

Fill the Gap

A Unique Effort in Collaboration 2001



*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
2001**

**PART ONE
CRIMINAL CASE REENGINEERING**

Introduction

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 a effort to improve criminal caseflow processing in the State of Arizona. Notably, Arizona is the only state that has attempted to reengineer its criminal caseflow 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 12 of the counties to develop case management reengineering plans. A portion of this work involved increasing awareness of the importance of caseflow management.
- ▶ A number of counties have been able to hire caseflow managers so that there is a person on staff specifically dedicated to tracking progress and spearheading efforts to continually improve caseflow processing.
- ▶ Two Drug Courts have been established. These programs remove cases from the trial track and serve the long-term benefit of reducing rates of recidivism, as well as saving money.
- ▶ Statewide case processing goals have been established, providing a bench mark for courts to work towards.

- ▶ Despite a statewide increase in criminal felony case filings of 11% between FY00 and FY01, the courts have been able to achieve a 16.9% increase in felony terminations.

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.

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. 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.

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 7% Fill the Gap surcharge; and a 5% 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 Courts Fund pursuant to A.R.S. §12-102.02, and administered by the AOC. The 5% 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

One of the biggest challenges to courts who are attempting to reengineer how they process felony cases is obtaining timely and reliable case statistics. To assist with this problem, the Administrative Office of the Courts (AOC) has worked with the courts in the following areas:

- ▶ A series of automated reports to produce management statistics on the aging of disposed cases were created and provided to the courts. These management reports are extremely valuable to those who are responsible for tracking the aging of cases and identifying delays in the system.
- ▶ Creation of additional reports regarding pending cases are nearing completion using the AOC's data warehouse. These reports will assist the courts in identifying cases that may need additional attention.
- ▶ The AOC also assisted in the development of a caseflow managers user group. Meetings are held on a quarterly basis to share experiences, solutions and any special reports they may have produced that facilitate criminal case processing.

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 changeover, and extended leaves of absence in court administrators, clerks of the court, and presiding judges 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 the accomplishments of the counties of Arizona follows.

Apache County

- ▶ 51% of Apache's felony cases were disposed within 180 days.
- ▶ The number of cases terminated increased by 84% between the 1998 fiscal year and 2001 fiscal year.
- ▶ Apache County also worked to clean up data in the computerized case management system so that reports are now more reliable.

Cochise County

- ▶ Fiscal Year 2001 marked the first phase of implementing "front-end" enhancements to the processing of felony cases in the Cochise County Superior Court.
- ▶ Implementation of video conferencing capabilities in 12 courts, 3 county jail facilities and the office of the county attorney and public and legal defenders. This has reduced the number of defendants that needed to be transported across the approximately 6,000 square mile county for initial appearances and arraignments.
- ▶ Implementation of a single judge arraignment calendar which now occurs at a specific time each day. This has reduced the number of initial appearance/arraignment calendars for all judges.

- ▶ A disclosure packet is now provided to defense counsel at or before arraignment in routine cases. This is expected to prompt earlier discussions of pleas or trial settings.
- ▶ Defendant specific tracking has been implemented which provides a better picture of the workload in felony cases for more accurate tracking of dispositions.
- ▶ Superior Court judges are now waiting until trial certainty has been determined prior to setting trial dates. This has resulted in more meaningful trial dates. Part of this process includes a review date within 30-40 days of the arraignment.
- ▶ Sixty-six percent of the cases were disposed within 180 days over the course of the last year.

Coconino County

- ▶ Currently, 66% of felony cases are being disposed within 100 days and 90% are being disposed within 180 days.
- ▶ Work has been done to improve the quality of the statistics being collected so that post-disposition matters are now collected separately from original dispositions.
- ▶ A DUI/Drug Court began in February of 2001. Currently, the program has twenty-eight participants that are receiving intensive treatment services and court supervision. This program was developed to address the large volume of drug offenses that were pending trial in this county. The DUI/Drug Court is a 10-month program which begins after offenders have pled, but prior to final adjudication. Participants are required to attend at least 65 counseling sessions during their time in the program. Regular appearances before the judge are also an integral part of participation. The DUI/Drug Court has joined forces with Northern Arizona University which is using a longitudinal experimental design to evaluate the program. Outcomes of the study will be used to improve upon the program. The first graduation ceremony will be scheduled in early 2002.

Gila County

- ▶ Gila County has hired a field trainer to assist courts in improving the quality of the data in AZTEC¹.
- ▶ Funding for a judge pro tem has assisted Gila in handling more cases.
- ▶ Gila County continues to work towards implementing and improving their drug court.

Graham County

- ▶ Despite a 66% increase in filings over the last five years, Graham County has been able to increase their terminations by 102%, from 196 in FY 97 to 396 in FY 01.
- ▶ Graham County has hired an AZTEC field trainer. This individual trains court personnel on data entry into the computer system which is particularly important as the system evolves.

¹AZTEC is the name of the computerized case management system used by 13 of Arizona's Counties. It was formally been known as "FACTS".

Greenlee County

- ▶ Greenlee County now uses a state of the art recording system (FTR Gold Digital System) to obtain a complete and accurate record of courtroom proceedings.
- ▶ An AZTEC Field Trainer continues to work with staff responsible for data entry into the automated case management system. Training helps ensure that cases are processed and keyed correctly.
- ▶ Local attorneys have been paid from Fill-the-Gap funds to perform legal services for indigent defendants. Previously, attorneys from distant counties were utilized for this service which caused numerous scheduling delays.
- ▶ Eighty-nine percent of the defendants were disposed within 180 days in FY00/01.
- ▶ Felony terminations in Greenlee County increased 83% from FY00 to FY01.

La Paz County

- ▶ La Paz has more than doubled the number of felony case terminations over the last five years with 111 terminations recorded in FY 97 and 295 in FY 01.
- ▶ La Paz has increased the clearance rate from 24% in FY 98 to 84% in FY 01.²

Maricopa County

- ▶ Sixty-five percent of the felony cases filed in the state of Arizona are filed in Maricopa County. This makes the innovative solutions that Maricopa strives to implement of particular importance. Over the last 5 years Maricopa has increased the number of terminations by 46%.
- ▶ Over 6,000 cases were resolved in Early Disposition Court, many in just one hearing. The average number of days to disposition for these cases was 18, compared to 100 days for other types of felony cases.
- ▶ Maricopa County estimates that 36,888 sentencing days and 21,920 jail days have been saved through Early Disposition Court in 2001 by providing same day sentencing. At an estimated cost of \$41.16 per jail day, this yields an estimated savings of \$902,227.20.
- ▶ A number of Regional Court Centers have been established in order to allow two case events to occur in one appearance, thus achieving a reduction in case delay.
- ▶ Regional Court Centers are averaging sentencings between 7 and 10 days from the date of a guilty plea, far exceeding the initial 21-day average.
- ▶ The number of active criminal cases fell from 8,714 to 7,655 over the course of the fiscal year, a reduction of 12%.
- ▶ A continuance panel of judges has been established to rule on motions for continuance. This has resulted in reductions in both the number of motions and the amount of time granted.
- ▶ The clearance rate over the last year has been 100% compared to a rate of 85% the previous year.

²“Clearance rate” is a comparative measure between filings and terminations. A clearance rate of 100% means that the number of cases terminated is equivalent to the number of cases filed.

- ▶ Maricopa continues to produce and distribute informative reports regarding their active pending caseload as shown in Figure 1 below. The rise in the pending caseload between June and July is a result of judicial rotation.³

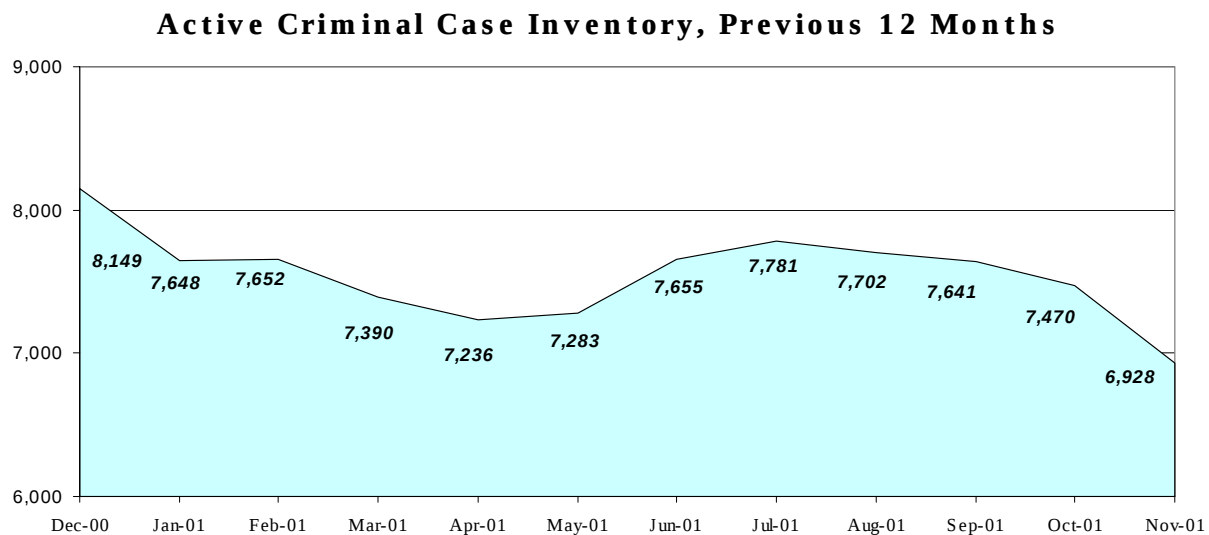


Figure 1: Maricopa County's active pending criminal cases over the last year.

Mohave County

- ▶ Mohave County completed work with consultants from the National Center for State Courts which was a 6 month study of the justice courts. The Mohave County reengineering project was initiated in May 1997. As a measure of success of the program, on June 30, 1997 the pending criminal caseload reached 1,760 cases. By June 30, 2000 that number had dropped to 699 cases, for a decline of 60%.
- ▶ An "Office Assistant Senior" was hired on July 1, 2001. This individual has assisted the Clerk of the Court's office in cleaning up data in the computerized case management system and efficiently processing paperwork.
- ▶ In August of 2001 Mohave County achieved 80% of the terminations within 180 days. This compares to 57% in January of 2000.

Navajo County

- ▶ Navajo county has experienced a 30% increase in their felony case filings over the last several years. The number of filings increased from 713 in the 1998 fiscal year to 930 in the 2000 fiscal year. Case management techniques, such as standardized forms, elimination of scheduling conflicts, implementation of a plea cut-off date by the County Attorney and initiating a case management conference 3 weeks after arraignment

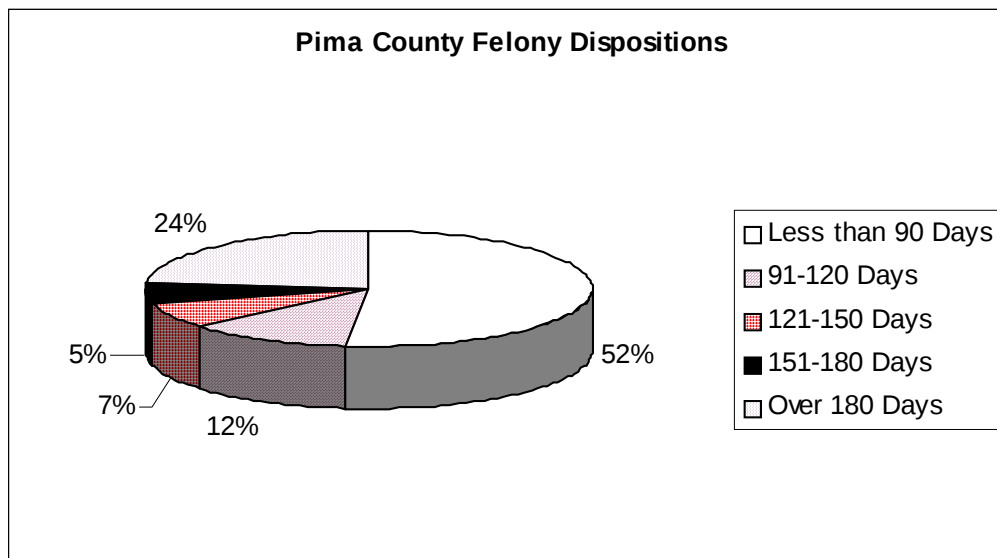
³Please note that Maricopa's "active pending" cases exclude warrants, mental exams, deferred prosecution and cases on appeal which are all "events" beyond the court's control. Pending case data in the Administrative Office of the Courts' Data Book account for these exclusions, therefore cannot be compared to the number represented in this report.

have worked to assist the county in compensating for this increase. From FY98 to FY01 Navajo has increased the number of terminated felony cases by 12%.

- ▶ The Court, with the cooperation of the County Attorney, Legal Defender, Public Defender and private counsel, continues to strive to eliminate barriers of access to the court and to improve timely disposition of cases.

Pima County

- ▶ As shown in the graph below, well over half of the felony dispositions in Pima County were achieved within 90 days from the date of filing.



- ▶ Pima County streamlined DES fraud cases brought forth by the Attorney General by combining the initial appearance, arraignment and change of plea into one proceeding. Defense counsel are appointed and conflicts identified earlier in the process. A commissioner is now available each afternoon for “walk-in” pleas and defendants who enter a change of plea within 25 days of arraignment are permitted to choose the sentencing judge. These efforts result in earlier pleas, earlier trial resolution, and fewer continuances.
- ▶ Document processing and imaging have been enhanced which has allowed a reduction in distribution of minute entries from 3 days to 24 hours or less.
- ▶ Presentence reports are now available immediately as opposed to a historical 7 day delay.
- ▶ A Bench Warrant Project was implemented in which defendants who fail to appear are contacted prior to the issuance of a warrant. This process has allowed the court to dispose of 51% of the cases in which a warrant would have been issued. In these cases, the cost of arrest and booking were saved and justice was served.
- ▶ A file tracking system has been designed to track case files through the use of bar codes. The system provides lists of overdue files and an indication of where they can be found, thereby saving precious staff-time that would otherwise be spent searching for files.

- ▶ Pima County has focused on using technology to eliminate redundant activities and improve case processing.

Pinal County

- ▶ Pinal County recently applied for funds a Judge Pro Tempore, Courtroom Clerk, Deputy Clerk and Judicial Assistant. The target goal for these positions is to reduce the pending juvenile and criminal caseload and to expedite the time from arraignment to case disposition.
- ▶ Pinal's plan for reengineering includes implementing disposition time guidelines, streamlining of the paper flow and minute entry process, creating a criminal justice coordinating council, and considering the creation of a department for the provision of pretrial services.

Yavapai County

- ▶ An adult drug court has been in place since September of 2000. To date there have been 39 participants and 2 graduates. The program has been very well received by the participants.
- ▶ Eighty-two percent of the criminal cases were disposed within 180 days and 50% of the criminal cases were disposed within 100 days.
- ▶ The number of felony terminations increased by 8% from FY 00 to FY 01.

Yuma County

- ▶ A caseload manager was hired in September of 1999. This individual assists Yuma County in identifying areas of improvement and tracking progress in case management. This person implemented an automated calendar which has expedited the assignment of cases.
- ▶ Yuma County issued an administrative order so that one of the 5 divisions handles juvenile matters exclusively, while the other 4 divisions handle both criminal and civil matters. Defense counsel are appointed at the time a complaint is filed.
- ▶ A new superior court commissioner was hired on November 10, 2000 who hears domestic relations and child support enforcement cases, in addition to a short criminal calendar.
- ▶ Cases are designated as non-complex or complex based on the filing by the prosecutor's office so that cases requiring special handling are identified early.
- ▶ Defense counsel are now appointed in justice court at the time a complaint is filed, reducing the delay.
- ▶ A management protocol has been implemented that sets forth specific deadlines for comprehensive management conferences, final management conferences and sentencing.
- ▶ Yuma also recently applied for funds for a field trainer to assist them in maintaining accurate data in AZTEC.

Conclusion to Part One

The individual counties and the AOC continue to work toward establishing tools which will aid courts in tracking progress as well as implementing projects and solutions to further improve caseload processing. Reengineering efforts continue to involve all criminal justice stakeholders in each county so that results can be realized throughout the system.

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 a commitment to case delay reduction strategies that have proven effective throughout Arizona. The achievements made so far in Arizona mark the first steps in 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. The courts in the state of Arizona 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 0.4% from FY2000 to FY 2001. In contrast, FY 2001 collections which were already on the rise continued to increase 7.1% from \$186.0 million in FY00 to \$199.1 million in FY01. This exceeds the \$70 million bench mark set in FY1988 by \$129.1 million.

Specifically, the total restitution collected showed an increase of 14.2% from \$14.0 million in FY00 to \$16.0 million in FY01, increasing the restoration of justice to victims of crime in the state of Arizona.

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

- ▶ 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 collection training to this group.
- ▶ The AOC is engaged in strategic projects to improve collection practices in Arizona. One of these projects involved publishing a "best practices manual" which highlights the best collection practices from around the state and the nation. The manual is tied to the Court Order Enforcement Standards manual, developed about two years ago and used successfully as a training tool.

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

- ▶ The Superior Court of Apache County contracted with Valley Collection Service in November of 2000. This began a concentrated effort to reduce the receivables balance of the Superior Court. The Clerk's Office is in the process of reconciling defendant cases and referring outstanding balances to the collection agency. They are also using the Tax Intercept Program from which they have already begun to receive payments.
- ▶ Revenues generated for the General Fund of Cochise County have increased by 13% since the 1998 fiscal year.

- ▶ Coconino County currently uses the State Tax Intercept Program⁴ and is currently investigating the potential use of a private collection agency. An internal collection department provides the following functionality:
 - Setting up payment plans for defendants that owe money to the court.
 - Sending out past due notices for delinquent payments.
 - Scheduling Order to Show Cause hearings.
 - Notifying judges regarding the need for warrants.
- ▶ The Greenlee County Probation Department has been tracking collections. The collection ratio is defined as a comparison of the amount billed to the amount collected for a given period. The 1997 fiscal year showed a collection ratio of 46%, by comparison the collection ratio for fiscal year 2001 is 120%. The fact that this is over 100% indicates that some monies have been collected for older outstanding balances as well as current balances.
- ▶ Over the last year, the LaPaz Adult Probation Department has developed a better tracking system for monitoring and enforcing criminal adult financial collections. This has been done through the use of PIMS and AZTEC.
- ▶ The Justice Courts of Mohave County installed a collections contract including legal resources for out of state collections. An automated system now downloads accounts referred to collections over the Internet. Each of the courts also have real time access to these accounts.
- ▶ Navajo County achieved a 73% compliance rate for court-ordered fines, fees, and assessments over the course of the fiscal year.
- ▶ Pima County issued notices to unsupervised probationers indicating the consequences of non-payment. This resulted in an initial collection of \$5,500. The program continues to receive \$2,300 in regular monthly payments.

The Tax Intercept Program, established and administered by the AOC 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 \$41 (ARS §42-1122). There are 97 courts and departments participating in this program. Close to \$1.9 million were disbursed to participants based on claims in 2001 calendar year. Twenty-five percent of these claims were submitted for restitution.

In addition to these efforts, research is underway to determine the potential advantages of centralized collections in certain case types and the potential use of collection agencies for some outstanding balances.

⁴The Tax Intercept Program is also known as the Debt Set-Off (DSO) Program.

Conclusion to Part Two

Although, a great deal has been accomplished in the area of collections over the last several years, there is a great deal more that could be done. Efforts are underway to examine other means of increasing collections and adopting strategies that have been effective in some counties into others.