5 Justice Courts and the Clerk of the Superior Court. Eighty-four percent of the criminal cases were disposed within 180 days and 61% were disposed within 100 days.

Yuma County

Yuma County identified a problem of needing continuation dollars for their case flow management project. 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. Seventy-three percent of the criminal cases were disposed within 180 days and 46% were disposed of within 100 days.

Collections Efforts

In FY 2005, statewide court revenues increased by 12.6%, or \$32 million while total case filings decreased by 6.7%. The FY 2005 revenues of \$284.2 million represents a \$214.2 million increase over the \$70 million benchmark established in FY 1988. Superior court restitution collections increased by 11.7% to \$14,979,835 in FY 2005 from \$13,415,699 in FY 2004.

Key to the statewide collection efforts are the Fines/Fees 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 State and Local Solutions (ACS-SLS) to provide various collection options to Arizona courts. Collection services presently offered by ACS-SLS Include: two reminder notices, electronic skip tracing, interactive voice recording (IVR) and internet based (web) payment options, credit bureau reporting, wage garnishment if approved by the court and assignment to the Debt Setoff Program and/or the Motor Vehicle Division's Traffic Ticket Enforcement Assistance Program (TTEAP). Defendants whose cases have been referred to TTEAP are not able to register their vehicle until their court obligations are satisfied.

As a result of FARE, a total of \$10,918,700 was collected in FY 2005. The average payment was \$233 with many of the cases dating back to the mid-to-late 1980's. Over \$1.5 million was collected via the web or interactive voice line with 19.3% of those payments coming from out-of-state or country. There were 107,348 vehicle registration holds placed and 13,924 releases due to payment – a 13% release rate. In FY 2005, an additional 26 courts were added to the FARE program for a total of 29 participating courts since it was initially rolled out. See below for the total courts by county:

Cochise	2
Coconino	3
Maricopa	9
Mohave	1
Navajo	10
Pima	2
<u>Pinal</u>	<u>2</u>
	29

Since 1992 courts and other related agencies have been able to participate in the Debt Setoff (DSO) state tax intercept and, more recently, lottery intercept programs. 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 139 (agency) participants in the Arizona Supreme Court's DSO program. During CY 2004, the DSO program had 40,538 tax and lottery interceptions, a decrease of 8.8% from CY 2003. Lastly, during CY 2004, DSO revenue was \$4,623,313, a decrease of less than 1%. The decreases in both tax and lottery interceptions and the DSO revenue were caused by Pima County Justice Courts not having any cases in CY 2004.

Conclusion

The role of courts is to swiftly and fairly resolve cases. To accomplish this goal, courts must become efficient and user-friendly. One of the ways to accomplish this goal is by re-engineering case processing systems so that cases are resolved more quickly. Arizona citizens have the right to an adequately funded system that employs modern technology to process cases and communicate information, protects the rights of victims, ensures that self-represented litigants have meaningful access to the courts, and is open and available to all members of the public. In keeping with the Chief Justice's Strategic Agenda, 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.