

**COMMITTEE ON LIMITED JURISDICTION COURTS
MINUTES**

Wednesday, April 30, 2014

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

Conference Room 119A/B

1501 West Washington Street

Phoenix, Arizona 85007

Present: Carla Boatner, C. Daniel Carrion, Judge Timothy Dickerson, Julie Dybas, Judge Maria Felix, Christopher Hale, Judge James William Hazel, Jr., Judge Eric Jeffery, Judge Dorothy Little, Judge MaryAnne Majestic, Judge Steven McMurry, Judge Antonio Riojas, Judge J. Matias “Matt” Tafoya, James “Marty” Vance, Sharon S. Yates

Telephonic: Marla Randall, Patrick Kotecki

Absent/Excused: Judge Arthur Markham

Presenters/Guests: Theresa Barrett (AOC), Jeff Fine, Melinda Hardman (AOC), Jerry Landau (AOC), Amy Love (AOC), Denise Lundin (AOC), Kay Radwanski (AOC), Patrick Scott (AOC)

Staff: Mark Meltzer (AOC), Julie Graber (AOC), Sabrina Nash (AOC)

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The April 30, 2014, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:00 a.m. by Judge Antonio Riojas, Chair. Judge Riojas welcomed Chief Justice Rebecca Berch, who thanked everyone for their participation on LJC as her own term is coming to an end.

B. Approval of Minutes

The draft minutes from the October 2, 2013, meeting of the LJC were presented for approval.

Motion: To approve the October 2, 2013, meeting minutes, as presented. **Action:** Approve, **Moved by** Judge MaryAnne Majestic, **Seconded by** Judge Timothy Dickerson. Motion passed unanimously.

The draft minutes from the November 25, 2013, meeting of the LJC were presented for approval.

Motion: To approve the November 25, 2013, meeting minutes, as presented. **Action:** Approve, **Moved by** Judge MaryAnne Majestic, **Seconded by** Judge Timothy Dickerson. Motion passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update

Amy Love, AOC government affair liaison, reported on bills of interest that passed during the 51st Legislature, Second Regular Session.

HB2021: vexatious litigants; designation: Designates a pro se litigant as a vexatious litigant when the litigant files numerous actions for the purpose of harassment. Effective January 1, 2015.

- Does this designation apply only to superior court? While the bill originated from a superior court judge, the designation applies to all Arizona courts.

HB2100: address confidentiality program: Adds address confidentiality program participants to the list of persons who can petition that their contact information be restricted in the records for the assessor, county treasurer, and county recorders offices.

HB2103: concealed carry permit; qualification: Reduces the minimum age (from 21 to 19) that an applicant may qualify for a concealed weapons permit if the applicant provides evidence of current military service. The bill was signed by the Governor.

HB2164: laser pointer; aircraft; violation: Classifies aiming a laser pointer at an occupied aircraft as a class 1 misdemeanor. The bill was not yet transmitted to the Governor.

HB2457: mental health; veterans courts; establishment: Requires a presiding judge to institute eligibility criteria when establishing a veterans court and mental health court for referral to these courts. The bill was signed by the Governor.

HB2505: leaving accident scene; alcohol; penalty: Increases the penalty for a driver who causes an accident and fails to render reasonable assistance to an injured person from a class 3 misdemeanor to a class 6 felony. The bill was signed by the Governor.

HB2563: juvenile crime victims' rights: Aligns victims' rights statutes for offenses committed by juveniles to existing adult victims' rights statutes. The Governor has not taken action on the bill yet.

HB2571: criminal damage; economic costs: Prescribes the types of costs in determining damages for criminal damage offenses and aggravated criminal damage offenses. The bill was signed by the Governor.

HB2625: penalty assessment; victims' rights enforcement: Establishes a \$2 penalty assessment to fund the newly established Victims' Rights Enforcement Fund. Effective January 1, 2015.

SB1168: teenage drivers; communication devices prohibited: This bill seeking to prohibit the use of wireless portable devices for teenage drivers failed.

SB1217: precinct officers; salaries: Increases the maximum salaries of constables by 10%. The bill was signed by the Governor.

SB1266: misconduct involving weapons; judicial officers: Allows elected or appointed judicial officers to carry a deadly weapon in the court facility where they work. The bill was signed by the Governor.

B. Failure to Pay Fines

This agenda item was continued to the next meeting.

C. Revision of ACJA § 4-302: Limited Jurisdiction Courts Records Retention and Disposition Schedule

Melinda Hardman, AOC senior court policy analyst, presented proposed revisions to ACJA § 4-302: Limited Jurisdiction Courts Records Retention and Disposition Schedule, which are needed to implement recommendations from the Advisory Committee to Develop Policies for Retention, Destruction, and Access to Electronic Court Records (Electronic Records Committee) that were adopted by the Arizona Judicial Council (AJC) in December 2013. Ms. Hardman noted that revisions are necessary in both the LJC and GJC schedules, and both schedules will be presented for approval at AJC's October meeting. She will be returning at LJC's August meeting with a completed LJC schedule for the committee's review and approval.

Ms. Hardman reviewed some of the proposed changes to the LJC schedule, which are intended to simplify and bring consistency between the schedules so court clerks and administrators will have an easier time complying with the requirements:

- Added two new columns to the schedule for the retention period of records on the court website, and in the case and document management systems to address the high volume of cases in LJ courts and issues with storage, resource, and migration for both electronic and paper records.
- Clarified in the "General Provisions" section what to do when retention periods are reached and which types of records can be transferred to State Library, Archives & Records (LAPR).
- Added definitions for "case file", "completion of sentence" and "satisfaction of sanctions," and "records manager." The issue of completion of sentence was raised because a judge can order lifetime registration for a sex offender but the records necessary to prove the order was violated would need to remain accessible and be addressed in the schedule. LJC members agreed that the definition of "completion of sentence" had to include compliance with all requirements of the court's order or law.
- Historically significant and landmark cases are not part of the schedule.

A member inquired about what constituted presiding judges' business papers. Ms. Hardman explained that LAPR would like to receive presiding judges' correspondence and other information pertinent to historical research. In response to a question about the ownership of certain physical records (e.g., Diana Ross' DUI citation), she noted that the records belong to the court but LAPR is the record keeper. A few members questioned

the need for courts to maintain a list of destroyed records and case files. Ms. Hardman advised that it was only a suggestion to help courts with recordkeeping.

Judges Tafoya and Little agreed to work with Ms. Hardman to review and comment on further drafts. Ms. Hardman advised that LJC court administrators will also be invited to be part of the review group.

D. Retention, Destruction, and Access to Electronic Court Records

Eric Ciminski, AOC project manager, reviewed some of the recommendations of the Electronic Records Committee that were adopted by the AJC, and described how and when the new policies would be implemented and impact the courts.

1. The Committee recommended that the generic “local charge” description on public access websites be removed because the type and severity of the charge could be misinterpreted and cause harm to an individual.

The AOC will remove the generic “Local Charge” description from the Supreme Court’s Public Access website charges. Locally controlled court websites must do the same.

2. The Committee recommended the mandatory and automatic destruction of electronic case records according to the approved retention schedules to achieve statewide consistency in the application of the retention periods.

Courts that use an AOC-maintained system are not required to do anything but courts that operate their own systems must design their own destruction procedures and provide a copy to the AOC.

Mr. Ciminski reported that a 24-month implementation period beginning December 2013 was approved by AJC to allow for computer programming changes, and the timelines for these process will be communicated as they are set. In addition, he is currently developing an FAQ based on the questions received so far and he sought additional questions from members.

E. ACJA § 1-302: COJET (*agenda item out of order*)

Jeff Schrade, AOC Education Services Division director, presented proposed amendments to ACJA § 1-302: Education and Training regarding the annual COJET requirements, which would add a six-hour requirement of live training each year and remove not only the eight-hour limit on non-facilitated programs but also e-Learning and other interactive programs from this category. Mr. Schrade explained that in response to new technology, the focus has shifted from a cap on non-facilitated learning to an affirmative requirement of live training hours to promote real-time interaction between live persons.

Motion: To support the proposed changes to ACJA § 1-302, as presented. **Action:** Approve. **Moved by** Judge Stephen McMurry, **Seconded by** Judge Maria Felix. Motion passed unanimously.

F. Rules Clarification (*agenda item out of order*)

Judge Crane McClennen, Maricopa County Superior Court, presented anomalies between the Rules of Procedure in Traffic Cases and Boating Cases (first promulgated in 1963), and the Rules of Procedure in Civil Traffic and Civil Boating Violation Cases (first promulgated in 2002). The more recent body of rules governs *civil* traffic and boating but violations may be consolidated with a criminal violation. The older body of rules now governs *criminal* traffic and boating cases but they also apply to “parking or standing offenses,” and to violations of ordinances concerning parking, which have civil penalties.

The members expressed agreement that these anomalies needed to be addressed and suggested perhaps a rule petition. A workgroup was established consisting of Judges Jeffery, Dickerson, McMurry, and Hazel, who will meet over the summer and report at the next meeting.

G. Rules Update (*agenda item out of order*)

Mark Meltzer provided an update on rule petitions pending in the current rules cycle that may be of interest to limited jurisdiction courts, and sought feedback from LJC on whether to file any formal comments. The deadline to submit comments is May 20, 2014, for most of the 2014 rule petitions.

Members raised concerns about proposed rule, R-13-0047, which would permit a change of judge as a matter of right or for cause in an eviction action in a justice court. After discussion, members agreed to file a comment opposing this proposed rule.

Motion: To file a comment opposing the adoption of R-13-0047, which Judge McMurry will prepare and circulate to the members. **Action:** Approve. **Moved and seconded.** Motion passed unanimously.

H. Civil Traffic Hearing Officers (*agenda item out of order*)

Elizabeth Evans, AOC Court Operations Unit manager, provided a brief overview of issues that surfaced last year regarding the appointment of hearing officers and the delegation of their duties. Ms. Evans reported that an ad-hoc workgroup was created to review current practices and make recommendations. The workgroup found differing practices throughout the state. While many courts delegated certain administrative hearing officer functions to clerks, some also used clerks to dispose of civil traffic violations. The workgroup’s main recommendation was that each limited jurisdiction court should issue an administrative order assigning certain non-discretionary civil traffic duties to court clerks. In addition, the workgroup suggested that clerks should be required to complete hearing officer training when appointed to oversee contested traffic matters that go beyond ministerial duties; and that the AOC should develop a short and accessible training for clerks specifically focusing on resolving violations assigned to clerks.

Marretta Mathes, AOC senior court operational review specialist, reviewed the draft Administrative Order (AO) template that is currently being developed, and the specific actions that court clerks could be assigned. Ms. Mathes pointed out that discretionary tasks were taken out, and she directed members to the template's comments regarding acceptable forms of proof, which are merely examples that the court can choose to accept as proof. Ms. Mathes noted that the final template will include a definitive list of assignable tasks, and if a court wants to add tasks to the list, it must first obtain approval from the AOC. Ms. Mathes asked members if any additional violations should be included.

Judge Little suggested adding civil voting registration. A member inquired when the training would be available for court clerks. Mr. Schrade indicated that the training would be created from components of the hearing officer training but the objectives need to be identified and mapped out first.

I. ACJA § 5-206: Fee Waivers and Deferrals (*agenda item out of order*)

Patrick Scott, AOC specialist, updated members on current developments regarding fee deferrals and waivers following AJC's approval on March 20, 2014, of amendments to ACJA § 5-206: Fee Deferrals and Waivers. Mr. Scott reviewed the approved changes to the code section, which are aimed at assisting judicial officers and staff make decisions to grant or deny waivers or deferrals by improving mandatory forms and establishing best practices to standardize and better define the process. The AOC is currently working on revising the mandatory forms and creating a training program for those responsible for approving fee waivers and deferrals.

Mr. Scott highlighted the following changes:

- The minimum clerk fee applies at the initial filing or post adjudication proceeding and is triggered by the request for a fee waiver or deferral.
- Fees are postponed until the end of the case for applicants represented by Legal Services but they must still complete the application.
- Tiers were built into the payment of fees so fees are assessed with a minimum payment due at the time of filing based on the applicant's income level. The minimum payment is determined at the county level.
- An applicant who is qualified for a waiver or deferral may voluntarily pay the fees.
- Maricopa County conducted research that found that 40% of fee waiver recipients were ineligible. Applicants will now be required to present documentation of Supplemental Security Income (SSI) eligibility when applying for a fee waiver. Mr. Scott reported that the presiding judges suggested adding instructions to the application informing the applicant of this requirement.
- Applicants who were granted a deferral at the time of filing based on their insufficient income will qualify for a waiver at the end of the case if their situation has not changed.

J. JP Association Conference (*agenda item out of order*)

Judge Little invited LJC members to participate in programs and break-out classes at the JP Association Conference on September 12, 2014, in Prescott, AZ, at the Prescott Resort. The fee is \$150.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

None present.

Judge Little inquired whether a law officer is allowed to issue civil traffic citations using a radar gun if the officer is not certified to use it. According to her county attorney, a law officer is not required to be certified, and cited a case from Kansas. Members agreed that it was an issue for police supervisors to deal with because while there is no foundational requirement for the certification, consideration must be given to the possible impact on creditability and outcome of the case.

Judge Little questioned how a case should be processed in the case management system when the county attorney files a case with multiple defendants and there are different charges for each defendant (e.g., only one defendant has a warrant). Members discussed possible options but no agreement was reached.

B. Adjournment

The meeting adjourned at 1:06 p.m.

C. Next Committee Meeting Date

Wednesday, August 27, 2014

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 West Washington Street

Phoenix, Arizona 85007

**COMMITTEE ON LIMITED JURISDICTION COURTS
MINUTES**

Wednesday, August 27, 2014

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

Conference Room 119A/B

1501 West Washington Street

Phoenix, Arizona 85007

Present: Pete Bromley, C. Daniel Carrion, Judge Timothy Dickerson, Julie Dybas, Judge Maria Felix, Jeffrey Fine, Christopher Hale, Jr., Judge Eric Jeffery, Judge MaryAnne Majestic, Judge Arthur Markham, Judge Steven McMurry, Marla Randall, Judge Antonio Riojas, Judge J. Matias “Matt” Tafoya, Sharon S. Yates

Telephonic: Judge James William Hazel

Absent/Excused: Patrick Kotecki, Judge Dorothy Little

Presenters/Guests: Theresa Barrett (AOC), Stewart Bruner (AOC), Eric Ciminski (AOC), Elizabeth Evans (AOC), Dave Foley, Melinda Hardman (AOC) Jerry Landau (AOC), Paul Thomas (Mesa Municipal Court), Marcus Reinkensmeyer (AOC), Patrick Scott (AOC), Kathy Waters (AOC), Joshua Welker (AOC)

Staff: Susan Pickard (AOC), Julie Graber (AOC)

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The August 27, 2014, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:03 a.m. by Judge Antonio Riojas, Chair. Judge Riojas welcomed new members, Pete Bromley and Jeffrey Fine.

B. Approval of Minutes

The draft minutes from the April 30, 2014, meeting of the LJC were presented for approval.

Motion: To approve the April 30, 2014, meeting minutes, as presented. **Action:** Approve, **Moved by** Judge MaryAnne Majestic, **Seconded by** Judge Eric Jeffery. Motion passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Advancing Justice Together: Courts and Communities 2014-2019 Strategic Agenda

Marcus Reinkensmeyer, Court Services Division Director, presented the 2014-2019 strategic agenda from Chief Justice Scott Bales, entitled “Advancing Justice Together: Courts and Communities,” which builds upon past successes and identifies priority areas on which to focus. Mr. Reinkensmeyer highlighted initiatives that would impact limited jurisdiction courts as well as the strategic agenda’s main goals to promote access to

justice, protect children, families, and communities, improve court processes, communication and community participation, and enhance professionalism within Arizona's courts.

B. ACJA § 4-304: Assigning Disposition of Civil Traffic Cases

Marcus Reinkensmeyer provided background information on questions that surfaced last year regarding the appointment of hearing officers and the delegation of their duties to court staff, and reviewed results of a statewide survey showing varied procedures throughout the courts, and the workgroup's recommendations. Based on the survey results, relevant statutes, and workgroup recommendations, the AOC's Court Services developed a template Administrative Order (AO) for use by local courts. Mr. Reinkensmeyer discussed the guiding legal approach taken, which was to distinguish between matters assignable to court staff in a ministerial manner (after receiving training) and those requiring a hearing officer's discretion and judicial officer review; and to determine which specific routine civil traffic offenses were amenable to disposition over the counter and did not require the exercise of judicial discretion. He explained that local courts that choose to allow court staff to dispose of civil traffic cases will be required to adopt an administrative order conforming to the template AO, which only authorizes court staff to grant extensions and dispose of specific offenses, including proof of insurance, driver license, registration/license plate, child restraint, name/address update notification, vehicle equipment, and parking space violations.

Mr. Reinkensmeyer noted that the Supreme Court Administrative Order is planned to be issued this week, and the proposed code section incorporates the provisions of the Supreme Court AO and the template AO, and provides for maintenance of the template AO by the AOC. The AOC is also in the process of developing training and documentation on how to complete the tasks set forth in the template AO. He sought feedback from the committee and recommendation for approval before presenting to AJC at the October meeting.

Member comments:

- Based on the April presentation, committee members expected to review and provide feedback on the types of offenses and the list of assignable tasks to be included in the template AO rather than approve a finalized version.
- Members supported the need for consistency by requiring that each court issue a local AO to allow clerks to dispose of routine matters; however, members felt that the workgroup's intent was not to mandate a set form AO and specific offenses for all courts, but rather to provide guidelines and some flexibility so the template AO could be adaptable to each individual court.
- Members requested that the Chief Justice delay signing the Administrative Order until additional input was received from this committee.

Motion: To table for further discussion. **Action:** Approve, **Moved by** Judge Arthur Markham, **Seconded by** Judge MaryAnne Majestic. Motion passed unanimously.

C. Legislative Update (item out of order)

Jerry Landau, AOC Director of Government Affairs, discussed the following legislative proposals of interest to limited jurisdiction courts:

2015-01, 2015-10: Courts; transaction of business – Permits a municipal court and justice of the peace court to transact business on the second Monday of October if approved by the Presiding Judge, and if the County Board of Supervisors or the City or Town Council designates the Friday after Thanksgiving as a legal holiday in place of Columbus Day.

Motion: To recommend that AJC support the proposed legislation allowing limited jurisdiction courts to transact business on the second Monday of October. **Action:** Approve, **Moved by** Judge Maria Felix, **Seconded by** Judge Arthur Markham. Motion passed unanimously.

2014-2, 2014-3: Court ordered treatment; veterans – Permits the court to order screening and treatment for alcohol, drugs, and domestic violence through a facility approved by the Department of Veterans Affairs.

Motion: To recommend that AJC support the proposed legislation allowing the court to order alcohol, drugs and domestic violence treatment through a facility approved by the Department of Veterans Affairs. **Action:** Approve, **Moved by** Judge Timothy Dickerson, **Seconded by** Judge Maria Felix. Motion passed unanimously.

2015-04, 2015-09: Aggravated assault, judicial officers – Classifies an assault on a judicial officer as an Aggravated Assault, and defines a judicial officer as a full-time appointed or elected judge, commissioner, justice of the peace, magistrate or hearing officer of a state, county or municipal court. Mr. Landau reported that the Legislature has been reluctant to add new categories, and requested examples of cases in which an assault on a judicial officer was treated as a misdemeanor.

Motion: To recommend that AJC support the proposed legislation classifying an assault on a judicial officer as an aggravated assault. **Action:** Approve, **Moved by** Judge Eric Jeffery, **Seconded by** Judge Steven McMurry. Motion passed unanimously.

2015-05: Justice of the Peace; residency – Requires a Justice of the Peace candidate to be a resident for at least one year of the precinct in which the candidate is seeking election.

Motion: To recommend that AJC support the proposed legislation requiring a JP candidate to be a resident in the precinct for at least one year. **Action:** Approve, **Moved by** Judge Steven McMurry, **Seconded by** Judge Timothy Dickerson. Motion passed unanimously.

2015-06: Community restitution – Permits a justice of the peace to order community restitution in lieu of all or part of a criminal fine or civil penalty if in the best interest of

justice. The rate is determined by the county's presiding justice of the peace. Does not apply to criminal restitution, surcharges or assessments.

Member comments:

- There were concerns that the proposed language would impact the municipal and justice of the peace courts' current ability to allow community restitution in lieu of all moneys owed, including surcharges and penalty assessments for non-mandatory fines and penalties.
- Some members suggested amending the language to limit to part of a mandatory fine or civil penalty.
- Members considered whether the proposed language would work better at post-sentencing after multiple attempts were made to collect.
- Would it affect judicial productivity credits?

Motion: To table for further discussion at the October meeting. **Action:** Approve, **Moved by** Judge Maria Felix, **Seconded by** Judge Arthur Markham. Motion passed unanimously.

Mr. Landau discussed proposed failure to appear legislation and the impact on the statewide effort to improve criminal history reports. The statute currently requires the court to file a complaint if the defendant fails to appear but most cases are not prosecuted, and the cases remain open. Mr. Landau will circulate proposed language, which would combine two statutes into one; allow court staff to file a failure to appear complaint (without precluding prosecutors from doing the same); and require the complaint to be sent to the prosecutor. If the prosecutor does not notify the court that the case has been prosecuted within six (6) months, the court could close its case.

Member comments:

- Would this impact the availability to obtain a defendant's failure to appear history?

D. Interlock Devices in Lieu of Jail Time

Mr. Landau informed members that the AOC contacted the Arizona Motor Vehicle Division (MVD) about concerns from limited jurisdiction courts regarding Interlock devices, specifically that the court cannot verify whether a person actually complied with the installation of the device. In response, MVD proposed addressing the issue by sending notification to the courts confirming whether a defendant complied or not.

Member comments:

- Courts prefer using home detention in lieu of jail time.
- Does the use of Interlock devices in lieu of jail time apply to the interstate compact?

E. ACJA § 5-206: Fee Deferrals and Waivers (*item out of order*)

Patrick Scott, AOC specialist, presented changes to ACJA § 5-206: Fee Deferrals and Waivers, and to the mandatory fee deferral and waiver forms, which were approved for use as of September 1, 2014. In the revised application form, participants in government assistance programs must now provide proof of program participation rather than

complete the financial questionnaire. In addition, applicants who receive supplemental security income benefits are eligible for an immediate waiver, and those who receive benefits in qualifying programs, are represented by legal aid, or have an income less than 150% of the poverty rate are eligible for a deferral until the conclusion of the case. Mr. Scott noted that the eligibility determination based on defined income tiers was also simplified after being tested in both Maricopa and Yuma Counties. If the applicant's income is between 150% and 175% of the poverty rate, fees are deferred and a payment plan is provided. If the applicant's income is between 175% and 225% of the poverty rate, a payment plan is provided and a minimum of 25% is due when filing. The court may still grant good cause exceptions for those who do not qualify because of their income.

F. ACJA § 4-302: Records Retention and Disposition (*item out of order*)

Melinda Hardman, AOC senior court policy specialist, presented the completed LJC Records Retention and Disposition Schedule for the committee's review and recommendation for approval to AJC. Ms. Hardman reminded members that revisions to the code section and to both the LJC and GJC schedules were necessary to implement the adopted recommendations from the Electronic Records Committee. The proposed revisions have been posted to the ACJA web forum and the deadline for comments is December 5, 2014. Ms. Hardman sought input from members and reviewed changes to the retention schedule since LJC's April meeting.

- Ms. Hardman noted that the retention period in record series #11 should mirror #10. Members agreed to clarify #11 by moving "or the filing of a satisfaction of judgment" to the end of the sentence.
- Ms. Hardman remarked that jury records have never been included in the LJC schedule and members agreed to continue leaving jury records out.
- A member suggested to clarify the heading in the fourth column to "Retention Period on Arizona Supreme Court and Local Court Public Websites." Members agreed.
- An issue was raised with record series #17 because courts retain verbatim records for cases by date, not by type of recording. Discussion ensued about the storage and destruction of audio recordings, and the consensus of the committee was to modify the retention period to "no more than 3 years from the completion of the case."

Motion: To recommend that AJC adopt the proposed changes to ACJA § 4-302, with modifications to the fourth column heading to "Retention Period on Arizona Supreme Court and Local Court Public Websites"; to the retention period in record series #17 to "No more than 3 years from the completion of the case"; and to the retention period in record series #11 by moving "or the filing of a satisfaction of judgment" to the end of the sentence. **Action:** Approve, **Moved by** Judge MaryAnne Majestic, **Seconded by** Judge Maria Felix. Motion passed unanimously.

G. Traffic and Boating Case Rules Workgroup

Judge Eric Jeffery discussed the workgroup's recommendations to eliminate the Rules of Procedure in Traffic Cases and Boating Cases because some of the rules are unnecessary, or already covered in other rules of procedure, and to move the parking rules to the Rules

of Procedure in Civil Traffic and Civil Boating Violation Cases. Judge Jeffery also noted that Rule 7(b), Procedure on Failure to Appear, allows for the immediate forfeiture of bail in a civil traffic matter, which should be covered by the Rules of Criminal Procedure. Members agreed with the direction and recommendations of the workgroup. Judge Jeffrey will return at the October meeting with a full set of recommendations for the committee's review and approval.

H. ACJA § 6-105.01 Powers and Duties of Officers Evidence-Based Practices
(item added during the meeting)

Kathy Waters, Adult Probation Services Division director, presented revisions to ACJA § 6-105.01: Powers and Duties of Officers Evidence-Based Practices, which are necessary to implement a legislative change to A.R.S. § 12-256. The proposed changes would expand the arrest authority of probation officers over detainees to all counties in the enforcement of pretrial release conditions. Ms. Waters sought feedback from stakeholders before presenting to AJC at the October meeting.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

None present.

Judge Riojas inquired about the most effective way to include the phone number in a jail board case; however, if a line of data was added in the ticket information, it would be subject to disclosure.

Judge McMurry announced that Maricopa County Justice Courts will be hiring a judicial education officer to provide individualized training for new judges and improve education of sitting judges.

B. Adjournment

Motion: To adjourn. **Action:** Approve, **Moved by** Judge Maria Felix, **Seconded by** Judge Timothy Dickerson. Motion passed unanimously.

Adjourned at 1:12 p.m.

C. Next Committee Meeting Date

Wednesday, October 29, 2014

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 West Washington Street

Phoenix, Arizona 85007

COMMITTEE ON LIMITED JURISDICTION COURTS
MINUTES
September 15, 2014
Arizona State Courts Building
Conference Room 332
1501 W. Washington Street, Phoenix, AZ 85007

Present: Pete Bromley, Jeffrey Fine, Judge Eric Jeffery, and Judge Steven McMurry
Telephonic: Judge Antonio Riojas, Julie Dybas, Christopher Hale, Judge William Hazel, Judge MaryAnne Majestic, Judge Arthur Markham, Marla Randall, Judge J. Matias “Matt” Tafoya, Sharon Yates, Judge Dorothy Little
Absent/Excused: C. Daniel Carrion, Judge Timothy Dickerson, Judge Maria Felix, Patrick Kotecki
Presenters/Guests: Theresa Barrett (AOC), Elizabeth Evans (AOC), Jennifer Greene (AOC), Marretta Mathes (AOC), Marcus Reinkensmeyer (AOC), Paul Thomas, David Withey (AOC)
Staff: Julie Graber (AOC), Susan Pickard (AOC)

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The September 15, 2014, emergency meeting of the Committee on Limited Jurisdiction Courts was called to order at 12:00 p.m. by Judge Antonio Riojas, Chair.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. ACJA §4-304: Assigning Disposition of Civil Traffic Cases

Marcus Reinkensmeyer, Court Services Division Director, addressed issues that emerged at the last LJC meeting regarding the draft template Administrative Order (AO) assigning disposition of civil traffic cases, and advised that the Chief Justice did postpone signing and issuing the AO and template AO as requested by the committee. Discussion ensued on several topics related to the proposed template AO and code section language.

Front counter duties and transactions

- Concerns were raised about due process for civil traffic offenses because there is an assumption that people understand the meaning of a responsible plea, or are aware that they can request a hearing or attend defense driving diversion. Consequently, members felt a bigger discussion was warranted on front counter duties and transactions.
- Will courts be able to continue operating the way they have been?

Mandatory versus flexible approach

- Members questioned the usefulness of a mandatory and inflexible template AO because of the courts’ diversity and many ordinances, rules, and citable statutes.
- Why do we need every court to agree to add an offense or local ordinance to the list? Why should we discuss small issues that are only big for an individual court?

- Local courts should have flexibility and be able to customize the template AO and issue their own administrative order rather than be required to conform to a set template AO.
- Members supported including a catchall provision in ACJA § 4-304(C) allowing the presiding judge of a court to adapt the template AO to the individual court's needs and add an offense or local ordinance to the list that is amenable to disposition in a ministerial basis.

Encouraging consistency or different results

- Should we be encouraging consistency or different results? The purpose of the template AO was to promote standards and address varied court practices. The AOC developed the template based on feedback received and the intent was to revise the language based on additional input from stakeholders, and obtain more examples to test the practicality of the list of offenses.
- Several members suggested that the goal should not be consistency at this stage, but rather it should be started with flexibility and adjusted at a later time to allow any possible issues to be addressed.

Limiting the catchall provision

- Because the disposition of city ordinances may include optional jail time for a misdemeanor, the catchall provision would need to be limited to the disposition of civil traffic matters.
 - What if an ordinance is civil in nature but not necessarily traffic related?
 - Should there be any limitation at all?
- Several members supported limiting the catchall provision to all civil matters that do not require judicial discretion.

Increase consistency with the use of administrative orders

- Given that administrative orders are useful to judges, each individual court should be required to issue an administrative order for each case type it deems amenable to front counter disposition, and include a catchall provision that provides examples of the matters that can be handled in a ministerial manner.

Suggestion

- The option to waive automatic suspension should be provided for Charge # 11 in the template AO.

Plan

- The committee suggested drafting its own administrative order that outlines the tasks that could be delegated to clerks.
- The consensus of the committee was to table the matter for now and discuss the committee's concerns and recommendations at the next Presiding Judges' meeting.

Motion: To table the matter. **Action:** Approve, **Moved by** Judge MaryAnne Majestic, **Seconded by** Jeffrey Fine. Motion passed unanimously.

Action Item: The AOC Team agreed to revisit the draft Supreme Court Administrative Order as guided by this discussion and return to LJC on October 29.

III. OTHER BUSINESS

- A. Good of the Order/Call to the Public**
None present.

The meeting adjourned at 12:59 p.m.

**COMMITTEE ON LIMITED JURISDICTION COURTS
MINUTES**

Wednesday, October 29, 2014

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

Conference Room 119A/B

1501 West Washington Street

Phoenix, Arizona 85007

Present: Pete Bromley, C. Daniel Carrion, Judge Timothy Dickerson, Julie Dybas, Judge Maria Felix, Judge Eric Jeffery, Judge Dorothy Little, Judge MaryAnne Majestic, Judge Arthur Markham, Judge Steven McMurry, Judge Antonio Riojas, Judge J. Matias “Matt” Tafoya, and Sharon S. Yates

Telephonic: Christopher Hale, and Patrick Kotecki

Absent/Excused: Jeffrey Fine, Judge James William Hazel, and Marla Randall

Presenters/Guests: Judge Elizabeth Finn (Presiding Judge, Glendale City Court); and Theresa Barrett, Stewart Bruner, Cindy Cook, Jennifer Greene, Jerry Landau, Amy Love, Mark Meltzer, Kay Radwanski, Marcus Reinkensmeyer, and Jeffrey Schrade, Administrative Office of the Courts (AOC)

Staff: Susan Pickard and Julie Graber, AOC

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The October 29, 2014, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:00 a.m. by Judge Antonio Riojas, Chair. Judge Riojas welcomed committee members.

B. Approval of Minutes

The draft minutes from the August 27, 2014, meeting of the LJC were presented for approval.

Motion: To approve the August 27, 2014, meeting minutes, as presented. **Action:** Approve, **Moved by** Pete Bromley, **Seconded by** Judge MaryAnne Majestic. Motion passed unanimously.

The draft minutes from the September 15, 2014, meeting of the LJC were presented for approval. Judge Dorothy Little noted that she attended the meeting telephonically.

Motion: To approve the September 15, 2014, meeting minutes, as amended. **Action:** Approve, **Moved by** Judge Dorothy Little, **Seconded by** Judge Maria Felix. Motion passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Revisions to the Arizona Rules of Protective Order Procedure (ARPOP) (agenda item out of order)

Kay Radwanski, AOC domestic violence specialist and staff to the Committee on the Impact of Domestic Violence and the Courts (CIDVC), presented the first draft of the proposed revisions to the Arizona Rules of Protective Order Procedure (ARPOP). The proposed revisions reorganize the rules in a chronological fashion. In keeping with Goal 3 from the strategic agenda, *Advancing Justice Together*, the amendments also restyle, simplify, and clarify the rules to make them more readable. The current rules have been reorganized into 10 parts, 42 rules, and fewer subparts for ease of citation. Three of the more poignant proposed amendments are as follows:

- Rule 3, *Definitions*, clarifies the meaning of “harassment” by providing three definitions based on when harassment is applicable to an Injunction Against Harassment, an Injunction Against Workplace Harassment, and an Order of Protection.
- Rule 20, *Confidentiality of plaintiff’s address*, contains new advisory language that states that a plaintiff who is staying in a domestic violence shelter or participating in the Address Confidentiality Program cannot be required to disclose his or her address in the courtroom or on the record.
- Rule 36, *Admissible evidence*, has been simplified by aligning the ARPOP with the Arizona Rules of Family Law Procedure (ARFLP) and adopting the same standard for admissible evidence.

Ms. Radwanski sought feedback from LJC to bring back to the November 18 meeting of CIDVC, as well as support for the filing a Rule 28 petition in the 2015 rules cycle.

Member comments:

- Language should be added in the rules or in the benchbook regarding the scope of the petition pursuant to Savord v. Morton, 235 Ariz. 256, 330 P.3d 1013 (Ariz. Ct. App. 1 2014). In Savord, the Court of Appeals directed the court to either limit the scope of the hearing to the allegations of the petition or allow the plaintiff to amend the petition and postpone the hearing so the defendant can prepare a defense against the new allegations.
- How should situations be handled where the name and address of the defendant are unknown (e.g., Plaintiff v. J. Doe)? Members suggested creating a rule addressing these situations.

Motion: To support the filing of CIDVC’s rule petition to revise the Arizona Rules of Protective Order Procedure, keeping in the mind LJC’s concerns, as discussed. **Action:** Approve, **Moved by** Judge MaryAnne Majestic, **Seconded by** Judge Eric Jeffery. Motion passed unanimously.

B. Traffic and Boating Case Rules Workgroup Update (*agenda item out of order*)

Judge Eric Jeffery presented the workgroup's draft rule petition, which repeals the Rules of Procedure in Traffic Cases and Boating Cases, and aligns criminal and civil traffic procedures into demarcated sets of rules. If adopted, the portions of those rules that apply to civil traffic and boating, and parking and standing violations will be relocated to the Rules of Procedure in Civil Traffic and Civil Boating Violation Cases. The remainder of the rules that are not being eliminated, will be moved to the Rules of Criminal Procedure. Judge Jeffery highlighted some of the proposed changes:

- A hearing "in absentia" would be renamed a "documentary hearing" to clarify the proceeding's meaning.
- New Civil Traffic Rule 10(c) would specify the consequences for a failure to appear, including the entering of a default judgment.
- New Criminal Rule 3.1(e) would provide a process clarifying that the court has the option to issue an arrest warrant for a failure to appear for an ATTC.
- A requirement would be added that an appellate memorandum in a civil traffic appeal must include references to the record.

Motion: To support the filing of the draft rule petition, as presented. **Action:** Approve, **Moved by** Judge MaryAnne Majestic, **Seconded by** Judge Maria Felix. Motion passed unanimously.

C. Disposition of Civil Offenses by Court Clerks (*agenda item out of order*)

Marcus Reinkensmeyer, Court Services Division Director, presented a revised version of the draft template Administrative Order (AO) and Supreme Court AO in response to the committee's concerns and recommendations at the August meeting and the September special meeting. Mr. Reinkensmeyer sought feedback on the proposed template AO, which includes all encompassing language for civil matters that are ministerial in nature rather than a list of specific violations. He announced that a short training would be made available in January for clerks on when a matter should be referred to a judicial officer. A statewide memorandum will be issued shortly.

Member comments:

- In response to concerns regarding the language, Mr. Reinkensmeyer clarified that the template AO is a model template that can be modified by the court and adopted locally.

D. Mental Health Court Advisory Committee (*agenda item out of order*)

Marcus Reinkensmeyer, chair of the Mental Health Court Advisory Committee (MHC-AC), provided background information regarding the committee's creation, purpose, and charge to review the National Center for State Courts' proposed draft standards for mental health courts; and provide recommendations regarding use of the standards for Arizona's courts. The MHC-AC must submit its findings and recommendations to the Governor, Senate President, Speaker of the House and Chief Justice in December 2014. Mr. Reinkensmeyer presented the committee's proposed mental health court standards that are intended to provide guidance, accountability and training; support funding

requests; and promote communication and public confidence. There are six basic data elements that mental health court teams will need to measure accountability, efficiency and effectiveness. Those data elements are:

- In-program reoffending
- Attendance at scheduled judicial status hearings
- Retention
- Time from arrest to referral
- Time from referral to admission
- Total time in program

Mr. Reinkensmeyer sought the committee's feedback and recommendation for approval.

Member comments:

- Concerns were raised that some performance measures were not practical and would create more work for the court.
- The data elements represent aspirational goals that are not all under the court's control.
- What if there is a dispute and the prosecutor does not think a case should be handled by the mental health court? It was suggested, a court can always establish its own process and protocols.

Motion: To support the proposed mental health standards, keeping in mind the committee's comments. **Action:** Approve, **Moved by** Judge Steven McMurry, **Seconded by** Judge MaryAnne Majestic. Motion passed unanimously.

E. Legislative Update (*agenda item out of order*)

Jerry Landau, AOC Director of Government Affairs, reviewed the 2015 legislative proposals of interest to limited jurisdiction courts that were approved by AJC.

2015-01, 2015-10: Courts; transaction of business

Permits municipal and justice of the peace courts to transact business on Columbus Day instead of the Friday after Thanksgiving. AJC supported the proposal.

2014-2, 2014-3: Court-ordered treatment; veterans

Adds screening and treatment for alcohol, drugs, and domestic violence to the list of the programs the court may order in a DUI or domestic violence case through a facility approved by the Department of Veterans Affairs. AJC supported the proposal.

Member comments:

- Concerns were raised that the assigned program could be too far or too expensive, and additional programs should be made available on the list.

2015-04, 2015-09: Aggravated assault; judicial officers

Classifies an assault on a judicial officer as an Aggravated Assault and defines judicial officers. AJC supported the proposal with additional language that classifies an assault on

a judicial officer as a class 6 felony, provided the judicial officer was engaged in official duties at the time of the assault.

Mr. Landau reported that the proposed failure to appear legislation will contain a delayed effective date of January 2016 in order to address concerns from courts and prosecutors.

F. ACJA 1-302: Education and Training (*agenda item out of order*)

Jeffrey Schrade, Education Services Division Director, presented proposed changes to ACJA § 1-302: Education and Training. The amendments, if adopted, will:

- require all judicial branch employees and judges to complete mandatory annual training on computer security and network security,
- clarify the prorated requirements for new and part-time judges and employees, and the use of faculty credit to meet the live training requirement, and
- define “computer security/network security training,”

Mr. Schrade sought feedback from the committee and recommendation for approval before presenting to AJC at the December meeting. The deadline for public comments is November 21, 2014, on the ACJA web forum.

Member comments:

- Why is the security training an annual requirement? It was noted, the AOC’s IT Division recommended an annual refresher to ensure awareness of the subject matter and to address changing threats and new technologies.
- A member suggested that the security training be covered at the annual judicial conference, or presented as part of an on-demand program.
- Would a city’s own security training satisfy the annual requirement? Mr. Schrade indicated that it would.

Motion: To recommend to AJC the approval of the code change proposal to ACJA § 1-302, as presented. **Action:** Approve, **Moved by** Judge Arthur Markham, **Seconded by** Judge Steven McMurry. Motion passed unanimously.

G. Rule Change: A Proposed New Rule 9.1 of the Rules of Procedure for Eviction Actions (*agenda item out of order*)

Judge Steven McMurry suggested a different approach to address last year’s State Bar rule petition to add a change of judge provision in eviction actions, which LJC opposed. Judge McMurry’s proposed new rule would allow a single request for a change of judge, as a matter of right, if other judges are readily available and it will not cause delay in the action. Furthermore, this new rule would cover an estimated 68% of the eviction cases in Arizona, and would not affect compliance with the case time processing standards. This rule change is supported by the Arizona Justice of the Peace Association. The deadline for comments is November 13, 2014.

Motion: To recommend the approval of the proposed rule change to the Rules of Procedure for Eviction Actions, as presented. **Action:** Approve, **Moved by** Judge Arthur Markham, **Seconded by** Judge Maria Felix. Motion passed unanimously.

H. 2015 Meeting Schedule (*agenda item out of order*)

Susan Pickard, LJC staff, presented the proposed 2015 meeting schedule for the committee's approval. Members agreed on the following schedule:

February 25, 2015
April 29, 2015
August 26, 2015
October 28, 2015

Motion: To approve LJC's 2015 meeting schedule, as discussed. **Action:** Approve, **Moved by** Judge Steven McMurry, **Seconded by** Daniel Carrion. Motion passed unanimously.

I. Rules Update (*agenda item out of order*)

Mark Meltzer, AOC staff, reviewed the 2014 rule petitions of interest to limited jurisdiction courts that were adopted. The effective date is January 1, 2015.

Criminal Procedure

R-14-0021: The rule petition codifies the opinion in *State v. Whitman* and clarifies that the entry of judgment occurs at the time the judge pronounces the sentence in open court, not when the clerk files the minute entry.

Rules of the Supreme Court

R-14-0004: The rule petition allows memorandum decisions in Arizona state courts to be cited for persuasive value, but not for precedence.

R-14-0012 was denied. The rule petition would have allowed the court to provide electronic recordings, instead of written transcripts, in post-conviction relief proceedings to address *Stout v. Mohave County*, which held that transcripts did not include electronic recordings. Mr. Carrion commented that in Maricopa County, proceedings lasting longer than one hour must be transcribed.

J. Amendments to Court Record Access Policies (*agenda item out of order*)

Jennifer Greene, AOC Legal Services, presented three proposed amendments to Supreme Court Rule 123: Access to the Judicial Records of the State of Arizona. The amendments, if adopted, will:

- limit access to certain job applicant records to obtain the most complete information when vetting prospective employees;
- reflect changes to the references to the procurement code; and
- remove old case records from online display once the records retention schedule period is met.

K. Arizona Case Processing Standards (*agenda item out of order*)

Cindy Cook, Steering Committee on Arizona Case Processing Standards staff, reported one the actions of the committee since provisional time standards for Superior Court civil and felony cases; Juvenile Court delinquency and status offense, neglect and abuse

permanency hearing, and termination of parental rights cases; and Justice and Municipal Court misdemeanor DUI cases were adopted last year. The committee has been working to address implementation issues, and on recommendations regarding case processing standards for additional case types.

Final time standards were adopted for misdemeanor driving under the influence (DUI) cases, effective January 1, 2015. The deadline for limited jurisdiction courts to submit summary time to disposition reports is July 31, 2015, for the reporting period March 1—June 30, 2015.

Member comments:

- In which format should the annual DUI compliance statement be submitted? Ms. Cook will forward an example of the preferred submission format to the committee.

Final time standards for civil traffic cases are expected to be adopted shortly. If adopted, the time standards will be effective July 1, 2015. Reports for the period October 1 – December 30, 2015 will be due in January 2016. Ms. Cook compared the nationwide and statewide models, and noted that the Arizona standard was lowered to reflect the excluded time for defensive driving.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

None present.

B. Adjournment

Motion: To adjourn. **Action:** Approve, **Moved by** Judge Dorothy Little. Motion passed unanimously.

Adjourned at 1:30 p.m.

C. Next Committee Meeting Date

Wednesday, February 25, 2015

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 West Washington Street

Phoenix, Arizona 85007