

**COMMITTEE ON LIMITED JURISDICTION COURTS  
MINUTES**

Wednesday, February 17, 2010  
10:00 am to 3:00 pm  
State Courts Building  
Conference Room 345 A/B  
1501 W. Washington Street  
Phoenix, AZ 85007

**MEMBERS PRESENT:**

Honorable Antonio Riojas	Honorable Sam Goodman
Honorable Ted W. Armbruster - <i>telephonic</i>	Honorable Nicole Laurin - <i>telephonic</i>
Ms. Valerie A. Avila	Honorable Dorothy Little
Mr. C. Daniel Carrion	Mr. Doug Pilcher
Honorable Thomas L. Chotena	Ms. Marla Randall
Ms. Faye Coakley	Ms. Lisa Royal
Honorable Timothy Dickerson	Mr. Mark Stodola
Honorable Maria Felix	

**MEMBERS ABSENT:**

Honorable Phillip W. Bain	Mr. Patrick Kotecki
Honorable Jeffrey A. Klotz	Honorable J. Matias Tafoya

**PRESENTERS/GUESTS:**

Mr. David Withey	Honorable Elizabeth Finn
Mr. Jerry Landau	Ms. Adele May
Ms. Kathy Waters	Ms. Theresa Barrett
Ms. Sharon Yates	Mr. Paul Julien
Ms. Christi Weigand	Mr. Jim Scorza
Ms. Patience Huntwork	Ms. Janet Scheiderer

**STAFF:**

Mark Meltzer	Tama Reily
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**I. REGULAR BUSINESS**

**A. Welcome and Opening Remarks**

With a quorum present, Judge Antonio Riojas, Chair, called the February 17, 2010, meeting of the Committee on Limited Jurisdiction Courts (LJC) to order at 10:05 am.

Judge Riojas welcomed new member, Valerie Avila, court administrator for the Mohave County Justice Courts.

**B. Approval of Minutes**

The minutes of the October 28, 2009, LJC meeting were presented for approval.

**MOTION:** To approve the minutes of the October 28, 2009, LJC meeting as presented. Motion seconded. Passed unanimously. LJC-10-001

**II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS**

**A. Mandatory Fines and Community Service**

Mr. David Withey, AOC Chief Legal Counsel, addressed the committee on the issue of courts waiving mandatory DUI fines and substituting community service or other work program sanctions. This is reportedly occurring in financial hardship circumstances, such as unemployment or disability, that leave the defendant unable to pay. Mr. Withey explained that AOC legal staff interprets A.R.S. § 28-1389 to say courts cannot waive fines resulting from a DUI case. He noted that that the statute is specific on this point, and does not provide for exception. Thus, if the defendant is unable to pay, the only permissible alternative would be a deferred payment program or a collections process. Members were asked for their views on the issue, and whether any action seemed appropriate.

During discussion, several members expressed the understanding that offering defendants the option to „work off” their fines, is not the same thing as *waiving* the fine, but rather, it is *converting* it in a manner that ensures defendants pay their debt to society. Some members asserted that without the alternate sanctions, courts are faced with escalating accounts receivables. Other members noted that the Fines/Fees and Restitution Enforcement (FARE) program and the Tax Intercept Program (TIP) work effectively in their courts.

Judge Riojas asked if the committee was interested in forming a workgroup to explore the issue further, or if there were any other suggested actions. The committee agreed to accept the legal interpretation of the statute as explained by Mr. Withey and to take no action on the issue at this time. It was suggested that, should concerns or problems on the issue arise at a later date, it could be addressed at that time.

**B. Entry of Guilty Pleas to Class 3 Misdemeanors by Mail**

Judge Riojas reported on an issue raised at the recent Arizona Judicial Council (AJC) meeting concerning a strategic agenda initiative item that would allow for plea by mail or the web for all Class 3 misdemeanors. AJC members cautioned that offenses falling under this provision could include domestic violence and assault cases. It was recommended that this initiative be reviewed and modified to ensure the appropriate cases are included under this provision.

Members discussed several options and determined it would be best to prepare a rule amendment to specifically set forth the types of offenses included in under the

provision. Judge Dickinson volunteered to draft preliminary language for a petition, which can be discussed at the next LJC meeting.

**C. Legislative Update**

Mr. Jerry Landau, AOC Director of Government Affairs, updated members on current pending legislation that may impact the limited jurisdiction courts.

**D. FARE Program Update**

Ms. Christi Weigand, AOC manager of the Court Services Consolidated Collections Unit, briefed the committee on the status of the Debt Set-Off and FARE program collections and the new AZTEC automated receipting process. She also informed members of the new Amnesty program, which is currently being piloted in some courts to determine the collections impact and feasibility of the program. If implemented, the program would target older FARE cases with the goal of improving collections. It is also expected to aid in cleaning up the system prior to the conversion onto the new limited jurisdiction case management system.

**E. A.C.J.A. § 6-207: Uniform Conditions of Supervised Probation**

Ms. Kathy Waters, AOC director of Adult Probation Services, presented proposed changes to ACJA § 6-207: Uniform Conditions of Supervised Probation. She explained that the revisions would incorporate evidence based practices into the Uniform Conditions of Probation and provide for consistency among the state courts and probation departments. Ms. Waters discussed the intended outcome of the code section and reviewed the primary changes to the code, including some minor language changes made at the suggestion of the Committee on Superior Court.

**MOTION:** To approve ACJA § 6-207: Uniform Conditions of Supervised Probation as presented. Motion seconded. Approved unanimously. LJC-10-002

**F. Rule Petitions**

Ms. Patience Huntwork, staff attorney to the Arizona Supreme Court, reported on pending rule change petitions that may impact limited jurisdiction courts. She reminded members they may view rules, pending rule petitions, and amendments to rules on the Arizona Court Rules Forum website. Comments are due by May 20, 2010. The current list of rule petitions can be accessed at the following link:

<http://supreme.state.az.us/rules/List/ListofPendingRuleChangePetitions022508.pdf>

Judge Riojas suggested that members come to the May 5<sup>th</sup> LJC meeting prepared to discuss submission of formal comments by the committee. He requested members draft outlines of any responses they wish to propose. Mr. Meltzer requested that any such drafts should be sent directly to committee staff and not to circulate among members, so as to be compliant with open meeting laws.

**G. Arizona Rules of Protective Order Procedure, Rule 4(B)(5)(b)**

Judge Elizabeth Finn addressed the committee on the recently filed petition to amend Rule 4(B)(5)(b) of the Arizona Rules of Protective Order Procedure (ARPOP). The proposed amendment would require limited jurisdiction courts to transfer protective orders when the protected party is the subject of a custody, parenting time, or visitation order. Currently, Rule 4(A)(1) and (2) both prohibit a limited jurisdiction court from issuing a protective order in cases where there is a family law action *pending* in a superior court. The limited jurisdiction court must instead refer the party to the superior court to obtain an order of protection. In contrast, Rule 4(B)(5)(b) currently provides that where there is an *active* custody order involving the defendant or a child of the defendant, a limited jurisdiction court may issue the ex-parte order, but then must transfer the order to the superior court for any further action. The proposed amendment is intended to clarify and to expand the transfer requirement for protective orders to include injunctions against harassment.

Judge Finn noted that when presented to the Committee on Superior Court (COSC), further discussion of the proposed rule change was recommended. Similarly, when presented to the Committee on the Impact of Domestic Violence and the Courts (CIDVC), the proposal was referred to CIDVC's ARPOP workgroup for additional review and consideration. The workgroup is scheduled to meet on March 8, 2010 and Judge Finn extended a welcome to LJC members who wish to attend. She also requested that members with alternate language suggestions provide them by the March 8<sup>th</sup> meeting date. The rule petition will remain open for comment until May 10, 2010.

**MOTION:** To approve proposed changes to Arizona Rules of Protective Order Procedure, Rule 4(B)(5)(b) as presented. Motion seconded. Approved 13-1-0. LJC-10-003

**H. AmCad Update**

Ms. Adele May, AOC project manager for the limited jurisdiction (LJ) case management system (CMS), and Mr. Jim Scorza, senior project consultant, in the AOC Information Technology Division, updated members on the status of the LJ CMS project. Ms. May reviewed the phases of product development, application testing, and the data conversion strategy. She also discussed plans for a pilot court in the fall of 2011, and user trainings that are expected to begin in March 2010.

Mr. Scorza briefly discussed the development of an enhanced version for large-volume courts and the software additions necessary to address large-volume needs. He noted that efforts on the enhancement features are likely to slow development and the „roll-out“ is likely be toward the end of 2010.

**III. OTHER BUSINESS**

**A. Next Meeting**

Wednesday, May 5, 2010

10:00 am to 3:00 pm

State Courts Building, Room 119 A/B

1501 West Washington

Phoenix, AZ 85004

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

No comments offered.

The meeting was adjourned at 1:45 pm.



**COMMITTEE ON LIMITED JURISDICTION COURTS  
MINUTES**

Wednesday, May 5, 2010  
10:00 am to 2:00 pm  
Conference Room 119 A/B  
1501 W. Washington Street  
Phoenix, AZ 85007

**MEMBERS PRESENT:**

Honorable Antonio F. Riojas	Honorable Sam Goodman
Honorable Ted. W. Armbruster	Mr. Patrick Kotecki
Ms. Valerie A. Avila	Honorable Nicole Laurin - <i>telephonic</i>
Honorable Phillip W. Bain	Honorable Dorothy Little
Mr. C. Daniel Carrion	Mr. Doug Pilcher
Honorable Thomas L. Chotena	Ms. Marla Randall
Ms. Faye Coakley	Ms. Lisa Royal
Honorable Timothy Dickerson	Mr. Mark Stodola
Honorable Maria Felix	Honorable J. Matias Tafoya

**MEMBERS ABSENT:**

Honorable Jeffrey A. Klotz

**PRESENTERS/GUESTS:**

Mr. Jeff Schrade	Ms. Summer Dalton
Ms. Deb King	Commissioner Charles Donofrio
Mr. Gabe Goltz	Ms. Janet Cornell
Mr. Paul Julien	Mr. Lenny Montanaro - <i>telephonic</i>
Ms. Joan Harphant	Nat Mara
Ms. Nancy Swetnam	Mr. Paul Hallums
Mr. Stewart Bruner	Mr. Jerry Landau
Ms. Theresa Barrett	Ms. Jennifer Green
Mr. Patrick Scott	

**I. REGULAR BUSINESS**

**A. Welcome and Opening Remarks**

With a quorum present, Judge Antonio Riojas, Chair, called the May 5, 2010, meeting of the Committee on Limited Jurisdiction Courts (LJC) to order at 10:00 a.m.

Members and guests introduced themselves.

- B. The minutes of the February 17, 2010, meeting of the LJC were presented for approval.

**MOTION:** To approve the minutes of the February 17, 2010, LJC meeting as presented. Motion seconded. Approved unanimously. LJC-10-004

## II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

### A. Arizona Court Manager Program and Training for Civil Case Processing

Mr. Jeff Schrade, Education Services Division (ESD) Director, and Ms. Deb King, ESD Program Manager, presented information about the court managers program offered through Education Services. Mr. Schrade gave some background on the Court Leadership Institute of Arizona (CLIA), which was established in 2006 to improve court leadership in Arizona. CLIA develops programs, workshops, and seminars tailored for court administrators and various other court manager roles. Partnering with the National Center for State Courts Institute for Court Management (ICM), CLIA created the Arizona Court Manager Program (ACM) to reduce travel costs and allow for the use of in-state resources and in-state faculty.

Ms. King provided information on the ACM program curriculum, including core competencies, and learning objectives for the needs of local court staff. She also discussed classes currently in development for executive level leadership. In response to a member comment, Ms. King stated that judges are welcome to attend. She added that many judges who have attended indicate that the classes are useful in allowing them to better understand the court managers' role. She acknowledged that the curriculum is not designed for the development of basic managerial skills, however, she offered to mention the point to CLIA and suggest they explore the addition of such courses to the program. Ms. King added that the classes repeat every twelve to fifteen months, and the classes do not need to be taken in sequence. Ms. King requested that members contact her at [DKing@courts.az.gov](mailto:DKing@courts.az.gov) if they have suggestions for classes in particular subject areas.

Ms. King also addressed members regarding an issue in the development of training and education for court personnel and other staff members that are non-judge, non-probation officers. She reported they previously received a request for training in civil case processing, with a focus on the areas of filing fees, forcible entry and detainers, garnishments, small claims, and counter claims. They would like to know if this is a need that is isolated to a single court, or if other courts feel there is a need for such training. Members agreed that there is a need for training in many areas of civil case processing.

### B. Judicial Education in 2010 and Beyond

Mr. Paul Julien, EDS Judicial Education Officer, and Mr. Gabe Goltz, EDS Manager of the Judicial College of Arizona (JCA), updated the committee on the status and focus of their training and education programs for judicial officers in 2010. Mr. Goltz

discussed their efforts to improve on continuing education programs, particularly in light of the cancellation of the 2010 Judicial Conference. They hope to place more emphasis on the needs for various types of training throughout the year rather than having so much prominence on the annual Judicial Conference. He reported on the New Judge Orientations (NJO's) conducted this year for both limited and general jurisdiction. Mr. Julien reviewed several of the seminar topics that will take place at the upcoming Arizona State Bar Convention slated for June 9<sup>th</sup> to June 11<sup>th</sup> in Glendale. He noted that judicial attendance is expected to be increased due to the absence of the Judicial Conference this year. Members were encouraged to attend based on the exceptional educational opportunities being provided. Also, judges attending the convention will fulfill all of their COJET requirements. Other training opportunities discussed included a conference later this month on capital case litigation, the National Judges Association annual conference in Williams next month, and an expanded family law conference in the fall. Independent study classes are also available on-line through Wendell.

### **C. Review of ACJA § 7-205: Defensive Driving**

Ms. Nancy Swetnam, AOC Director of the Certification and Licensing Division (CLD), and Ms. Joan Harphant, Chair of the LJC Defensive Driving Subcommittee, updated the committee on ACJA § 7-205: Defensive Driving and related issues. Ms. Harphant reported that the last LJC Defensive Driving Subcommittee meeting held on April 21, 2010, was attended by numerous traffic schools with several of their concerns brought forward.

- Student eligibility issues – schools are downloading eligibility files from the AOC database and neglecting to check the actual citation.
- “Seven day” rule, requiring students to complete the defensive driving course seven days prior to the court date listed on the citations. The courts and traffic schools are not in agreement on this deadline.
- The correct process for online students who fail to pass a test – committee members were asked for feedback on this issue.
- Limiting the number of schools to those currently certified.
- The AOC's phone system cannot satisfactorily handle the randomization process for listing schools. ITD is currently reviewing this for a potential solution and possibly updating the system.

Ms. Swetnam indicated the schools' concerns are being reviewed and worked through. Ms. Harphant drew members attention to the presence of Mr. Paul Hallums, Chair of the Rules Subcommittee and noted the group is scheduled to meet again on May 19<sup>th</sup> from 8:30 am to 11:00 in AOC conference room 109.

### **D. EDMS Approach for Limited Jurisdiction Courts**

Mr. Stewart Bruner, Information Technology Division (ITD) Manager of Strategic Planning, and Ms. Summer Dalton, Chief Clerk at the Apache Junction Court discussed the Electronic Document Management System (EDMS) for the courts.

Mr. Bruner presented a brief overview of the OnBase document storage and retrieval application, its scanning process, and how it will function to maintain records with the case management system, AZTEC. He reported that general jurisdiction courts, with the exception of Pima Superior, have adopted OnBase and are using it for all of their day-to-day needs. Integration between AZTEC and OnBase has been completed and efforts to integrate AJACS and OnBase are underway.

Ms. Dalton, who has been piloting the OnBase process in her court since March 2010, explained they have tested it on their small claims and civil cases, of which they run approximately 5000 per year. She explained how the process has impacted the day to day work flow and noted that although it is somewhat time consuming at this point, that is expected to change when electronic filing begins. In response to a member request, Ms. Dalton stated she would be available for assistance during the transition from paper to digital storage.

#### **E. Committee Comments on Pending Rule Petitions**

No comments were presented and no action was taken on this item.

#### **G. Guilty Pleas By Mail**

Judge Timothy Dickerson, member, presented proposed language for an amendment to Rule 17.1(a), Rules of Criminal Procedure. As discussed at the February LJC meeting, the rule needs to specify the types of offenses that can be included in guilty pleas by mail. Members discussed at length some of the contingencies of accepting pleas by mail and agreed that the process should be similar to that of telephonic pleas, using a similar form. In addition, rather than including only class three misdemeanors, members agreed the rule should include *any misdemeanor or petty offense*, with exception to cases involving victims, or other factors as determined by the court. Members also agreed the rule should include a statement to the effect that *State participation can be addressed by local rule or policy*, and a statement indicating that the defendant's plea of guilty by mail is subject to acceptance by the court. Judge Dickerson will make the revisions as discussed, as well as prepare the corresponding form for the plea, prior to the September LJC meeting so that the rule change can be presented to the AJC in October.

**MOTION:** To continue work on the proposed amendments to Rule 17.1(a), Rules of Criminal Procedure, with the added changes discussed today, for proposal to the AJC before the January 2011 rule petition deadline. Motion seconded. Approved unanimously. LJC-10-005.

#### **H. DNA Requirements and Form 4**

Commissioner Charles Donofrio addressed the committee proposing a change to the Form 4(a) of Rules of Criminal Procedure. He explained the changes would simplify compliance with statutes A.R.S. § 41-1750, which requires ten-print fingerprints on defendants accused of particular offenses, and A.R.S. § 13-610,

which requires DNA samples on defendants accused of particular offenses. He proposed adding two sections to Form 4(a) to be completed by the arresting agency, that would indicate whether ten-print fingerprints were taken and if so, to provide the process control number, and to indicate if the offense requires a DNA sample under A.R.S. § 13-610, and whether a sample was obtained.

**MOTION:** To concur with proposed changes to Form 4(a) of Rule 16A, Rules of Criminal Procedure as presented. Motion seconded. Approved unanimously. LJC-10-006

## **I. Legislative Update**

Mr. Jerry Landau provided an update on legislation impacting limited jurisdiction courts.

### **HB 2338; Traffic signals**

Requires that the yellow light duration for local traffic control devices outlined in A.R.S. § 28-641 be at least three seconds long. Language was removed from the bill that prohibited photo enforcement from shooting red light violations unless there was a one second delay after the light turned red.

### **HB 2534; Traffic complaints; social security number**

Prohibits including social security number on the violator's copy of a traffic citation.

### **HB 2608; Constables; jurisdiction surcharge**

If a sheriff or constable has served a warrant issued by a justice or superior court judge for failure to pay a fine, the court shall collect a ten percent surcharge on the base fine amount. This will impact justice courts, not the municipal courts.

### **SB 1018; Photo enforcement procedures; justice courts**

Prohibits placement of a photo enforcement system within six hundred feet of a posted speed limit change. Requires a speed limit sign placed between the two photo enforcement signs.

### **SB 1030; Driver license violations; suspensions**

Repeals A.R.S. § 28-3473(B)(C)(D) and (E). A.R.S. § 28-3473(A) will remain as the citing violation.

### **SB 1189; Admissibility of opinion testimony**

Requires that expert testimony regarding scientific, technical or other specialized knowledge may only be offered by a qualified witness, based on knowledge, skill, experience, training or education.

Mr. Landau informed members that if proposition 100 fails, there would be a special legislative session.

## **III. OTHER BUSINESS**

**A. Next Meeting**

Wednesday, September 1, 2010  
10:00 am to 3:00 pm  
State Courts Building  
Conference Room 119 A/B

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

No public comments offered.

Judge Riojas presented Certificates of Appreciation to departing members Mr. Mark Stodola, Judge Ted Armbruster, Judge Phillip Bain, Judge Thomas Chotena, and thanked Judge Nicole Laurin who participated in the meeting telephonically.

The meeting was adjourned at 1:55 pm.

**COMMITTEE ON LIMITED JURISDICTION COURTS  
MINUTES**

Wednesday, September 1, 2010

10:00 to 12:00

Conference Room 119 A/B

1501 W. Washington Street

Phoenix, AZ 85007

**MEMBERS PRESENT:**

Honorable Antonio F. Riojas

Ms. Carla Boatner

M. C. Daniel Carrion

Ms. Faye Coakley

Honorable Timothy Dickerson

Honorable Maria Felix

Honorable Sam Goodman

Honorable Eric Jeffery

Mr. Patrick Kotecki

Honorable Dorothy Little - *telephonic*

Honorable MaryAnne Majestic

Honorable Arthur Markham

Ms. Lisa Royal

Honorable J. Matias Tafoya

**MEMBERS ABSENT:**

Honorable Jeffrey A. Klotz

Mr. Doug Pilcher

Ms. Marla Randall

Ms. Valerie Winters

**PRESENTERS/GUESTS:**

Ms. Melinda Hardman

Mr. Stewart Bruner

Ms. Nancy Swetnam

Ms. Kandace French

Mr. Ken Kung

Mr. Jerry Landau

Ms. Theresa Barrett

Ms. Jennifer Green

Mr. Ken Vick

**STAFF:**

Mr. Mark Meltzer

Ms. Tama Reily

**I. REGULAR BUSINESS**

**A. Welcome and Opening Remarks**

With a quorum present, Judge Antonio Riojas, Chair, called the September 01, 2010, meeting of the Committee on Limited Jurisdiction (LJC) to order at 10:00 a.m.

Members and guest introduced themselves. Judge Riojas welcomed the following new members to the committee:

Judge Eric Jeffery, Phoenix Municipal Court

Judge Arthur Markham, Prescott Consolidated Court

Judge MaryAnne Majestic, Tempe Municipal Court

Ms. Carla Boatner, Court Administrator, Chandler Municipal Court.

## **B. Approval of Minutes**

The minutes of the May 5, 2010 LJC meeting were presented for approval.

**MOTION:** To approve the May 5, 2010 LJC meeting minutes as presented. Motion seconded. Passed unanimously.  
LJC-10-007

## **II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS**

### **A. Supreme Court Rule 124 Draft Revisions**

Ms. Melinda Hardman, Court Analyst in the Administrative Office of the Courts (AOC), Court Services Division (CSD), and Mr. Stewart Bruner, Manager of Strategic Planning in the AOC Information Technology Division (ITD), presented information regarding the revision of Supreme Court Rule 124; Electronic Filing, Delivery, and Service of Documents (SCR 124). Mr. Bruner provided an overview of SCR 124, which was originally put in place to authorize electronic filing of court documents. He explained the current efforts to modify the rule to accommodate the unified statewide e-filing system for courts. Their goal is to complete a rule petition by the January 2011 rule petition deadline, and they anticipate presenting the draft rule petition to LJC at its October 27 meeting. They are providing this advance notice to alert the committee they will be asked at that time to review the draft and provide feedback in a short turn-around time.

### **B. ACJA § 7-205: Defensive Driving**

Ms. Nancy Swetnam, AOC Director of the Certification and Licensing Division (CLD), and CLD staff member, Ms. Kandace French, presented proposed changes to ACJA § 7-205: Defensive Driving. Ms. French explained that the practical application of the code section since its October 2009 revision revealed the need to simplify and clarify certain processes. A draft of the proposal was included in today's meeting materials. Ms. French directed members' attention to several of the proposed changes, including fee change notification requirements for court diversion fees and school fees, disclosure requirements for schools' total fee amounts, the seven day rule, and the ineligible completion processing fee, both of which contribute to a significant reduction in errors. They are requesting the LJC support the proposed changes.

**MOTION:** To recommend adoption of the proposed amendments to ACJA § 7-205: Defensive Driving, as presented. Motion seconded. Passed unanimously. LJC-10-008

### **C. Guilty Pleas by Mail (*Item taken out of order*)**

Judge Timothy Dickerson, member, updated the committee on the latest version of proposed amendments to Rule 17.1(a)(4), Rules of Criminal Procedure and the corresponding form 28(a). During discussion, there were several concerns raised about the plea by mail process, including:

- potential complications in cases involving probation
- lack of consideration for concurrent or previous time served
- possible issues related to the requirement of the defendant's presence at sentencing
- difficulty for courts to establish a 'factual basis'
- potential identity issues due to lack of a fingerprint

After extended discussion, the committee agreed that the goal of the proposed process is simplicity for both the courts and the defendants; therefore, cases in which the sentence may involve probation will be excluded from the plea by mail process. Furthermore, it was determined that the stipulation excluding cases with possible jail term sentences will also state '*unless the defendant will or can be sentenced to time served or is currently incarcerated*'. In addition, a statement will be added for the defendant's signature, to relinquish the right to personally appear for sentencing.

Members also considered the matter of establishing a factual basis and determined that the citation and long form complaint provide sufficiently for this. The likelihood that the lack of a fingerprint could lead to subsequent identity issues was not felt to be a significant risk, particularly because the defendant must sign the plea form in front of a notary public. The committee also agreed that to maintain uniformity and minimize confusion, courts should include instructions with the form 28(a).

**MOTION:** To approve proposed amendments to Rule 17.1(a)(4), Rules of Criminal Procedure and draft Form 28(a) with additional changes discussed today, for proposal to the AJC in December 2010. Motion seconded. Passed Unanimously. LJC-10-009

#### **D. Legislative Update**

Mr. Jerry Landau, AOC Director of Government Affairs, briefed the committee on legislation that may impact limited jurisdiction courts. He related that the bulk of the proposals received thus far are internal probation proposals. Mr. Landau requested the committee's opinion on the one proposal expected to affect limited jurisdiction court: A.R.S. § 12-269: Probation funding; counties with a population of two million or more persons; surcharge; support. He explained the statute pertains to the funding of probation in Maricopa County, but its provision allowing for a county 'assessment' of twenty dollars for persons convicted of a criminal offense or civil traffic violation needs to be amended to conform to the language in A.R.S. § 12-114.01, which covers the 14 other counties. Monies collected under the assessment go to a probation services fund.

**MOTION:** To support proposed amendments to A.R.S. § 12-269; Probation funding; counties with a population of two million or more persons; as presented today. Motion seconded. Passed unanimously. LJC-10-010

Mr. Landau then shared some of the issues being discussed currently at the legislature. He also informed the committee there is a transportation conference Thursday (9/2) and Friday (9/3) of this week, where discussion is expected to take place on SB 1030 from the 2009 session, which removed the mandatory minimum sentences for driving on a suspended license effective January 1, 2010. AOC legal staff are researching whether the law effects cases cited on or after Jan 1, or cases in the system on Jan 1. He stated the courts will likely see cases coming on this issue.

**E. ACJA § 1-401: Minimum Accounting Standards (MAS)**

Mr. Ken Kung, Financial Specialist in the CSD's Court Operations Unit, presented proposed changes to ACJA § 1-401: Minimum Accounting Standards (MAS). He summarized the history and composition of the Financial Review Workgroup (FAW), which began a review of MAS in 2009. He reported that the code changes being proposed today are the result of the work of FAW. Mr. Kung touched on the following changes that:

- eliminated redundant standards already mandated by statute
- eliminated standards too difficult for courts to implement due to automation restrictions
- created standards for online merchant processing and electronic fund transfers
- updated language to accommodate the many electronic and automated processes
- clarified language and definitions

**MOTION:** To approve proposed ACJA § 1-401: Minimum Accounting Standards as presented. Motion seconded. Approved unanimously LJC-10-011

Mr. Kung added that the proposed ACJA § 1-401 is available on the ACJA forum at <http://azdnn.dnnmax.com/forumacja/Forum/tabid/111/Default.aspx> for any parties interested in providing comment.

**F. LJC Subcommittees**

Judge Riojas, Chair, discussed the current status of LJC subcommittees, which were identified as follows:

**Standing Subcommittees**

Executive Subcommittee  
Legislative Subcommittee  
Rules/Forms Subcommittee  
Implementation Subcommittee

**Ad Hoc Subcommittees**

Defensive Driving Subcommittee  
Electronic Documents Subcommittee  
Judicial Performance Subcommittee  
Records Retention Subcommittee

Judge Riojas pointed out that these subcommittees, with the exception of the Defensive Driving Subcommittee, have been inactive for some time now. He

recommended the disbanding of the inactive groups at this time. He added that the subcommittees can be re-established by the Chair as the need arises.

**MOTION:** To disband the inactive LJC subcommittees as discussed, with the understanding that the Chair may re-establish a subcommittee when the need arises. Motion seconded. Passed unanimously. LJC-10-012

Additionally, Judge Riojas reported that Ms. Joan Harphant, Chair of the Defensive Driving subcommittee, is retiring and a replacement Chair will be needed. Judge Goodman offered to assume this role. Hence, Judge Riojas appointed Judge Sam Goodman as the new Chair of the LJC Defensive Driving Subcommittee.

### **III. OTHER BUSINESS**

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

No public comments offered.

#### **B. Next Meeting**

Wednesday, October 27, 2010

10:00 am to 2:30 pm

State Courts Building

Conference Room 119 A/B



**COMMITTEE ON LIMITED JURISDICTION COURTS  
MINUTES**

Wednesday, October 27, 2010  
10:00am to 2:15pm  
Conference Room 119 A/B  
State Courts Building  
1501 W. Washington  
Phoenix, AZ 85007

**MEMBERS PRESENT:**

Honorable Antonio F. Riojas  
Ms. Carla F. Boatner  
Mr. C. Daniel Carrion  
Ms. Faye Coakley  
Ms. Janet G. Cornell  
Honorable Maria Felix  
Honorable Sam Goodman  
Honorable Eric Jeffery

Mr. Patrick Kotecki  
Honorable Dorothy Little  
Honorable Mary Anne Majestic  
Honorable Arthur Markham  
Ms. Marla Randall  
Ms. Lisa Royal  
Honorable J. Matias Tafoya  
Ms. Valerie A. Winters

**MEMBERS ABSENT:**

Honorable Timothy Dickerson

Honorable Jeffrey A. Klotz

**PRESENTERS/GUESTS:**

Mr. Jerry Landau  
Ms. Melinda Hardman  
Mr. Stewart Bruner  
Ms. Theresa Barrett

Ms. Patience Huntwork  
Ms. Christi Weigand  
Ms. Amy Wood

**STAFF:**

Mr. Mark Meltzer

Ms. Tama Reily

**I. REGULAR BUSINESS**

**A. Welcome and Opening Remarks**

With a quorum present, the October 27, 2010, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order by Judge Antonio Riojas, Chair, at 10:05 a.m.

Judge Riojas welcomed new member, Janet Cornell, court administrator for Scottsdale City Court, to the LJC.

**B. Approval of Minutes**

The draft minutes of the September 1, 2010, meeting of the LJC were presented for approval.

**MOTION:** To approve the September 1, 2010, meeting of the LJC as presented. Motion seconded. Passed unanimously. LJC-10-013.

## **II. Business Items and Potential Action Items**

### **A. Legislative Update**

Mr. Jerry Landau, AOC Director of Government Affairs, updated members on current legislative proposals that would impact limited jurisdiction courts. He focused his discussion on two particular proposals.

The first proposal would make technical changes to A.R.S. § 12-269, which pertains to probation funding in Maricopa County, so that the statute conforms to A.R.S. § 12-114.01, which covers probation funding in the remaining 14 counties and was amended in the last session. Mr. Landau indicated that this would ensure statewide uniformity in the application of the probation assessment. He informed members that the proposal was approved by AJC to be included in the legislative package.

The second proposal would allow the board of supervisors to authorize justice courts to use home detention for eligible defendants. Currently, home detention is not an option for justice courts, yet they frequently have a need to utilize it. For example, defendants with certain medical conditions may be denied admission to the jail by the county Sheriff. Mr. Landau reported that without the use of a home detention program, the court may be unable to impose appropriate sanctions. He did note that the proposed legislation, in its current form, includes a mandatory *minimum* jail term that is served prior to beginning home detention.

A discussion on this matter followed. Several members reported having situations with defendants in a state of limbo due to rejection by the jails. Alternatives such as the County hospital, or the medical floor in the county jail, were viewed as non-viable options due to the increased cost. The cost savings potential of home detention programs as a result of reduced jail costs was noted. In addition, defendants are typically responsible for the costs of home detention. Several members discussed the positive aspects they have observed with their courts' home detention programs.

**MOTION:** To support the proposal to permit the County Board of Supervisors to authorize justice courts' use of a home detention program similar to the program used in municipal courts. Motion seconded. Passed unanimously. LJC-10-014

### **B. Draft Revisions to Supreme Court Rule 124**

Mr. Stewart Bruner, AOC Manager of Strategic Planning in the Information Technology Division, and Ms. Melinda Hardman, AOC Court Analyst in the Court Services Division, presented the current draft of the revised Supreme Court Rule 124; Electronic Filing, Delivery, and Service of Documents, which they previously presented at the September LJC meeting. Mr. Bruner briefly reviewed the history of SCR 124. He discussed the activities that have transpired since September, the current efforts to address both the functional and technical aspects of e-filing in one packet, and some of the rule's key policies. At this point they are seeking input from AJC standing committees. He added that public comments will be solicited through May after the filing of the formal rule petition in January 2011. Furthermore, he noted that technical documents will be added after the filing of the rule petition, but will maintain the same effective date as the rule.

Members had several questions as to the e-filing process and requirements. Mr. Bruner and Ms. Hardman clarified where possible, however, they noted that there were some technical and procedural issues that are not yet resolved. The following information was provided:

- Filings will go to through the Clerk's office before going to the judge's office.
- Regarding document authenticity, the printed version of an electronic copy will be as valid as an original hard copy.
- Opposing attorneys will receive notification from AZTurboCourt when a pleading has been filed. They will then be able to log into AZTurboCourt to view the filing.
- Courts are being encouraged to provide electronic service as much as possible - Administrative Order requires the courts to serve minute entries and orders, although currently, this only applies to general jurisdiction courts.
- It will be optional for self-represented litigants to file cases electronically. If they choose to use Turbocourt, they will be bound by the same rules as users in the court community.
- E-filing requirements include a provision that attorneys provide a current-email address on all documents submitted to the court, whether electronic or paper.

**MOTION:** To recommend that AJC approve revisions to Rule 124; Electronic Filing, Delivery and Service of Documents as presented. Motion seconded. Approved unanimously. LJC-10-015

**C. Amendments to ACJA § 5-206: Fee Deferrals and Waivers**

Mr. Patrick Scott, AOC Court Services Division, presented proposed amendments to ACJA § 5-206; Fee Deferrals and Waivers. Mr. Scott provided a brief overview of the code section and its purpose, which is to provide access to the courts for litigants who are unable to pay court fees. He explained the

recommended changes arise from reports that costs are not being adequately deferred the way the code is currently written. He discussed some of the substantive changes, which include allowing for a waiver of fees upon application in addition to some technical changes that were made to bring the code up to date.

A member commented that the amended code requires litigants to “establish by affidavit with supporting documentation” for the deferral process, but there is no similar requirement mentioned under the waiver process. Mr. Scott agreed that the language should read the same for the waiver process.

**MOTION:** To recommend approval of amendments to ACJA § 5-206: Fee Deferrals and Waivers, with changes as discussed. Motion seconded. Approved Unanimously. LJC-10-016

**D. Disaster Preparation: The Louisiana Example**

Ms. Janet Cornell gave a presentation on the effects of Hurricane Katrina on the Orleans Parish Criminal District Court, and discussed the knowledge that the court community could gain from challenges the Louisiana courthouse experienced in the aftermath of the natural disaster. Noting the inability of the court to conduct even the basics of business, Ms. Cornell stated that her court has developed an “emergency box”, that is kept off the court premises, containing such basics as the statutes and rules of court, blank court forms, a cd containing all of the court forms, pens, pencils, yellow pads, tape, and various other items necessary to carry on with minimal business. She encouraged other courts to create a similar kit.

**E. Rules Update**

Ms. Patience Huntwork, Staff Attorney to the Arizona Supreme Court, updated the committee on recent Supreme Court rules that may be of interest or that may impact limited jurisdiction courts. The rules can be viewed on the [Rules webpage](#). Some of the rules Ms. Huntwork highlighted are as follows:

**Promulgate Rule RE Jury Service by Court Employees/ R-09-0016**

This rule was proposed by a citizen, and would have prohibited court employees from serving jury service. The proposal was rejected.

**Rules 45 and 84, Arizona Rules of Civil Procedure/ R-09-0035**

This was essentially a major revision of the rule on subpoenas, and clarified how to object to different types of subpoenas. The modified version provides a more specific rule with headings and plain English, delineating the types of subpoenas and the way in which to object. The new rule goes into effect January 1, 2011.

**Rule 4.1, Arizona Rules of Civil Procedure/ R-10-0002**

This rule proposed that photo radar citations be served on the vehicle owner via first-class mail. This proposal was rejected.

**Rule 1, Appellate and Trial Court Appointments/ R-09-0041**

This rule petition proposed changes to attorneys' and judges' codes of conduct and to the State Bar's diversity policy. This proposal was rejected.

**Rule 6, Rules of Protective Order Procedure/ R-09-0026**

Would amend Rule 6(C) to conform with amendment to A.R.S. § 13-3601(A).

**Rule 6(E)(4)(e)(2), Rules of Protective Order Procedure/R-09-0045**

Would repeal the provision authorizing judges to prohibit defendants from possessing or purchasing firearms and ammunition for the duration of the protective order on the basis that the provision is unconstitutional. The proposal was rejected, however, it was believed that the petitioner had some arguments deserving of further consideration, therefore, the matter was forwarded to the Family Law Section of the State Bar. Their task is to consider and develop standards to guide judges in their decisions to prohibit possession of firearms.

**Rule 1(D)(4), Rules of Protective Order Procedure/ R-10-0013**

This petition would permit the court to direct a defendant to remain in the courtroom for a period of time after the plaintiff is excused only in cases in which an order of protection remains in force. This proposal was rejected.

**Rule 1(B)(1)(d), Rules of Protective Order Procedure/ R-10-0014**

This petition would replace the term "victim" in the rules with "plaintiff" or, in appropriate situations, "alleged victim". The proposal was rejected.

**F. Entry of Guilty Pleas by Mail**

In the absence of member Judge Dickerson, Mr. Mark Meltzer, AOC Staff to the LJC, gave a brief history of the pleas by mail proposal, Rule 17.1(a)(4), and updated members on its current status. Since the September LJC meeting, the draft rule proposal has been presented to the Committee on Victims in the Court (COVIC) and the Limited Jurisdiction Court Administrators Association (LJCAA), receiving approval from both, with the exception of some suggested revisions by the LJCAA. The suggested revisions were incorporated and included in the draft presented today. In addition, a Form 28(a) instruction sheet has been drafted and is presented for approval along with the proposed Rule 17.1(a)(4).

During discussion, there was some question as to the instruction form's reference to school-teachers. Some courts noted they already include the reference to schoolteachers in pleadings and understand it to be required by statute. However, other courts do not follow the practice and noted that it is not included in the rules for telephonic pleadings. Member consensus was to strike the reference to schoolteachers.

**MOTION:** To recommend the AJC approve proposed Rule 17.1(a)(4) as presented, with stricken language as discussed. Motion seconded. Passed unanimously. LJC-10-017

**MOTION:** To recommend ACJ approval of Form 28(a) as presented, with changes as discussed. Motion seconded. Passed unanimously. LJC-10-018

**G. FARE Update**

Ms. Christi Weigand, Manager of the AOC Consolidated Collections Unit, provided a brief update on the Fines Reduction Project. She noted they began piloting the program with the Flagstaff justice and municipal courts in early September with the oldest cases. To date, about \$30,000 has been collected, but they expect the majority of payments will likely be made toward the end of the payment period. She stated they will be using performance measures after the project ends including tracking receivables from courts. Ms. Weigand offered to come back to future LJC meetings to update the committee on the results of the project.

**H. AZ Turbo Court Update**

Ms. Amy Wood, Manager of the AOC Caseflow Management Unit, updated members on the AZTurboCourt project. She reviewed the types of forms being developed; the intelligent form, which is targeted to the pro se litigants and walks them through the process, and the attached pleading, which is more suited to attorneys. She also reviewed the various forms in production as print forms. Ms. Wood reported that there are currently attorneys filing into Maricopa County superior court through AZTurboCourt and this continues to increase in volume. The initiation of civil pleadings is under development with the Pima County Superior Court. In November, the appellate courts expect to begin a pilot. She added that civil subsequent filings into Maricopa superior court will begin moving to mandatory e-filing in January. Notification will go out to attorneys within the next few weeks. Training is being set up and she emphasized it will be a phased in process.

Ms. Wood provided two links where members can find additional information and continued updates about policy issues and AZTurboCourt:

- <http://www.azcourts.gov/cot/EFilingPolicyIssues.aspx>
- <http://supreme22/azturbocourtinfo/Forms.html>

**I. LJC Representative to the Committee on Probation**

Since the departure of LJC member Doug Pilcher, who served as the LJC representative to the Committee on Probation (COP), the LJC's seat on COP is vacant. Current LJC member Mr. Daniel Carrion volunteered to assume this role.

**J. 2011 Meeting Dates**

Judge Riojas, Chair, informed members of the proposed 2011 meeting dates, which are as follows:

- January 26, 2011
- May 11, 2011
- August 31, 2011
- October 19, 2011

All meeting dates will fall on Wednesdays.

**MOTION:** To approve the proposed 2011 LJC meeting dates as presented. Motion seconded. Approved unanimously.  
LJC-10-019

**III. OTHER BUSINESS**

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

No comments offered.

**B. Next Meeting:**

Wednesday, January 26, 2011  
10:00am to 2:30pm  
Conference Room 119 A/B  
State Courts Building

Meeting was adjourned at 2:07 p.m.