

**ARIZONA JUDICIAL COUNCIL'S  
COMMITTEE ON LIMITED JURISDICTION COURTS**

Arizona State Courts Building  
Conference Room 119A & B  
Phoenix, AZ 85007  
February 15, 2006

**Members Attending:**

Honorable R. Michael Traynor, Chair  
Honorable James P. Angiulo  
Honorable Ted W. Armbruster  
Mr. Daniel Carrion  
Honorable Thomas L. Chotena  
Ms. Faye Coakley  
Honorable Timothy Dickerson

Ms. Joan Harphant  
Ms. Charlotte Holmes  
Mr. Donald E. Jacobson  
Honorable Wayne Johnson  
Honorable Marie "Toni" Lorona  
Honorable Kathy McCoy  
Mr. James R. Scorza

**Absent Members:**

Mr. Richard Fincher  
Honorable Anna Mary Glaab  
Ms. Debra Hall

Honorable Jeffrey Klotz  
Honorable Nicole Laurin  
Honorable J. Matias Tafoya

**Staff:** Ms. Susan Pickard

**Presenters/Guests:**

Ms. Amy Bain  
Ms. Janet Cornell  
Mr. Mark DiMarco  
Ms. Jennifer Greene  
Mr. Karl Heckart  
Mr. Paul Julien

Commissioner Sheila Madden  
Ms. Elizabeth Ncube  
Honorable Michael D. Ryan  
Ms. J.R. Rittenhouse  
Ms. Nancy Swetnam  
Ms. Sally Wells

**REGULAR BUSINESS**

1. CALL TO ORDER

With a quorum present Judge Traynor called the meeting to order at 10:15 a.m.

Copies of an email sent by Janet Scheiderer, Director, Court Services Division, to all judges, court administrators and Superior Court clerks regarding the National Instant Background Check System were provided to the committee. Judge Traynor asked committee members to view this information because of its applications to courts.

2. APPROVAL OF NOVEMBER 16, 2005 MEETING MINUTES

Judge Traynor asked if there were any changes or corrections to the November 16, 2005 LJC meeting minutes. No corrections were made.

**MOTION: To approve the minutes for November 16, 2005 as submitted.** Seconded.  
Passed unanimously. **LJC-006-001**

3. JANUARY 2006 RULES AGENDA UPDATE  
Patience Huntwork did not provide an update; however, the committee was provided a summary of the Rules which are out for comment. It was noted that R-05-0035 was withdrawn. The comment period is May 22, 2006.
4. TRIAL BY DECLARATION (Taken out of Agenda order)  
Judge Traynor provided this presentation for Judge Tafoya, who was unable to attend. The draft rule change proposal regarding *Trial by Declaration* was distributed to the members. The Form/Rules Subcommittee is looking at this methodology for trials by declaration in civil traffic cases. Judge Tafoya has asked that any comments or questions regarding the draft be submitted to him within the next month. After consideration of the committee's comments, the draft will be distributed for review to the Presiding Judges. Since rule change petitions need to be filed by November 1<sup>st</sup> of each year, unless an emergency measure is present, the goal is to have both reviews concluded by the June meeting.
5. COMMISSION ON TECHNOLOGY (COT) UPDATE  
Mr. Karl Heckart, Information Technology Division Director

E-CORE Committee

- This committee was developed to proceed with the next step of enhanced interactivity with outside partners, i.e. law enforcement and the public, by building off e-filing and developing a model for the state as a standard approach.
- 3-4 pilots are currently moving forward.

KTR Report

- A presentation of the recommendations of the Committee on Keeping the Record will be made at COT's upcoming meeting. COT's interest is to address archival procedures and other issues regarding digital records.

Pima Justice Court

- An acceptance request regarding the iCIS case management system for Pima Justice Courts was made.
- By using Maricopa County as the software vendor, Maricopa will build and maintain the software, Pima would operate it in their environment.
- Detailed project plan is expected in May, 2006 with implementation this summer.

Code Standardization

- The code standardization work group has been meeting and is scheduled to present to COT with a near final report and recommendations.
- Completion is expected this summer
- Current case management systems will not be retrofitted for new code standards

Strategic Planning

- Two part process: Business and Technology
- Business - Surveyed judges and court administrators to identify business processes, pressure points and drivers
- Technology – The next step is to determine what is being done on the technology side to respond to the identified business pressure points
- Plans are due back in late March for analysis by the COT

E-Filing Project

- At the next COT meeting the Supreme Court will request that COT approve an e-filing pilot project

- The intention is to make the rule change process more interactive for attorneys, the public, and the courts
- An Internet site which will allow electronic filing of a rule change petition and submission of comments is anticipated in the April or May

Maricopa County Enforceable Detainer Project (Justice Courts)

- Approval has been received for this project – the financial piece is currently being worked out
- An Internet site with a payment portal will be available
- Fees will be collected electronically
- Anticipated in late spring

E- Citation

- Hand held citation project in Tucson has been positively received
- COT is looking into which other counties might be interested in the hand held project

Photo Radar

- Currently addressing electronic transfer of ticket information into court systems

Update on Tempe Project

- Being built in a modular way
- Analysis piece moving on and bundling up and looking at what is the most effective way to use it
- Anticipating a demonstration in early March
- Completion date: February, 2007

6. FARE Program Update

Michael DiMarco presented update from the FARE program.

- 5 additional courts were added into the backlog. At present 50 courts are in the backlog system which has collected \$7.6 million so far this year compared to \$10.9 million for the whole of last year
- Glendale collections doubled last month - to over \$200,000
- In the original interim courts the collection rate has increased from 26.9% to 29.6%
- Web IVR payments - \$9.6 million
- Through January – 167,000 vehicle registration holds have been placed and 35,000 releases. (21% release rate)
- Two additional courts to be coming into the interim backlog (Eloy Justice Court in March and Williams Justice Court in April)
- Chandler moving towards the Full FARE Model
- Maricopa County Justice Court pursuing FARE functionality (up by end of calendar year)
- Successful implementation on the Navajo County Superior Court Project
- Mohave, LaPaz, Gila, Mesa, Limited Jurisdiction Courts in Yuma and Pima County Justice Courts have shown interest of moving into the Full FARE Model
- General audit of FARE is almost complete and an updated report was provided. and written recommendations will be forthcoming.

Legislative Impact

SB1242

- Originally intended to remove the \$200 threshold and to add parking.
- Parking has been dropped out of the bill

- Amendment has been added - now has a \$100 limit.
- On way to Rules and then full Senate.

#### HB2001

- Requires an interest penalty on erroneous tax intercepts
- Dept. of Revenue will send the notice, not the courts
- Interest would not accrue until after 30 days
- Bill moving forward

Special Action against ACS has been dismissed.

#### 7. COURT LEADERSHIP INSTITUTE OF ARIZONA (CLIA)

Ms. Elizabeth Ncube – CLIA Manager

Ms. Ncube shared background information on the program. The Education Services Division has been working on the concept of developing a management/leadership institute with initial groundwork on learning objectives for management courses and the development of Arizona specific curriculum. A new unit within the Education Services Division was developed in December (CLIA). CLIA is composed of three components:

1. First Level Manager/Supervisory Programs - Clearinghouse directing the court personnel to their local government (city, county) - Basic management skills, coaching, human resources, does not have to necessarily be court specific.
2. Mid-Level Managers, Continuing Managers, New Presiding Judges - In a survey conducted of new presiding judges, an interest was defined in learning administrative and management concepts that they were not introduced before. In this area, local and national partnership could be formed with court organizations.
3. Executive Team, Presiding Judges, and Court Administrators - Part of the process would be to seek faculty that are experts in leadership methodology. These courses could present guidance for learning advantageous practices and leadership principles regarding motivating and building teams that move towards similar goals.

#### Goals:

- Provide programs for the top tier of leadership
- Prepare the next generation of leaders
- Address the problem of turnover within the court system (help define a career path through education)
- Assemble a Policy Committee (under COJET) to help develop a multi-year project plan and determine priorities. There is a web page on the Education Services Portal.

#### 8. SUBCOMMITTEE REPORTS (Taken out of Agenda order)

Limited Jurisdiction Record Retention and Disposition Schedule

Ms. Joan Harphant presented the following update regarding the nearly final Schedule.

- The next step will be to submit the draft Schedule to the Limited Jurisdiction Court Administrators for comment.
- Once the Administrators' comments are consider and the subcommittee has made the necessary changes, the draft Schedule will be distributed to presiding judges and court administrators statewide for comment.
- After those comments are in the Schedule will be brought back to the committee for final approval and submission to AJC in June.

- The goal is to provide judges, administrators and clerks (especially those new to their position) with a user-friendly document which defines how each document should be handled.

9. LEGISLATIVE UPDATE (Taken out of Agenda order)  
Mr. Jerry Landau, Director of Government Affairs

Before Mr. Landau's update, Judge Traynor stressed the importance of participating in the Friday Legislative Teleconference Calls. Participation allows AOC Legislative Staff to receive comments and concerns in a timely fashion for response to the legislature. These conference calls are scheduled every Friday during the legislative session at 12:00 noon. The agenda for each call is sent out via e-mail and includes the teleconference number.

Photo Enforcement Bills - Administrative Office of the Courts (AOC) is not taking a position on these bills. The court's concern is with the transmission of data between the courts, AOC and MVD. The plan is to attach an amendment on these bills that will require the photo enforcement vendor/DPS to modify the traffic citation to indicate: 1) a photo enforcement citation and 2) whether it is on a freeway. AOC must approve that modification, so that notice is received.

HB2174, Photo Enforcement; Signage - Passed out of House going to Senate  
 HB2180, Automated Photo Enforcement - Strike everything amendment in Transportation – moving forward  
 HB2245, Photo Enforcement Traffic Complaints - Not moving  
 HB2251, Photo Enforcement, Highways, Highway Fund - Moving forward in Appropriations - Split of funds to local and state  
 HB2411, Photo Enforcement Traffic Offenses - No points, no traffic survival school. Tracking data issues  
 HB2722, Photo Radar, State Highway Fund - Referred to House Transportation  
 SB1146, Photo Radar, Controlled Access Highways - Stricken from Consent Calendar, not amended  
 SB1410, Traffic Violations, Fines, Distribution - Amendment was a delayed effective date - Effective date is Jan 1 - Redefine what is meant by "freeway."  
 SB1460, Photo Enforcement Contracts, Fee Provisions - Failed  
 SB1473, Photo Radar on Freeways, Citations - Failed  
 SB1500, Weights, Measures, Photo Enforcement Devices - Failed  
 SB1507, Photo Radar, Prohibition, Appropriation - Failed

AJC Legislative Proposals

SB1342, Orders of Protection, Service - Bill is dead - Law enforcement would not come on board

Bills Impacting Limited Jurisdiction Courts

SB1042, Repeat DUI Offenders, Lower BAC - Going to Caucus  
 SB1097, Orders of Protection, Domestic Violence - Was amended to state that a notice to the defendant knows their rights.  
 HB2309, Criminal Trials, Change of Judge - Sitting. Court has to consider the victim's rights prior to change of defense attorney.  
 SB1176, Victims' Rights, Failure to Comply - Moving forward. No longer a right to have the court redo the sentencing - it is a request by the victim and the court must consider the violation of victims rights. Victims must do this in 10 days of the violation.

Four points raised:

- Required re-sentencing - changed
- 10-day limited
- Double jeopardy

- Restitution applies even if court vacates the sentence

Bills Impacting the Superior Court

SB1274, Ignition Interlock Devices - Moving forward - Adds two new sections of aggravating DUI

SB1123, Homicide, DUI, Increased Punishment – Sitting - DUI bill that requires 25 to life for vehicular homicide if convicted of DUI

HB2247, Change of Judge, Defense Counsel - Not going to be heard - eliminates 10.2

HB2819, Adult Probation, County Responsibility - Allow counties to fund their own probation departments in exchange for a reduction in their Arizona Long Term Health Contribution and state would stop funding proportionally - The probation service fee would go to that county.

SCR 1004, Misdemeanor, Jury Trials - Bill is dead - Allow to make every misdemeanor a jury trial.

NOTE:

Approximate sine die for this legislative session is May 9, 2006.

The Senate will start to hear House Bills next week (2/20/06). While the House will continue to hear House bills through possibly through March 3, 2006.

10. COMMITTEE ON KEEPING THE RECORD

Justice Michael D. Ryan, Arizona Supreme Court

Ms. Jennifer Greene, Court Services Division Policy Analyst

Justice Ryan presented the Final Report of the committee to include background information regarding for the formation of the committee, assignments, and work products (Reporting Resource Policy, Rules and Statues, Minimum Standards).

**MOTION: To recommend that AJC approve the Final Report from Committee on Keeping the Record with the modification that a staff employee can become eligible to be an authorized transcriber.** Seconded. Passed unanimously. **LJC-006-002**

Judge Traynor and many of the members commended the Committee on Keeping the Record for their hard work on a task this large extending an all-around “Well done”.

11. PROPOSED CHANGES TO THE ARIZONA CODE OF JUDICIAL ADMINISTRATION

Ms. Nancy Swetnam, Certification and Licensing Division Director

Ms. J.R. Rittenhouse, Certification and Licensing

Ms. Swetnam and Ms. Rittenhouse provided a presentation on anticipated changes to all of the code sections in Arizona Code of Judicial Administration, Part 7, Chapter 2 with the exception of the section regarding private process servers. There are provisions in § 7-201 - General which, for consistency purposes, are being applied to the other sections.

The sections will go out for public comment. At the end of the comment period, the sections that apply to the Limited Jurisdiction Courts will be brought before this committee for a formal recommendation.

§ 7-201- General has provisions that are recommended for application in all programs:

- Establish regulatory boards for all of the programs
- Provide standard processes for certifications
- Enhance complaint processing

Other section-specific recommended changes:

§ 7-206 - Court Reporter; Standard Certification

- Voice Writers
- Transcript Fees
- Arizona Transcript Format Standards

§7 -208 - Legal Document Preparer

- Restrictions on a legal document preparer doing business with a disbarred attorney.

§ 7-205 - Defensive Driving

- No statutory changes
- Courts running their own defensive driving programs- leave in the code?
- Timeframe for court diversion fees to be changed effective April 1 and October 1
- When is fee effective and how should this be viewed for the citation being received? (Suggestion: Date of citation can be used for the diversion fee)
- Regulatory Boards to be set up for fiduciary, defensive driving and confidential intermediary programs
- How are fees to be refunded and to be set out in the code
- Propose a 2 year renewal cycle for the schools and instructor to begin November 1, 2007
- Propose a provisional and standard certification for instructor certification

Nancy Swetnam and J.R. Rittenhouse will work with the Committee on Limited Jurisdiction Courts' Defensive Driving Subcommittee regarding proposed changes to § 7-205.

Four meetings have been scheduled. Announcements and code sections will be distributed to the Committee before those dates.

12. Subcommittee Reports (re-visited)

Rules and Forms - Trial by Declaration - Addressed earlier

Defensive Driving - Will be working with Certification and Licensing on A.C.J.A. proposals of code sections. Will bring report back to the Committee in June.

Rule Implementation - Effective December 1, 2005, ARCrP Rules 3 and 26 were amended to provide an additional optional method for issuance of court-initiated warrants to compel attendance of defendant pre- (Rule 3) or post- (Rule 26) adjudication.

1. The AOC has reserved AZTEC compatible event codes for warrant issuance / termination for both limited and general jurisdiction courts.

Warrants - Ltd

Pre Adjudicated – Issued 5590  
Pre Adjudicated – Quashed 5591  
Post Adjudicated – Issued 5592  
Post Adjudicated – Quashed 5593

Warrants - Gen

Pre Adjudicated – Issued 3007  
Pre Adjudicated – Quashed 3008  
Post Adjudicated – Issued 3009  
Post Adjudicated – Quashed 3010

2. These rule-based warrants have the benefits of not involving separately filed long-form complaints or prosecutorial involvement. They also do not implicate recurrent issues regarding erroneous data on the NCIC criminal history. At the same time, it is noteworthy that the use of rule-based warrants may reduce important data that is considered highly relevant for pretrial services and interstate exchange of data when scoring conditions of release. In other words, these warrants will create a “wanted person” flag in ACIC, but not NCIC. The clearing of the warrant removes it from the ACIC data base as it is currently maintained.

3. Certain courts will want to proceed with implementation of Rule 3 and 26 warrants. Warrants issued would be linked with 12-864 (pre-) and 13-3904 (post-) as circumstances allow. These types of warrants will not result in a disposition on an FDR that will become part of NCIC Criminal History.

4. Enhancements that would allow DPS / NCIC to access a new database that could archive warrant history are possibilities that have not been explored but have merit in concept.

Strategic Planning – No update to report. Subcommittee will be meeting to gather and discuss issues that affect limited jurisdiction courts and how the committee would facilitate and prioritize these plans for the next 3-5 year timeframe. A progress report will be presented at the June meeting of this Committee.

## **OTHER BUSINESS**

13. NEXT MEETING

**Wednesday, June 7, 2006**

10:00 a.m. – 3:00 p.m.

Arizona State Courts Building

1501 W. Washington St.

Conference Rooms 119A/B

14. GOOD OF THE ORDER/CALL TO THE PUBLIC

A call for public comment was made. No comments were made.

## **ADJOURNMENT**

**MOTION:** The motion was made to adjourn the meeting at 1:45. Seconded.  
Passed LJC-006-003

Respectfully submitted,  
Ms. Susan Pickard  
Staff to the Committee on Limited Jurisdiction Courts