

**COMMITTEE ON LIMITED JURISDICTION COURTS  
DRAFT MINUTES**

**Wednesday, August 31, 2016**

10:00 a.m. to 2:00 p.m.

Conference Room 119A/B

1501 West Washington Street

Phoenix, Arizona 85007

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**Present:** Judge Antonio Riojas, Chair, Julie Dybas, Judge Maria Felix, Jeffrey Fine, Judge Elizabeth R. Finn, Christopher Hale, Judge Eric Jeffery, Judge Lewis S. Levin, Judge Steven McMurry, Marla Randall, Judge Laine P. Sklar, Judge J. Matias “Matt” Tafoya, Adam R. Walterson, Jennifer Carter (Proxy for Sharon S. Yates)

**Telephonic:** Chief Dan Doyle, Judge James Williams Hazel Jr. and Judge Ross Jones

**Absent/Excused:** Judge Timothy Dickerson

**Presenters/Guests:** Judge Don Taylor, Judge Lawrence Winthrop, Judge George Anagnost, Jerry Landau, Gabe Goltz, Jennifer Albright, David Svoboda, Stewart Bruner, Patrick Scott

**Administrative Office of the Courts (AOC) Staff:** Susan Pickard, Julie Graber, Karla Williams

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**I. REGULAR BUSINESS**

**A. Welcome and Opening Remarks**

The August 31, 2016, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:05a.m. by Judge Antonio Riojas, Chair.

**B. Approval of Minutes**

The draft minutes from the February 24, 2016, meeting of the LJC were presented for approval.

**Motion:** To approve the February 24, 2016, meeting minutes, as presented.

**Moved by** Judge Maria Felix, **Seconded by** Judge Laine P. Sklar, **Vote:** Motion passed unanimously.

**II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS**

**A. Task Force on Fair Justice for All – Rule Change Petition**

Judge Don Taylor, Chief Presiding Judge, Phoenix Municipal Court and Fair Justice for All Task Force member, updated the members on the efforts of the Task Force and presented the final report and recommendations for consideration. Judge Taylor indicated that rule and legislative changes will be required in order to achieve the recommendations, if adopted by the Court.

Judge Taylor discussed the following principles and their associated recommendations:

1. Judges need discretion to set reasonable penalties.

2. Reasonable time payment plans should be based on a defendant's ability to pay.
3. There should be alternatives to paying a fine.
4. Payment options should be clearly explained and convenient for the defendant.
5. Defendants should appear in court.
6. Suspension of a driver's license should be a last resort.
7. Non-jail enforcement alternatives should be available.
8. Special needs offenders should be addressed appropriately.
9. Detaining low- and moderate-risk defendants causes harm and higher rates of new criminal activity.
10. Only defendants who present a high risk to the community or individuals who repeatedly fail to appear in court, should be held in custody.
11. Cash bond is not required to secure appearance of defendants.
12. Release decisions must be individualized and based on a defendant's level of risk.

**Motion:** To support the recommendations of the Task Force on Fair Justice for All. **Moved by** Judge Matias Tafoya, **Seconded by** Judge Maria Felix, **Vote:** Motion passed unanimously.

**B. Criminal Rules Task Force**

Judges Maria Felix and Eric Jeffery provided a brief overview of the Task Force and its work to date. They informed members there will be a more in-depth presentation at the November LJC meeting.

In December 2015, the Supreme Court entered Administrative Order number 2015-123 and established the Task Force on the Arizona Rules of Criminal Procedure. The Order directed the Task Force to review the Arizona Rules of Criminal Procedure to identify possible changes to conform to modern usage and to clarify and simplify language. These changes should promote the just resolution of cases without unnecessary delay or complexity. The Task Force shall seek input from various interested persons and entities with the goal of submitting a rule petition by January 10, 2017 with respect to any proposed rule changes.

**C. Pima County Consolidated Justice Court Pro Tem Judge Training**

Judge Maria Felix discussed the judge pro tem training that is offered by Pima County Justice Court; a program started by Judge Felix in 2015. Some of the topics covered in Pima's curricula include: the Limited Jurisdiction Bench Book, civil procedures, eviction actions, case management, court administration, ethics, protective orders, evidentiary hearings, DUI trials, and pre-trial/in custody hearings as well as an introduction to the specialty courts. Judge Maria Felix announced that they will add a mock jury trial to the program this year along with another section on eviction actions as request by the pro tem judges.

**D. Proposal from the Judicial College of Arizona to Change the Initial Training Requirements for Limited Jurisdiction Part-Time Pro Tem Judges.**

Gabe Goltz, Education Programs Unit Manager, AOC Education Services Division, and staff to the Judicial College of Arizona (JCA), discussed possible proposed training requirements for limited jurisdiction part-time pro tem judges.

After discussing the current training requirements for part-time pro tem judges, Mr. Goltz explained that the JCA established a workgroup to make recommendations regarding training requirements for these pro tem judges. Because limited jurisdiction part-time pro tem judges can be assigned the same authority as their full-time counterparts, the workgroup proposed the completion of Limited Jurisdiction New Judge Orientation (LNJO) within the first year of assuming duties. JCA unanimously accepted this proposal with the following stipulations:

- the requirement would be adopted on a moving-forward basis;
- the requirement would be a single time requirement; and
- JCA staff would seek input from other stakeholder groups before forwarding the recommendation to COJET.

Mr. Goltz noted that these training requirements would only apply to newly appointed limited jurisdiction part-time pro tem judges.

**Comments/Concerns:**

- The members agreed that there should be a waiver process for some pro tem judges (i.e. recently retired judges)
- The cost of registration and travel expenses for the 3-week LNJO would need to be worked into court budgets and in some counties might prove prohibitive.
- The 3-week LNJO may also prove prohibitive to active attorneys who sit as part-time pro tem judges.
- The consensus of the members was that the 16-hour requirement COJET requirement would be more suitable than the new judge orientation proposal.
- The JCA may want to consider reduced, activity-limited training for part-time pro tem judges who have limited or very specific assignments (i.e. Initial Appearances).
- It was also suggested that the presiding judge of each county decides what training is necessary for pro tem judges.

**Action Item:** Gabe Goltz will take LJC members' feedback to JCA and will return with a formal proposal for their consideration at an upcoming LJC meeting.

**E. Legislative Update**

Jerry Landau, AOC Government Affairs Director, presented the following legislative proposals that came from the Fair Justice for all Task Force as well as one from the Court Security Committee.

2017-01: Sentencing; fines; fees; Probation:

Modifies requirements of various court ordered financial obligations, increases judicial discretion with respect to sentencing of misdemeanants, permits debt removal from court accounting systems under specified circumstances, and provides for changes in the calculation of imprisonment terms due to pre-trial incarceration.

**Motion:** To recommend approval of 2017-01 legislative proposal. **Moved by** Judge Eric Jeffery, **Seconded by** Judge Laine P. Sklar, **Vote:** Motion passed unanimously.

2017-02: Driving; violations; restricted license; penalties:

Authorizes specified restrictions be placed on a person's driving privileges in lieu of suspension for certain traffic offenses, reduces sanctions and financial obligations for various violations of Title 28, and permits a judge to waive court-ordered financial obligations related to DUI.

**Comments/Concerns:**

- Decriminalizing a 1<sup>st</sup> offense of driving on a suspended/restricted license may impact Judicial Productivity Credits (JPC) as well as who or how priors would be alleged. It may also have impact on Motor Vehicle Department points.
- How does an officer on the street know if there is a prior offense? Should the offense be cited as criminal and allow the court to reduce to civil upon a finding of 1<sup>st</sup> offense or no other offense in the last 36 months?
- Suggest splitting the sections for driving on suspended license, and expired foreign registration into two different subsections (an offense without priors - civil violation and an offense with priors - criminal violation) so that offenses can be properly cited and automated, and priors identified.
- Consider removing the 36 month time frame.
- Contemplate making driving on a suspended license for an unpaid civil citation a civil violation, all other violations, DUI, excessive point, insurance etc., would remain criminal.

**Action Item:** Mr. Landau will ask Bert Cisneros to recalculate the JPCs

**Motion:** To recommend approval of 2017-02 legislative proposal with an amendment that provides two sections, one making driving on a suspended license for failure to pay or failure to appear a civil violation, and the other maintaining driving on a license that has been suspended for any other violation a criminal violation. **Moved by** Judge Eric Jeffery, **Seconded by** Judge Steven McMurry, **Vote:** Motion passed unanimously.

2017-03: Bailable offense; hearing' schedule:

Modifies requirements related to bond hearings in superior court and eliminates criminal traffic bond schedules in limited jurisdiction courts.

- Members expressed concerns regarding eliminating the bond schedule

**Motion:** To recommend approval of 2017-03 legislative proposal with the recommendation that the Fair Justice for All Task Force further discuss eliminating the requirement of having a universal bond schedule. **Moved by** Judge Eric Jeffery, **Seconded by** Judge Maria Felix, **Vote:** Motion passed unanimously.

2017-04: Competency examination; jurisdiction:

Provides for increased jurisdiction of limited jurisdiction courts with respect to competency hearings.

**Motion:** To recommend approval of 2017-04 legislation proposal as amended to include “regional court” language. **Moved by** Judge Elizabeth Finn, **Seconded by** Judge Eric Jeffery, **Vote:** Motion passed unanimously.

2017-05: Criminal littering; classification:

Reduces the penalty for littering under specified circumstances.

**Motion:** To recommend approval of 2017-05 legislation proposal. **Moved by** Judge Maria Felix, **Seconded by** Judge Laine P. Sklar, **Vote:** Motion passed unanimously.

2017-06: Court Security Fund

Creates funding mechanisms to allow for funding of courthouse security improvements at the local and state levels.

This proposed legislation is not associated with the Task Force on Fair Justice for All, but was drafted based upon recommendations of the Court Security Standards Committee. Mr. Landau clarified that the legislation does not create a new fee.

**Comment/Concerns:**

- How are the funds going to be distributed?
- Is there a way to create a local fee without surcharge?

**Motion:** To approve sections one and two of the proposed legislation with the recommendation to further explore authorizing courts to establish a local ordinance without surcharges. **Moved by** Judge Eric Jeffery, **Seconded by** Judge Elizabeth Finn, **Vote:** Motion passed unanimously.

- F. Arizona Commission on Access to Justice (ACAJ) – Report on Rule Change Petition R-16-0040, Statewide Mandatory Eviction Forms, and Proposed Rule Change Petition Regarding Stipulated Judgments in Eviction Actions**  
Judge Lawrence Winthrop, Court of Appeals, Division 1, ACAJ Chair, presented two proposed rule change petitions regarding eviction actions.

**Stipulated Judgments:** The potential issues with stipulated judgments in eviction action cases were discussed at previous ACAJ meetings. The ACAJ-SRL-Limited Jurisdiction Court Workgroup was tasked to further discuss the proposal. The Workgroup amended the proposed rule change based upon that discussion. Pamela Bridge, workgroup member and Director of Advocacy and Litigation at Community Services, presented on issues her office has seen resulting from stipulated judgements. No formal motion was made regarding this proposed rule change.

**Mandatory Forms:** A sub-workgroup of the ACAJ-SRL-Limited Jurisdiction Court Workgroup was formed to review the notices and pleadings that are currently being used. It was agreed that the existing materials could be improved with a goal of making them easier to understand. The revised forms and pleadings were presented to the ACAJ which voted to incorporate them into a rule change petition and to make the use of the forms mandatory. The Supreme Court has placed this petition on an accelerated schedule to be considered by the court in December, all comments are due by September 23th.

**Comments/Concerns:**

- The revised notices and pleadings, in concept are a good idea. As model forms they are also a good idea in concept. Making the forms mandatory is misguided.
- If approved, the court may be legislating by rule.
- This committee acknowledges there is a problem but did not feel this proposal is the solution

**Motion:** To recommend that the proposed eviction forms be model forms and tested for one year before consideration as mandatory. **Moved by** Judge Steven McMurry, **Seconded by**, Judge Maria Felix, **Vote:** Motion passed unanimously.

- G. Protective Order Forms – “Petition for Protective Order”**  
Presiding Judge George T. Anagnost, Peoria Municipal Court, requested the LJC recommend the use of his proposed Petition for Protective Order form to the Committee on the Impact of Domestic Violence and the Courts (CIDVC). This form uses the existing form and essential wording but makes adjustments to the caption and format that improves the readability and clarity of the Petition.

**Comments/Concerns:**

- Some members took issue with the language “This is not a court order.”
- The proposed form may not comply with project passport.

- Unnecessary information is requested of the Petitioner like defendant daytime phone number.
- A pilot program was suggested.

**Motion:** To recommend CIDVC approval with concerns being taken to that body for consideration. **Moved by** Jeff Fine, **Seconded by** Judge Matt Tafoya, **Vote:** Motion passed. 16-1-0

## **H. Court Security Standards**

Jennifer Albright, AOC policy analyst and staff to the Court Security Standards Committee (CSSC), presented the proposed security standards and other recommendations of the CSSC which will be presented to the AJC upon completion of the final report.

Administrative Order 2015-104 established the Court Security Committee. The committee, conducted a security survey to find out what security measures exist in the courts. After reviewing the Arizona survey data and national surveys; the committee developed recommendations on standards for courthouse and courtroom security, and training for security officers.

Ms. Albright discussed the 30 proposed security standards that are grouped into the following categories.

- Governance and Administration
- Entry Screening
- In-Custody Defendants
- Facilities, Alarms and Equipment
- Training

### **Comments/Concerns:**

- Will the court security standards be recommended or mandatory?
- If they are mandatory, how would a court that does not have control over their facility comply?
- Concerns regarding funding were voiced.

**Action Item:** Jennifer Albright will report LJC feedback to the Court Security Standards Committee.

## **I. Court Interpreters**

Judge Elizabeth Finn requested information regarding reducing interpretation costs for lesser used languages. She noted that her court is experiencing challenges with Arabic and Dinka languages and the costs associated with providing services to litigants that speak those languages. David Svoboda, AOC staff to the Court Interpreter Program Advisory Committee (CIPAC), gave a brief overview of AOC resources currently available to courts and gathered the information necessary to take the issues raised by LJC forward to CIPAC at their September meeting.

### **Comments/Concerns:**

- Questions regarding credentials for interpreters arose. David indicated that Administrative Order 2016-02 states, “Effective July 1, 2017, judges should give appointment preference to credentialed contract interpreters, if available.”
- It was suggested to include language on the Language Line contracts that states the qualifications of court interpreters.

**Action Item:** David will take the LJC concerns to CIPAC next month and report back as appropriate.

**J. Proposed Revisions to ACJA 1-507: Protection of Electronic Case Records in Paperless Court Operations**

Stewart Bruner, AOC staff to the Commission on Technology Committee, presented the specific standards and technologies to carry out statewide policies and priorities for automation and technology recommended by the Technical Advisory Council (TAC). He noted the two main areas of change are the technical requirements and proposed reductions on the certification requirements for the administrators who work the environment that stored the records. Mr. Bruner indicated that the court CIO recommends the technical changes be accepted but not the certification changes.

**Motion:** To support AJC approval of the code section amendments as approved by COT. **Moved by** Julie Dybas, **Seconded by**, Jeffrey Fine, **Vote:** Motion passed unanimously.

**K. Rule 41, Forms 2a & 2b, Rules of Criminal Procedure**

Patrick Scott, AOC Specialist, gave an update on Rule 41, Forms 2a and 2b of the Arizona Rules of Criminal Procedure noting that both became effective July 1<sup>st</sup>.

**III. OTHER BUSINESS**

**A. Good of the Order/Call to the Public**

No request to speak was made.

**B. Adjournment**

**Motion:** To adjourn. **Moved by** Judge Steven McMurry, **Seconded by** Judge Laine P. Sklar, **Vote:** Motion passed unanimously.

The meeting adjourned at 3:02pm

**C. Next Committee Meeting Date**

Wednesday, November 16, 2016  
 10:00 a.m. to 3:00 p.m.  
 State Courts Building, Room 119  
 1501 West Washington Street  
 Phoenix, Arizona 85007