

# COMMITTEE ON LIMITED JURISDICTION COURTS MINUTES

Wednesday, August 26, 2015

10:00 a.m. to 12:00 p.m.

Conference Room 119B

1501 West Washington Street

Phoenix, Arizona 85007

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**Present:** Judge Steven McMurry, and Paul Thomas (proxy for Judge J. Matias “Matt” Tafoya from 11:00 a.m. to 12:00 p.m.)

**Telephonic:** Judge Antonio Riojas (chair), Judge Timothy Dickerson, Chief Dan Doyle, Julie Dybas, Judge Maria Felix, Judge Elizabeth R. Finn, Judge Eric Jeffery, Judge Dorothy Little, Marla Randall, Judge J. Matias “Matt” Tafoya (from 10:00 a.m. to 11:00 a.m.), and Sharon S. Yates

**Absent/Excused:** Pete Bromley, Jeffrey Fine, Christopher Hale, Judge James William Hazel, Jr., Judge Arthur Markham, and Laine P. Sklar

**Presenters/Guests:** Jennifer Greene, Marretta Mathes, Patrick Scott, David Svoboda, Kathy Waters, David Withey, and Amy Wood, Administrative Office of the Courts (AOC)

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

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## I. REGULAR BUSINESS

### A. Welcome and Opening Remarks

The August 26, 2015, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:04 a.m. by Judge Antonio Riojas, Chair. Judge Riojas announced the appointment of new members, Judge Elizabeth Finn and Laine Sklar, and welcomed them to the committee.

### B. Approval of Minutes

The draft minutes from the April 29, 2015, meeting of the LJC were presented for approval.

**Motion:** To approve the April 29, 2015, meeting minutes, as presented. **Action:** Approve. **Moved by:** Judge Maria Felix. **Seconded by:** Judge Dorothy Little. Motion passed unanimously.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Language Access Update

Amy Wood, Court Services Division, Case Flow Management, introduced the new language access coordinator, David Svoboda, and reviewed changes to the language access plans. Highlights of Ms. Wood’s presentation included:

- New template for language access plans (LAP) were sent out
- A new language access complaint form and process was created

- Access to court-ordered services was included in the LAP for persons with limited English proficiency (LEP)
- The number of resources was expanded on the Interpreter Information webpage

Next, Ms. Wood discussed the proposed language interpreter credentialing program that is in keeping with Goal 1 from the Strategic Agenda “to develop strategies for increasing the availability and quality of interpreters.” The proposed program would establish tiered credentialing for all individuals providing interpretation services within the courtroom. She described the program’s recommended elements, structure, expectations, development timeline and budgetary impact.

- Tier 1, would establish ethical standards and ensure interpreters have a basic understanding of courts, and a command of English and the target language. The National Center for State Courts’ (NCSC) written examination would have to be passed.
- Tiers 2-4, would require interpreters to successfully complete all steps in Tier 1, and test interpreting skills using NCSC’s oral examination, which evaluates sight, consecutive and simultaneous interpretation. The different tiers would be associated with a pass rate on the oral examination.

It is anticipated that courts may likely receive requests to pay for credentialing and test fees. Ms. Wood’s proposal envisions that courts would use their preferred qualified interpreters and handle complaints locally, while the AOC would manage the program’s registration, training, and testing. She sought feedback from the committee and requested approval to move forward with the credentialing program in concept.

**Member comments included:**

- Several members raised concerns about the costs for courts and the implementation timeline. The program would hopefully begin in early 2016 and apply to part-time and full-time interpreters.
- Members recommended phasing in the program and starting with only court staff interpreters, followed by registry interpreters and contract interpreters, then IRC and Language Line, and finally rare language interpreters.
- Members suggested waiving the overview of courts, if a staff interpreter has worked in the court for a certain number of years.
- How can we encourage contract interpreters to obtain the credentials? How would courts communicate that they will be using credentialed over non-credentialed interpreters?
- Would the program influence the use of IRC and Language Line interpreters?
- Members inquired whether the tiered program could result in an appellate issue regarding equal protection when multiple parties require an interpreter for the same rare language and each is provided with an interpreter with a different level of credentialing.

**Motion:** To support moving forward in general subject to the committee's concerns.  
**Action:** Approve. **Moved by:** Julie Dybas. **Seconded by:** Judge Timothy Dickerson.  
Motion passed unanimously.

**B. Motor Vehicle Department (MVD) Code 45**

Judge Dorothy Little discussed the use of MVD Code 45, which may allow law enforcement to withdraw, cancel or dismiss civil traffic citations in the absence of a prosecutor at the hearing. She inquired whether the code should be eliminated as an acceptable disposition code.

Members agreed that if a law enforcement officer can issue the citation, the officer should also be able to withdraw the citation without needing to be a party to the case.

**C. Evidence Based Pretrial in Arizona Courts** (*item out of order*)

Kathy Waters, AOC Adult Probation Division Director, provided an overview of Arizona pretrial services describing pretrial foundational concepts intended to balance individual rights with the need to protect the public, and assist judges.

Ms. Waters discussed how the AOC has been working on establishing structure for pretrial services, and expanding the use of evidence-based pretrial practices by:

- applying new research;
- implementing validated pretrial risk assessments; and
- establishing pretrial services in adult probation departments as well as a model for limited jurisdiction courts.

Ms. Waters reported that the Arizona Judicial Council recently authorized statewide implementation of the Arnold Foundation's Public Safety Assessment (PSA), which is a pretrial risk assessment tool that has been test-piloted in Arizona since last year. The PSA is intended to help judges determine release conditions during the pretrial stage by providing additional information that uses non-interview factors and predicts failure to appear, new criminal activity, and the risk of new violent criminal activity. The AOC is currently working on statewide training and education, and preparing the remaining counties to use the PSA.

**Member comments included:**

- How are previous failures to appear determined when rule warrants are not currently captured in NCIC? According to Patrick Scott, the AOC has been working with the Department of Public Safety to implement a new repository that would capture and retain historical information about the entered warrants.
- Paul Thomas described some challenges when implementing the model in limited jurisdiction courts, including the significant staff resources required to scan criminal history reports before hearings and concerns about the staff's level of education. However, the tool provides extensive reporting capabilities and is useful for pretrial services and officer safety.

**D. Determining Eligibility for Appointment of Counsel under Rule 6, Arizona Rules of Criminal Procedure** (*item out of order*)

David Withey, AOC Chief Counsel, discussed how a defendant might be determined to be indigent for the purpose of representation after a limited jurisdiction court's determination of non-indigence was overturned by the superior court. Mr. Withey noted that indigence under Criminal Rule 6.4 refers to the financial inability to employ counsel and requires the defendant to be examined under oath by the judge regarding the defendant's financial resources; however, the examination may often be expedited and limited to the financial questionnaire. He inquired whether additional guidance should be provided in the LJC bench book, and if the current financial questionnaire should be amended.

Members did not feel amendments were necessary because the practice is not to deny the appointment of counsel.

**III. OTHER BUSINESS**

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

Judge Finn and Paul Thomas announced that Mesa Municipal Court and Glendale Municipal Court have been working as Superior Court sites to facilitate Rule 11 hearings for misdemeanor cases. They asked to be added to next agenda.

**B. Next Committee Meeting Date**

Wednesday, October 28, 2015

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

State Courts Building, Room 119

1501 West Washington Street

Phoenix, Arizona 85007

Meeting adjourned at 12:02 p.m.