

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 11-281

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Complainant: Administrative Office of the Courts

Judge: Maria Alvillar, Ajo Justice Court

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**ORDER**

The Administrative Office of the Courts (AOC) provided the Commission on Judicial Conduct (Commission) with documentation related to an operational review of the Ajo Justice Court indicating potential ethical violations, which led the Commission to open a complaint file. Following the completion of the AOC's Operational Review, Judge Maria Alvillar decided to resign her position as Justice of the Peace. As part of her resignation, the judge agreed that she will not seek nor accept a position as a judicial officer in the State of Arizona at any future date.

Based on Judge Alvillar's decision to resign and not to serve as a judicial officer in the future, the Commission decided to take no further action in this matter, but instead to dismiss the case. The Commission's decision is not made pursuant to a finding under Commission Rule 16(a), and should Judge Alvillar fail to abide by her agreement to never again assume a judicial office in Arizona, the Commission will re-open an investigation into the issues raised by the AOC's Operational Review investigation of the Ajo Justice Court.

Accordingly, the complaint is dismissed pursuant to Commission Rule 23.

Dated: July 3, 2012

FOR THE COMMISSION

  
Louis Frank Dominguez,  
Commission Chair

Copies of this order were mailed to the complainant and the judge on July 3, 2012.

*This order may not be used as a basis for disqualification of a judge.*

JUSTICE  
MARIA L. ALVILLAR  
JUSTICE COURT NO. 3  
111 I.A MINA AVENUE  
AJO, ARIZONA 85321  
(520) 387-7684



GEORGE GRADILLAS  
CONSTABLE  
(520) 387-6403

FAX TRANSMITTAL  
COVER SHEET

DATE: 6/29/12

TO: Mel McDonald

FAX NO: (602) 200-7847

FROM: AJO JUSTICE COURT  
Judge Alvillar

Telephone No. : (520) 387-7684

FAX NO: (520) 387-6028

NUMBER OF PAGES: 2  
To include the cover page

MESSAGE: \_\_\_\_\_  
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FAXED:  
TIME:  
BY:

JUSTICE  
MARIA L. ALVILLAR  
JUSTICE COURT NO. 3  
111 LA MINA AVENUE  
AJO, ARIZONA 85321  
(520) 387-7684



GEORGE GRADILLAS  
CONSTABLE  
(520) 387-5403

June 29, 2012

To: Honorable Sally Simmons  
Presiding Judge, Pima County Superior Court  
110 West Congress Street  
Tucson, Arizona 85701

Re: Resignation as Justice of the Peace for the Ajo Precinct, Precinct 3

It is with deep humility and gratitude that I tender my resignation as Justice of the Peace for the Ajo Justice of the Peace court effective Friday, July 13, 2012. It has been my distinct honor to serve the people of this community as part of the court system for 34 years. When I first began working with the court in 1978, I served as a Clerk and Interpreter. Later, I served as Rural Court Administrator. In 2004, I was nominated by the Democratic Party and subsequently appointed by the Pima County Board of Supervisors to fill the position of Justice of the Peace of the Ajo Precinct, a position that had been vacated by my predecessor. After this appointment, I ran for this office of Justice of the Peace in 2004, 2006 and 2010. I was elected and reelected each time. I have grown to love and respect my staff, and, above all, the citizens of this community who placed their trust in me. My experiences with the court will serve as treasured memories for as long as I live. I have felt so honored to work with law enforcement officers, prosecutors and defense attorney's, and the many professionals, citizens and litigants who have had their cases brought to this court for decision. I have always strived to be fair, honest and impartial in all of my decisions.

In tendering this resignation, I have decided to never again seek or accept a judicial assignment or position with this court, or any court, in the future. I believe, after my many years of service to the court, that it is time to get a new faces and new voices to serve as judicial officers in this wonderful community. I will support my replacement appointee, and will pray for the success of my replacement.

In submitting this resignation, I want to give my heartfelt thanks to all of those who have supported me and stood beside me; most particularly, my wonderful husband and family. I am confident that the Pima County Board of Supervisors will appoint a successor who will bring credit to this court. I am grateful for the trust that the Board put in me in 2004.

Respectfully,

A handwritten signature in cursive script that reads "Maria Avillar".

Maria Avillar  
Justice of the Peace, Precinct 3  
Ajo Precinct

Honorable Rebecca White Berch  
Chief Justice, Arizona Supreme Court  
1501 West Washington Street  
Phoenix, Arizona 85007

Honorable Ramon Valadez  
Chairman, Pima County Board of Supervisors  
130 West Congress Street, 11th Floor  
Tucson, Arizona 85701

JUSTICE  
MARIA L. ALVILLAR  
JUSTICE COURT NO. 3  
111 LA MINA AVENUE  
AJO, ARIZONA 85321  
(520) 387-7684



GEORGE GRADILLAS  
CONSTABLE  
(520) 387-5403

June 29, 2012

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, AZ 85007

Re: Case 11-281 Disposition

Dear Commission Members,

Pursuant to my discussions, through attorney Mel McDonald, with Disciplinary Counsel, I am hereby providing a copy of my resignation letter to the Commission for purposes of resolving Case 11-281. I understand that Disciplinary Counsel will recommend to the full commission that this matter be dismissed given my resignation and agreement not to seek or accept a position as a judicial officer in the State of Arizona in the future.

I understand that the Commission's dismissal order in this case will not be redacted to remove identifying information, and will be published on the Commission's website as the resolution of this case. That order will reference the public Operational Review document that I understand the Administrative Office of the Courts will finalize in the near future.

I agree that I am waiving any right I may have had to challenge the Commission's resolution of Case 11-281, and that I will not speak publicly in contradiction of the language of the dismissal order. I understand that, should I choose to seek or accept a position as a judicial officer in the future, the Commission will reopen the investigation into the matters giving rise to Case 11-281, and will take action as it deems appropriate at that time.

Respectfully,

A handwritten signature in cursive script that reads "Maria Alvillar".

Maria Alvillar



*Arizona Supreme Court  
Administrative Office of the Courts*

***AJO JUSTICE COURT  
COURT OPERATIONAL REVIEW EVALUATION***

*JULY 2012*

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## **INTRODUCTION AND BACKGROUND**

The Administrative Office of the Courts (AOC) conducts operational reviews pursuant to Article 6, Section 3 of the Arizona Constitution, which gives the Supreme Court administrative supervision of all courts in the state. The purpose of the review is to promote accountability, public trust, and confidence in the state's limited jurisdiction courts.

The operational review process includes five phases: pre-review, fieldwork, analysis and findings, report writing, and follow-up. The pre-review phase began on November 5, 2010, when the AOC notified the Ajo Justice Court of the review. The AOC conducted the on-site portion of the review between January 24, 2011 – February 4, 2011.

This is the AOC's first operational review of the Ajo Justice Court.

## **COURT OVERVIEW**

The Ajo Justice Court is one of three justice courts in Pima County, Arizona. The court provides services to the public from 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. The court is located at 111 Mina Ave., Ajo, Arizona and utilizes the AZTEC case management system to automate its business functions.

Judge Maria Alvillar has presided over the Ajo Justice Court since January, 2005. Court staffing levels include one full-time judicial, seven full-time non-judicial, and one part-time non-judicial employee.

As a result of the on-site portion of the review, the court was found to have significant record keeping and case processing deficiencies. The presiding superior court judge assigned staff from the Pima Consolidated Justice Court to provide assistance to the court in an effort to address the deficiencies; however, an additional measure was required to ensure the timely and efficient progress of the court in making necessary changes. Consequently, the Arizona Supreme Court issued Administrative Order No. 2011-43 remanding administrative control and oversight of day-to-day operations of the Ajo Justice Court to the presiding judge of the Superior Court in Pima County. Under the guidance of the presiding judge and with the continued assistance of the Pima Consolidated Justice Court staff, the court has made progress in addressing the deficiencies.

Table A provides details of the court's case activity for FY 2010, while Table B on page 2 illustrates the court's five year case filings trend (FY 2006 – FY2010).

**TABLE A  
AJO JUSTICE COURT  
FY 2010 CASE ACTIVITY**

<b>Filing Type</b>	<b>Filings Pending 7/1/2009</b>	<b>Total Filed</b>	<b>% of Total Case Filings</b>	<b>Filings Terminated</b>	<b>Filings Pending* 6/30/2010</b>	<b>Clearance Rate</b>
<b>DUI</b>	24	61	1.1%	70	15	115%
<b>Serious Traffic</b>	4	7	.1%	8	3	115%
<b>Other Traffic</b>	211	406	7.8%	455	162	112%
<b>Civil Traffic</b>	2,332	2,369	59.2%	2,663	1,695 <sup>1</sup>	112%
<b>Misdemeanor</b>	1,503	775	28.7%	844	1,445 <sup>2</sup>	109%
<b>Civil</b>	214	38	3.2%	31	221	82%
<b>TOTAL</b>	4,288	3,656	100%	4,071	3,541	111%

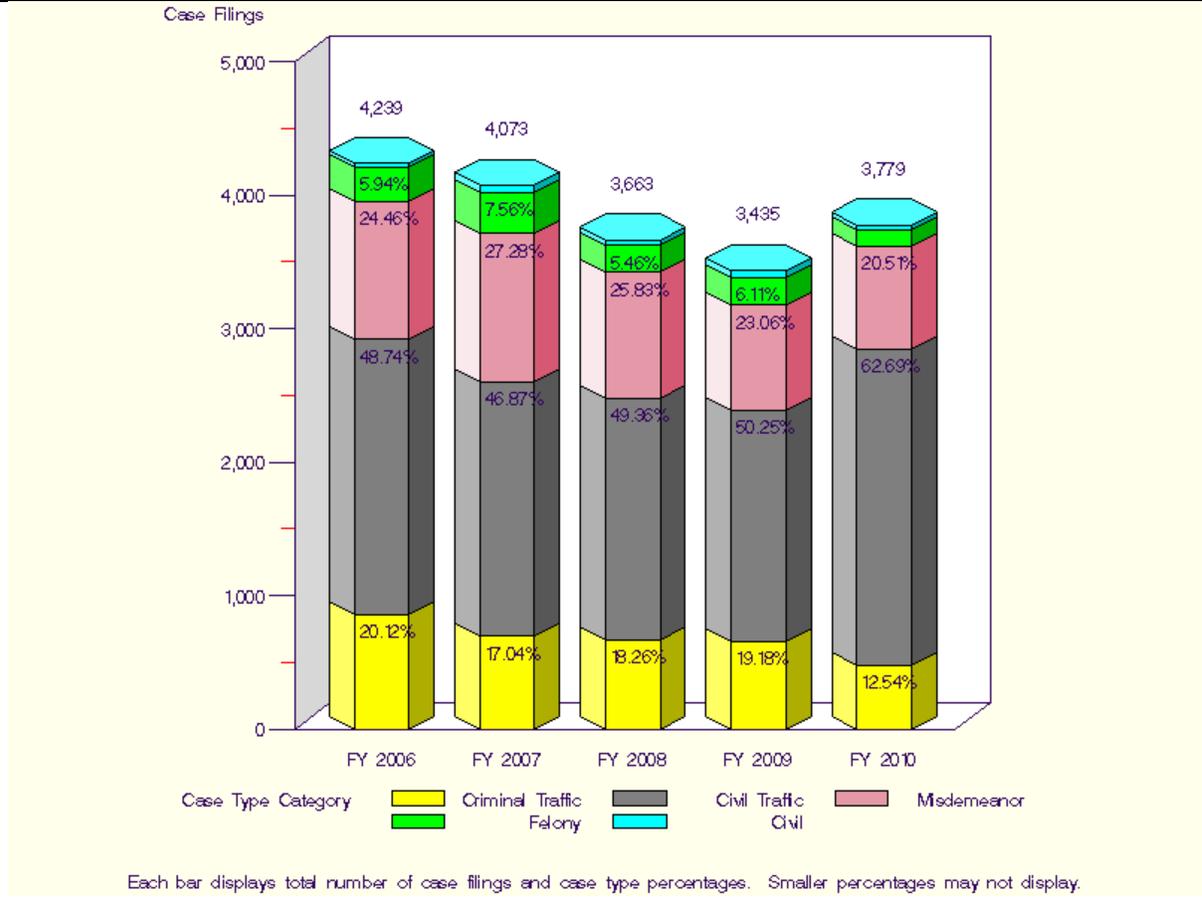
Source: AOC Annual Data Report

\*This includes statistical corrections.

<sup>1</sup> -343 Statistical Correction Completed

<sup>2</sup> +11 Statistical Correction Completed

**TABLE B**  
**AJO JUSTICE COURT**  
**FIVE YEAR CASE FILINGS TREND (FY 2006 – FY 2010)**



Source: AOC Annual Data Reports

## REVIEW SCOPE AND METHODOLOGY

The AOC determines the scope of the review based on information available at the time of the review and specific statutory requirements that most affect court operations. This operational review report identifies findings involving: misdemeanor DUI cases, orders of protection, court ordered enforcement, warrants, civil default judgments, records management, and financial management.

The information in this report is based on court case file reviews, interviews, observations, and statistical data analysis. A random sampling process was invoked by reviewers to select a sample of cases, this sample included: 20 adjudicated misdemeanor DUI cases, 9 orders of protection, 25 misdemeanor cases where warrants were issued, 144 pending civil traffic cases, and 20 civil default judgments. Table C provides further detail regarding cases selected for review.

In a separate random sample, reviewers also assessed the court’s financial management practices to determine the adequacy with which the court handles; receipting and cash

handling, disbursements, internal financial controls, reconciliations, reporting, and other administrative requirements. The specific financial documents reviewed included: 20 issued manual receipts, 13 voided automated receipts, 12 bond disbursements, 10 overpayment disbursements, 16 restitution disbursements, 8 voided checks, and daily and monthly reconciliation documents for November, 2009 through October, 2010.

<b>TABLE C AJO JUSTICE COURT CASE SAMPLING</b>						
Case Type	Date Range	Total Population	Random Cases Selected	Cases not Reviewed	Cases Reviewed	Percentage of Population Reviewed
Misdemeanor DUI (Adjudicated)	7/31/09 – 7/31/10	20	20	0	20	100%
Orders of Protection	7/31/09 – 7/31/10	9	9	1*	8	89%
Misdemeanor Warrants	7/31/09 – 7/31/10	337	25	0	25	7%
Civil Traffic Pending Over 70 Days	Inception - 12/28/10	2,865	144	76**	68	2%
Civil Default Judgments	7/31/09 – 7/31/10	20	20	4***	16	80%
<b>TOTAL</b>		<b>3,251</b>	<b>218</b>	<b>81</b>	<b>137</b>	<b>4%</b>

\* Order was never served

\*\* 76 of the 144 (53%) requested cases could not be located.

\*\*\* 1 Judgment renewal and 3 small claim filings were excluded.

The information contained in this report recognizes areas in which reviewers deemed the court compliant, as well as findings detailing non-compliance with administrative and statutory requirements. These findings are followed by recommendations that outline steps the court can take to become compliant, explain best practices, and/or identify opportunities for improvement.

## **CASE MANAGEMENT FINDINGS AND RECOMMENDATIONS**

### **Driving Under the Influence (DUI)**

In its 2010-2015 strategic agenda for the Arizona Judiciary, the Arizona Supreme Court charged the judiciary with ensuring every person has the right to a prompt, fair and impartial hearing thus requiring courts to process cases efficiently and in a timely manner. The Administrative Office of the Court's operational reviews focus on the court's ability to efficiently and effectively process driving under the influence (DUI) cases.

**Compliance Areas:** The court demonstrated satisfactory compliance in the following areas:

- An order appointing counsel was issued in 16 of 17 (94%) applicable cases, as required by Rule 6.5(a), ARCrP.
- The court distributed the order appointing counsel to all parties in 15 of 17 (88%) applicable cases, pursuant to Rule 6.5(a), ARCrP.
- Defendants were assessed attorney fees in 16 of 17 (94%) applicable cases, in accordance with Rule 6.7(d), ARCrP.
- The court appropriately uses defendant financial questionnaires which contain all of the elements prescribed in Form 5(a), ARCrP.
- The court advises defendants of their rights and obligations en masse during initial appearance and arraignment proceedings, and again individually, prior to the acceptance of a plea of guilty or no contest pursuant to Rules 4.2, 14.3 and 17.2, ARCrP.
- The court properly addressed post conviction relief procedures following pleas of guilt or no contest, the nature of the charges to which the plea is offered, the constitutional rights forgone by said plea, and the possible sentencing range in 16 of 18 (89%) applicable cases, in accordance with Rule 17.2, ARCrP.
- The court sentenced defendants to a mandatory term of incarceration in all 20 cases sampled. Additionally, 19 of the 20 (95%) orders of confinement issued correctly reflected the term of incarceration, pursuant to A.R.S. §§ 28-1381 and 28-1382.
- The court assessed a time payment fee at the time of sentencing in all 18 applicable cases, as required by A.R.S. § 12-116.
- The court appropriately assessed the Prison Construction Fund, Extra DUI Assessment Fund, and Public Safety Equipment Fund in 17 of 19 (90%) applicable cases.
- The court did not waive fines, fees or surcharges in any of the 20 cases sampled, as required by A.R.S. § 28-1389.
- The court dispositioned cases in the automation system correctly and as prescribed by the pertinent sentencing documents in 19 of 20 (95%) cases.

**Finding #1: The court does not collect and review all financial affidavits before appointing counsel.**

#### Financial Questionnaire

The court is not consistently ensuring defendants complete a financial questionnaire prior to appointing counsel. Rule 6.4(b), ARCrP, requires defendants who are not financially able to hire representation to complete a financial questionnaire approved by the Arizona Supreme Court. However, reviewers discovered that a financial questionnaire was not collected or reviewed in 5 of 17 (29%) applicable cases. The finding persists despite court efforts to ensure that financial questionnaires are received, such as a policy of attaching a defendant financial statement to each new DUI case filing. These measures prove insufficient because some appointments are made prior to the actual completion and review of the financial statement.

**Recommendation:**

1. The court shall require the defendant who is seeking counsel to complete a financial questionnaire and review the questionnaire before counsel is appointed.

**COURT RESPONSE:**

1. The court agrees and has implemented the recommendation as stated in the report. The court requires each defendant who is requesting counsel to complete a financial questionnaire. The financial questionnaire is reviewed by the court prior to the appointment of counsel by the court.

**Finding #2: When sentencing defendants, the court must ensure that its sentencing documents contain all of the statutorily required elements, that mandatory monetary penalties are levied, and that the appropriate counseling referrals are made.**

Sentencing Documentation

Although largely compliant, the Judgment of Guilt and Sentence form used by the court is missing some of the elements required by A.R.S. § 13-607. For instance, none of the 20 cases sampled include documentation of the classification of the offense cited, as required by A.R.S. § 13-607(C) (3). Further analysis revealed; 0 of 18 (0%) applicable Judgment of Guilt and Sentence forms included a statement of the voluntary, intelligent, and knowledgeable waiver of all pertinent rights, and 0 of 13 (0%) applicable forms contained the defendant's right index fingerprint<sup>3</sup>, per A.R.S. § 13-607(B), (C)(6).

Mandatory Financial Assessments

The court does not consistently assess and enter all financial penalties as dictated by statute. Specifically, the court failed to enter jail fees into the automation system in 4 of 19 (21%) applicable cases, as required by A.R.S. § 13-804.01<sup>4</sup>. This issue appears to be two-fold: 1) in 1 of the 4 (25%) non-compliant cases, a jail fee was ordered by the court but not entered into the automation system, and 2) incarceration costs were never ordered in the remaining three cases (75%).

Additionally, the court did not correctly enter surcharge amounts in 12 of 20 (60%) cases, or probation surcharge amounts in 15 of 20 (75%) cases. Arizona Revised Statute § 12-116.01.02, requires the court to order minimum surcharge amounts alongside other criminal and civil penalties. Review of the case files indicate that the court's practice is to order these penalties in a lump sum at sentencing and leave the breakdown of the lump sum to court staff when entering specific assessments into the automation system. As a result, when court staff breaks down the total assessment into each category (e.g. base fine, surcharge, prison construction fee...etc.) and noticed that the assessments do not equal the total amount ordered, staff will adjust the surcharge amount to meet the lump sum ordered.

Moreover, the court is not assessing the correct probation surcharge amount. Specifically, reviewers found that court staff reduced the surcharge in 4 of the 5 (80%) cases with violation dates after November 24<sup>th</sup>, 2009, in an attempt to maintain a balance with the total

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<sup>3</sup> Rule 13-607(B) requires a right index fingerprint be taken in all sentencing proceedings post-January 1<sup>st</sup>, 2010.

<sup>4</sup> These four cases exhibited no evidence in support of a judicial waiver of jail fees.

fine amount ordered<sup>5</sup>. Although the automation system is relied upon to automatically allocate the appropriate assessments based on the charge and violation date, staff utilize a “Court Fee Chart”. A review of the court’s fee chart proved it to be both accurate and current; however, employees only refer to this chart for cost breakdowns in older violations.

Lastly, in 1 of the 20 (5%) cases sampled, the court accepted a plea of guilty to both A.R.S. § 28-1381(A)(1) (driving while under the influence) and A.R.S. § 28-1382(A)(2) (extreme driving while under the influence); each of which stems from the same incident. Upon acceptance of the plea agreement, the court sentenced the defendant to separate fines and costs for each offense. Such a penalty is in violation of A.R.S. § 13-116 which states, “an act or omission which is made punishable in different ways by different sections of the laws may be punished under both, but in no event may sentences be other than concurrent”.

#### Alcohol Screening

Although defendants were ordered to complete mandatory screening in all 20 (100%) cases, per A.R.S. § 28-1387(B), the court is not fulfilling all of the statute’s requirements. Specifically, 4 of 17 (24%) applicable cases reveal referrals to the Sells Behavioral Health Center (Tohono O’odham), an agency that is not licensed by the Arizona Department of Health Services. Arizona Revised Statute § 28-1387(B) requires that all screenings be completed by a facility that is either approved by the department of public health or a probation department.

#### **Recommendations:**

2. The court shall revise their judgment of guilt and sentence documentation to include all of the elements required by A.R.S. § 13-607.
3. All monetary penalties assessed by the court should be both ordered and entered clearly and in accordance with the minimums established by Arizona statute. The most recent DUI Sentencing Chart (effective 1/1/2012) may be located at: <http://supreme22/acap/BulletinBoard/2012/DUISentencingCharts01012012.pdf>.
4. The court should thoroughly assess all plea agreements and their viability under state law before a formal acceptance.
5. The “Court Fee Chart” should be followed at all times, and not used purely as a reference for cost assessments in older violations.
6. The court should ensure that all facilities used for alcohol screening referrals are approved by the Department of Health Services. A current list of such facilities can be found at: <http://www.azdhs.gov/als/forms/dui.pdf>

#### **COURT RESPONSE:**

2. The court agrees and has implemented the recommendation as stated in the report.
3. The court agrees and has implemented the recommendation as stated in the report. The court in May 2011 implemented a DUI Minute Entry in which the mandatory assessments are listed. The court also maintains the sentencing chart on the Bench.
4. The court Agrees, and has previously implemented the recommendation. The court assesses every plea agreement before a formal acceptance is made to ensure that it meets the mandatory requirements under the statute for the offenses being plead to and that the sentence coincides with the date of the violation.

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<sup>5</sup> Effective November 24<sup>th</sup>, 2009, probation surcharge assessments were increased from \$10 to \$20.

5. The “Court Fee Chart” is followed at all times and it is NOT used purely as a reference for cost assessments in older violations. It is used for all violations, old and new. The chart has been updated and disbursed to all staff.
6. The court agrees and has previously implemented the recommendation as stated in the report. The court is requiring Defendant’s to attend counseling with an approved department of health services facility. The court maintains the approved list on the bench

**Finding #3: The court is not ensuring dispositions are consistently, accurately and timely reported to the Arizona Motor Vehicle Department (MVD) and Department of Public Safety (DPS), as required by A.R.S. § 28-1559(B) and Rule 37.1(a), ARCrP.**

Disposition Reporting to DPS

The court is not consistently reporting all adjudications to DPS within 10 days of final disposition, as required by Rule 37.1(a), ARCrP. A criminal history report on the cases sampled, generated by DPS in January, 2011, revealed no dispositions on record for 6 of the 20 (30%) cases sampled. Upon further inspection of the report, reviewers noted that even in cases with reported final dispositions, the court did not report final dispositions for all charges within each case. Only 28 of the 50 (56%) cumulative charges included in the 20 cases sampled were reported to DPS. The court should ensure that criminal histories are accurate and complete by submitting all charge disposition information to DPS.

An insufficient fingerprinting process is likely one cause for incomplete criminal histories. Four of the six (67%) cases with incomplete histories did not contain state identification (SID) numbers; this establishes that a person has never been fingerprinted and does not exist in the DPS database. Consequentially, a final disposition report (FDR) is never submitted to the court. The court’s policy includes checking the file for an FDR during arraignment proceedings, as confirmation that prints were taken. If the FDR is missing, an order is issued for the defendant to be fingerprinted within 20 calendar days from initial appearance, in accordance with A.R.S. § 41-1750(U)(5). It is at this point, however, that the court’s process falters because the court does not monitor for compliance or take enforcement measures to ensure that defendants comply with the court’s order to get fingerprinted. Fingerprint orders should be monitored and enforced to ensure complete and timely disposition reporting.

The court’s case flow management processes also have a direct impact on reporting practices. Criminal histories for 2 of the 6 (33%) unreported cases contained all pertinent information except for a disposition. In such cases, while an arrest was reported and fingerprints produced, the court failed to submit a completed FDR to DPS per Rule 37.1(a), ARCrP. When FDRs are initially received by the court they are alphabetically placed in a dedicated accordion file in the front office. This is done under the assumption that the clerk in receipt of the form does not have time to match it up with the defendant’s file. However, because no single clerk is responsible for dispersing FDRs from the accordion file, FDRs consequentially build up for at least “a few years” as noted by one staff member. On-site observations revealed that “a few years” is actually an underestimate of the backlog in unprocessed FDRs; reviewers discovered a total of 667 incomplete FDRs with violations dating as early as January 1<sup>st</sup>, 1986.

Compounding this problem is the fact that only one clerk is tasked with processing case dispositions in the automation system. While the court has undergone recent turnover in personnel, placing this responsibility solely on one employee exacerbates the problem.

#### Disposition Reporting to MVD

The court is not consistently reporting case dispositions to MVD within 10 days of conviction, as required by A.R.S. § 28-1559(B). In fact, 8 of the 20 (40%) cases sampled exceeded the 10 day statutory requirement, with cases averaging a delay of 16 days before being reported to MVD. A delay in the court's reporting procedures is attributed to the court's delay in processing adjudicated cases in the automation system. Reviewers discovered a backlog of terminations, or files to be adjudicated electronically, totaling 81 cases and aged as far back as April 3<sup>rd</sup>, 2009.

#### **Recommendations:**

7. All dispositions should be reported to DPS within 10 days of final disposition, as required by Rule 37.1(a), ARCrP.
8. The court should eliminate any backlog of cases to be adjudicated in the automation system and begin processing these adjudications as they occur, so as to ensure that all dispositions are reported within the 10 days required by A.R.S. § 28-1559(B).
9. Employees should be cross-trained so that no one clerk is solely responsible for processing case dispositions in the automation system.
10. The court should track and enforce its fingerprint orders through documentation in the automation system and when necessary, remanding defendants into custody for ten printing pursuant to A.R.S. § 41-1750(U) (6).

#### **COURT RESPONSE:**

7. The court agrees, and a Court Procedure by which Disposition Reports are to be reported to DPS per A.R.S 28-1559(B) was implemented. Procedure #402 was implemented once this was brought to the courts attention at the Operational Review and all staff received training on this procedure.
8. The court agrees, and is currently addressing the back log and has managed to eliminate 87% percent of the DPS Disposition Reports. Adjudications are now processed as they occur so that additional back log is not created.
9. The court agrees, and has previously implemented the recommendation as stated in the report. No one clerk is solely responsible for processing the DPS Disposition Reports, but the courtroom clerk has primary responsibility for completing the DPS reports at the time of adjudication since the report is in the case file.
10. The court agrees, and has implemented the recommendation as stated in the report. Procedure #402 was implemented and cases are being logged. The clerk every five days reviews the log to attend to cases in which the disposition sheets have not been filed with the court (5<sup>th</sup>, 10<sup>th</sup>, 15<sup>th</sup>, 20<sup>th</sup>, 25<sup>th</sup> and the 30<sup>th</sup> day).

#### **Protective Orders**

The Arizona Judicial Branch emphasizes the need to hear petitions involving a threat to personal safety as expeditiously as possible. The Arizona Rules of Protective Order Procedure (ARPOP) include provisions that no court refuse a request to file a petition and

that if necessary, the court should interrupt previously scheduled hearings to accommodate the consideration of the petition.

Arizona Code of Judicial Administration (ACJA) 5-207 requires courts to use only the forms approved by the Supreme Court to ensure courts capture the data required to facilitate entry into the National Crime Information Center (NCIC).

**Compliance Areas:** The court demonstrated satisfactory compliance in the following areas:

- All eight petitions sampled were signed by the plaintiff and verified by a judicial officer, court clerk, or notary, pursuant to Rule 6(C)(2), ARPOP.
- The court forwarded a copy of the returned affidavit and order of protection to the sheriff's office within 24 hours of filing in all seven applicable cases, as required by A.R.S. § 13-3602(L).
- The court hears petitions for orders of protection during all normal operating hours, pursuant to Rule 1(C)(1), ARPOP.

**Finding #4: The court must improve upon its docketing and reporting procedures when processing protective orders, and ensure that only the most current Supreme Court approved forms are used.**

#### Forms

The Order of Protection form utilized by the court was found to be outdated in 6 of 8 (75%) cases sampled. Additionally, the court's Order of Protection form did not correctly incorporate a warning message informing parties of the potential legal consequences of violating the court order. As mandated by Rule 10(A), ARPOP, "all courts and parties shall only use those protective order forms adopted by the Arizona Supreme Court."

#### Docketing

The court is not consistently recording the correct dispositions in the automation system when processing orders of protection. Protective orders were incorrectly dispositioned in 2 of 8 (25%) cases sampled. Court staff reported that once an order expires, either through the passage of time or by court order, the court's procedure is to alter the disposition to read "dismissed" and then close out the file. Dispositions originally entered into the automation system after the initial hearing should remain intact in order for the case record to be accurate; hence, "granted" or "denied" should be the only dispositions listed.

#### Reporting

The court did not consistently enter all protected codes ordered (PCO) into the CMS as ordered on the physical order of protection. Specifically, 2 of the 8 (25%) cases sampled excluded court ordered directives including the defendant's requirement not to be within 100 feet of each protected party, and plaintiff protection at the workplace. The Court Protective Order Repository's (CPOR) integrity is essential because its data acts as a sub-set of data for other databases, namely NCIC and the Law Enforcement Protective Order Repository (LPOR). Through this automated relationship, protective order information can be queried by any law enforcement agency in the country. The court should ensure a high degree of

accuracy when entering orders into the CMS, which then transmits to CPOR, in an effort to keep law enforcement fully informed.

**Recommendations:**

11. The court should ensure that it only uses the most current Arizona Supreme Court approved forms in its processes.
12. “Granted” and “Denied” are the only codes the court should use when entering the initial disposition for protective orders in the automation system. When a previously issued order has been modified or dismissed the court should indicate either “modified” or “quashed” in the appropriate AZTEC field and make notes in the CMS. Lastly, expired orders are automatically updated in the CMS and need no further action from the court.
13. All information and pertinent PCO codes contained in the court order should be entered into the CMS.

**COURT RESPONSE:**

11. Agrees, and has previously implemented the recommendations. Once this was brought to the courts attention during the Operational Review, the forms were updated, and implemented the current forms.
12. Agrees, and has previously implemented the recommendations. Once this was brought to the courts attention during the Operational Review, a staff meeting was held and all staff was given instructions as to how to process the orders.
13. Agrees, and the court has previously implemented the recommendation. The court notes that the courtroom clerk enters the appropriate codes and prints a copy from AZTEC and includes it in the file.

## **Court Order Enforcement**

The court may impose many types of sanctions, including financial sanctions and program attendance. Pursuant to Administrative Order 2002-113, “The enforcement of court ordered sanctions is important to maintaining the integrity of the justice system, providing support to victims, and sustaining local and state programs that depend on the revenue generated from the payment of financial sanctions.” Furthermore, CourTools, Measure 7, developed by the National Center for State Courts, states that “Integrity and public trust in the dispute resolution process depend in part on how well court orders are observed and enforced in cases of noncompliance.”

**Compliance Areas:** The court demonstrated satisfactory compliance in the following areas:

- The court properly documented compliance with incarceration orders in 15 of 16 (94%) applicable cases.
- Court ordered counseling was successfully tracked and documented in the case management system in 11 of 13 (85%) applicable cases.

- The court's DUI collection rate is adequate. This is illustrated by the court's collection rate of 88% of court ordered monetary obligations, as allocated in the 20 DUI cases reviewed.

**Finding #5: The court's enforcement measures need improvement in the monitoring of court-ordered Mothers Against Drunk Driving (MADD) victim impact panels and alcohol screening.**

Monitoring

The court does not sufficiently monitor MADD victim impact panels as a condition of sentencing. The court's policy is to record both compliance and non-compliance via minute entries prepared at monthly review hearings and upon receipt of completion certificates. However, because the status of MADD is not consistently addressed during these review hearings, reviewers were unable to determine the status of MADD completion in 8 of 17 (47%) applicable cases reviewed.

Further accentuating issues in the monitoring of MADD completion is the lack of a time frame with which defendants should have the condition completed. Once ordered, defendants are not given a specific due date for completion within their probationary period. Unclear completion dates and inconsistent follow-up make it difficult to determine defendant compliance with MADD sentencing conditions.

**Recommendations:**

14. The court should establish completion dates for all sentencing requirements, and clearly communicate those expectations to defendants.
15. All sentencing requirements should be reviewed, with documented progress, during scheduled review hearings.

**COURT RESPONSE:**

14. Agrees, and has previously implemented the recommendations. Since this was brought to the courts attention at the Operational Review, Defendants are required to enroll with MADD within 7 days and complete within 90 days.
15. Agrees, and the court has previously implemented the recommendation. This court has always documented a Defendant's progress during the scheduled review hearings. If a Defendant is noncompliant, the clerks forward the file to the court, an Order to Show Cause Hearing is set.

**Warrants**

A judge orders a warrant when there is probable cause the defendant committed a crime, failed to comply with a court order, or violated his/her written promise to appear. In addition to ordering warrants to be issued, a judge can order warrants to be quashed (terminated). Upon either issuing or quashing a warrant, the court must notify law enforcement regarding the warrant status.

**Compliance Areas:** The court demonstrated satisfactory compliance in the following areas:

- Warrants were appropriately ordered and signed by the judge in all 25 cases reviewed, pursuant to Rule 3.2(a), ARCrP.
- The court filed a complaint and entered the accompanying charge into the automation system for all 5 warrants issued according to A.R.S. § 13-3904A.
- Long form complaints charging defendants with failure to appear in the second degree were appropriately filed, with companion charges added, in 11 of 12 (92%) A.R.S. § 13-2506(A) warrants.
- The court documented prompt notification to law enforcement of warrant terminations in 14 of 15 (93%) applicable cases.

**Finding #6: The court needs to improve the documentation and timeliness of warrant issuances, as well as the consistency of warrant fee assessments.**

Docketing

The court is not utilizing the correct automation system event codes when documenting the issuance and termination of warrants. Staff incorrectly recorded warrant issuances in 5 of 25 (20%) cases reviewed by using pre adjudication automation event codes for post adjudication warrants. Specifically, warrants issued pursuant to A.R.S. § 13-2506, were docketed as pre adjudicated warrants even though the warrants were issued after sentencing. Warrants issued in accordance with A.R.S. § 13-2506 may be issued pre or post adjudication; however, A.R.S. § 22-312 requires the Justice of the Peace to maintain a criminal docket which correctly records each action and proceeding that takes place within the court.

Likewise, warrant terminations were also incorrectly entered in the automation system in 3 of 15 (20%) applicable cases reviewed. For example, in two of these cases, court staff docketed the warrant quash as a pre adjudicated event when a post adjudicated event code should have actually been entered. In a third case, the automation system shows no record of a termination at all, despite an order to quash filed December 7<sup>th</sup>, 2010.<sup>6</sup> The court should maintain complete and accurate documentation of warrant issuances and terminations by using the appropriate event codes within the automation system.

Warrant Fee

The court is not consistently assessing a \$50 warrant fee as required by its own policy and in accordance with *Pima County Ordinance No. 2007-40*. Specifically, the court failed to correctly assess warrant fees in 9 of 25 (36%) cases reviewed. A warrant fee was incorrectly assessed at the time of warrant quash in 2 of 9 (22%) noncompliant cases, despite the court's policy to assess warrant fees during issuance. No warrant fee was assessed in the remaining 7 (78%) noncompliant cases.

Timeliness

The court is not processing warrants within the 30 day minimum prescribed by best business practices. In fact, the court averaged a 35.24 day delay from the date of non-compliance to warrant issuance, with variances ranging from 0 – 449 days. Table D illustrates the breakdown of each warrant type issued by the court along with its frequency and delay.

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<sup>6</sup> File reviewed on February 1<sup>st</sup>, 2011.

<b>TABLE D</b> <b>AJO JUSTICE COURT</b> <b>DELAY OF WARRANT ISSUANCE (FROM DATE OF NON-COMPLIANCE)</b>			
<b>Warrant Authority</b> <b>(A.R.S. §)</b>	<b># Issued</b> <b>(% of Total)</b>	<b># of Warrants &gt;</b> <b>30 Days Delay</b>	<b>Average Delay</b> <b>(Days)</b>
13-2506/2507	13 (52%)	4	21.4
13-810	6 (24%)	3	92
13-3904	5 (20%)	0	10.2
13-901C	1 (4%)	0	0

Although all warrants should be ordered and entered immediately following non-compliance, the court is untimely in processing warrants under A.R.S. § 13-810 (failure to pay violations). This is most likely attributed to the court’s delay in processing cases awaiting follow-up. Criminal files in which defendants have missed an agreed payment are stored in a cabinet from which they are pulled and scheduled for an order to show cause hearing (OSC) or consequentially issued a warrant. During the time of review, this cabinet contained a total of 282 cases. A random sampling of 27 cases (10%) in this population revealed an average of 1,357 days (3.72 years) awaiting court action from the date of non-compliance.

**Recommendations:**

- 16. The court should ensure that the correct event codes are utilized when documenting warrant issuances and terminations in the automation system.
- 17. The court should consistently assess the \$50 local warrant fee required by Pima County ordinance.
- 18. The court should consistently monitor its adjudicated cases, issuing warrants immediately after determinations of non-compliance.

**COURT RESPONSE:**

- 16. Agrees, and has previously implemented the recommendations. Staff have been trained to ensure that the appropriate event codes are being docketed for pre and post adjudicated warrants. Warrants are being issued in less than 30 days.
- 17. Agree and the court has previously implemented the recommendations. Warrant fees are being assessed.
- 18. Agrees, and the court has previously implemented the recommendation. Warrants are being issued timely for non-compliance (within 20 days). The court runs reports from the AZTEC system to ensure cases are adjudicated timely.

**Civil Default Judgments**

Guided by statutes and the Arizona Rules of Civil Procedure (ARCVp), the Justice of the Peace has exclusive jurisdiction over all civil actions when the amount involved, exclusive of interest, costs and awarded attorney fees is \$5,000 or less. The Justice of the Peace also has concurrent jurisdiction with the superior court in cases when the amount involved exclusive of interest, costs, and awarded attorney fees is more than \$5,000 and less than \$10,000.

Civil cases (excluding small claims and evictions) represented 1% of case filings at the Ajo Justice Court in FY2010.

**Compliance Areas:** The court demonstrated satisfactory compliance in the following areas:

- The court properly assessed, receipted, and docketed civil fees in all 16 cases reviewed, as required by A.R.S. § 22-212 and § 22-281.
- Applications for entry of default were mailed to the party claimed to be in default in 13 of 14 (93%) applicable cases, as required by Rule 55(a)(1)(i), ARCvP.<sup>7</sup>
- The court distributed notices of default judgment to all parties in 11 of 12 (92%) applicable cases, as required by Rule 58(a), ARCvP.

**Finding #7: The court needs to improve upon the documentation and timeliness of civil rulings.**

#### Timeliness of Ruling and Certification of Salary

The court did not rule on all civil motions within 60 days of receiving the pleading. Specifically, there were two of 16 (13%) cases with that required a dispositive ruling on a motion for judgment; however, the rulings were not rendered until 106 days and 315 days after the sixty day allowance. Arizona Revised Statute § 11-424.02(A) requires “A justice of the peace or a justice of the peace pro tempore shall not receive his salary unless such justice either certifies that no cause before such justice remains pending and undetermined for sixty days after it has been submitted for decision or there is submitted by the chief justice of the Arizona supreme court a certification that such justice of the peace has been physically disabled during the preceding sixty days or that good and sufficient cause exists to excuse the application of this section to particularly identified litigation then pending.” A review of the records revealed that Judge Alvillar had submitted certification that no cause submitted remained pending for sixty days or more even though there were two causes that remained outstanding during the time of certification.

#### Docketing

The court’s civil default docketing practices are in need of improvement. Particularly, the court did not correctly record judgments and dispositions in the case management system in 5 of 14 (36%) applicable cases. All five non-compliant cases failed to include a disposition and the monetary amounts awarded in the judgment. Arizona Revised Statute § 22-212(A)(10) mandates, “each justice of the peace shall keep a civil docket in which he shall enter the time of issuing execution, to whom directed and delivered, and the amount of debt, damages and costs”. Further analysis of the court’s data found 158 civil cases in pending status in the case management system, some with the last status dating back to 1997.

#### **Recommendations:**

19. The court should tickle default events for 10 days from the date of filing of applications for default.
20. All civil filings submitted to the court should be ruled on within 60 days of being submitted for decision, as required by A.R.S. § 11-424.02(A).

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<sup>7</sup> Two cases are not applicable due to stipulated judgments.

21. Civil events should be accurately docketed within the automation system, particularly civil dispositions and judgments, as required by A.R.S. § 22-212(A).

**COURT RESPONSE:**

19. Agrees, and has previously implemented the recommendations as stated in the report. Default events are tracked through the Tickler which is processed daily.
20. Agrees, and the court has previously implemented the recommendation as stated in the report. This is a circumstance due beyond the court's control in that Defaults were not being brought to the court's attention in a timely manner.
21. Agrees, and the court has previously implemented the recommendations. This was brought to the court's attention during the Operational Review. Staff have received training and instructions with the assistance from PCCJC, and the Field Trainer.

## **Records Management**

The National Center for State Courts (NCSC) elaborates on the importance of the reliability of court records, saying, "equality, fairness and integrity in trial courts depend in substantial measure upon the accuracy, availability, and accessibility of records." Characteristics of an efficient and effective records management system include a continuum of activities, such as initiating, maintaining, monitoring case files, and preserving court records.

As part of this review the initiation and maintenance of court records, including automated records and the records retention schedule, were evaluated. Data was gathered through the evaluation of case files, automated dockets, interviews with court staff, and court observations.

**Compliance Areas:** The court demonstrated satisfactory compliance in the following area:

- The court maintains an appropriate level of security, with regards to public access of records, by redacting confidential information or preserving that information within a special folder before releasing the file for public viewing.

**Finding #8: The court needs to improve its records management practices, as they have produced; an extensive backlog, poor file reliability, and an inability to timely report case information to pertinent agencies.**

### File Location and Reliability

Insufficient records management practices have led to problems with file location and reliability. Reviewers noted an abundance of misfiled cases and documents throughout the courthouse in areas such as the judicial office, basement storage areas, and the walk-in vault located in the court's administrative office. To illustrate, an inventory of various locations throughout the court revealed;

- A total of 317 misfiled civil, traffic, and criminal cases with filing dates as early as December 6<sup>th</sup>, 1976. Some of these misfiled cases have yet to be adjudicated.

- A total of 667 incomplete Firm Disposition Reports (FDRs) from offenses which occurred as early as January 1<sup>st</sup>, 1986.
- Original court paperwork such as warrants, minute entries, and orders. This paperwork was found loosely filed and unmatched with their respective files.
- Four file boxes of cases waiting processing following court hearings dating back more than 6 months.

Misplaced files and documents have had a negative effect on court staff's ability to process the court's cases in a timely fashion. In fact, court staff reported 2-3 month delays before some cases submitted for a judicial decision are returned for processing. Results of an inventory of 21 cases kept within the judicial office further affirm an existing delay. Examples of inappropriately filed or stored cases in this sample inventory include; one case awaiting follow-up from a due date of November 15<sup>th</sup>, 2006 to complete sentencing conditions, a case with no update from an arraignment scheduled for May 6<sup>th</sup>, 2010, and a sentenced case in which payments halted April 17<sup>th</sup>, 2008 with no subsequent action taken.

### Reporting

Inadequate records management has hindered the court's reporting practices. Reviewers discovered 667 incomplete FDRs, with offense dates ranging from January, 1986 to January, 2011, in several locations throughout the courthouse. Offenses associated with these FDRs vary, from failure to appear violations, to driving offenses, burglaries, thefts, and controlled substance charges. Arizona Rules of Criminal Procedure 37.1(a) requires dispositions of criminal cases to be reported to the Department of Public Safety (DPS) within 10 days of final disposition.

Another reporting concern includes a collection of incomplete record requests. Reviewers discovered two large boxes full of record requests that had yet to be processed. An inventory of these requests revealed a total of 166 record requests with filing dates ranging from December, 2003 to January, 2011. Requests were from both private entities and public government institutions such as the City of Phoenix, the U.S. District Court, the Office of the Attorney General, and the U.S. Department of Homeland Security's Bureau of Immigration.

### **Recommendations:**

22. The court must work to eliminate the backlog that it has developed over time. For example, reallocating staff responsibilities or offering overtime could encourage court staff to complete this task while maintaining current production levels.
23. The court should submit completed FDRs to the Department of Public Safety within 10 days of final disposition, as required by Rule 37.1(a), ARCrP.
24. Record requests should be completed the day they are made, if not soon after.
25. Staff should quickly process and file court case documents as they are received, ensuring that they are filed in the correct location.

### **COURT RESPONSE:**

22. Agrees, and the court has previously implemented the recommendations. Court staff has worked overtime and 80% of the backlog has been attended to.
23. Agrees, and the court has previously implemented the recommendations. The court continues to work on the backlog and has submitted 644 DPS Reports.

24. Agrees, and the court has previously implemented the recommendation. A procedure for record searches which was implemented on March 17, 2011. This is procedure #501.

25. Agrees, and the court has previously implemented the recommendation. A process has been implemented by which staff attends to these documents on a daily basis, to ensure that they are filed in the correct court case and location.

**Finding #9: The court does not maintain record retention and destruction processes which follow the schedule set forth in ACJA § 4-302. Additionally, the court's blanket dismissal orders are not consistent with Arizona Court Rules.**

#### Records Retention

The court does not participate in statutorily prescribed record retention practices. Arizona Revised Statute § 22-124 requires each justice of the peace to maintain and destroy records pursuant to rules established by the Arizona Supreme Court, which are detailed in ACJA § 4-302. Instead the court retains all of its closed cases, storing them in several areas of the courthouse including two large walk-in vaults and two separate rooms. An inventory of one of these large vaults revealed 92 boxes, stored in no order useful to timely destruction of the cases, containing civil, traffic, criminal, and financial casework dating as early as 1942.

#### Administrative Orders

The court's dismissal of pending cases, through the implementation of three administrative orders, is not consistent with the judicial processes set forth by the Arizona Rules of Court. For instance, Ajo Justice Court Administrative Order No. 2010-01 states, "each open civil traffic charge filed on or before December 31<sup>st</sup>, 2008 in which no default has been entered and no court action is pending, is hereby dismissed without prejudice for failure to prosecute." Additionally, each open misdemeanor or petty offense filed on or before December 31<sup>st</sup>, 2008 with no pending warrant or court action will also be dismissed. Dismissal of civil traffic violations in accordance with this administrative order is flawed because, per Rule 12 of the Arizona Rules of Procedure in Civil Traffic Cases, the state need not be represented by counsel in order for prosecution to occur in civil matters and, in fact, that right to representation is generally waived. Additionally, many of the files dismissed in accordance with these administrative orders will be the result of the court's own negligence. One of the civil traffic offenses dismissed contains a previously filed judicial order for entry of default that was never processed by court staff. Other dismissals include cases in which misdemeanor criminal warrants were ordered but never formally issued.

#### **Recommendations:**

26. The court should actively participate in the records retention practices outlined in ACJA § 4-302.
27. The court should reconfigure all of its closed filings so that they are in a chronological fashion by disposition date and case type, keeping in mind approved record retention policies.
28. Should timely records destruction occur, the court must make sure that the files are adequately documented in the case management system before purging.
29. Any court dismissals should follow the judicial processes set forth by the Arizona Rules of Court.

**COURT RESPONSE:**

- 26. Agrees and the court has previously implemented the recommendations. Procedures have been set forth for records retention which complies with ACJA 4-302.
- 27. Agree and the court has previously implemented the recommendations. New filing systems were put in place keeping in mind the record retention policies.
- 28. Agree and the court has previously implemented the recommendations. Files are being checked against the system by the Rural Court Administrator before purging.
- 29. Agree and the court has previously implemented the recommendations.

## **FINANCIAL MANAGEMENT FINDINGS AND RECOMMENDATIONS**

Courts are responsible for safeguarding and accounting for public funds by making timely deposits, safeguarding accounting records, segregating financial tasks, conducting daily and monthly reconciliations, making accurate and timely disbursements, and submitting monthly remittances to the local treasurer. Statutes, Administrative Orders (AO), codes, and Minimum Accounting Standards (MAS) mandate the minimum requirements a court must follow to ensure adequate internal controls are in place to protect the public's money and to detect accounting errors and irregularities. Courts are also required to submit an annual self-evaluation (MAS Checklist) to the Administrative Office of the Courts to ensure compliance with minimum accounting practices and time frames within which it performs accounting functions. Additionally, courts are mandated to undergo a triennial external financial review conducted by an independent accounting firm and submit the results to the AOC.

This review assessed the court's various financial management practices to determine the adequacy with which the court handles its daily and monthly monies; namely, the court's receipting and daily cash handling practices, reconciliation and disbursement practices, and the accuracy and timeliness of monthly reports to the county treasurer. In doing so, reviewers evaluated, observed, and reconciled the court's deposits, bank statements, disbursements, receipting (manually and automated), and monthly remittance reports for September and October 2010.

Additionally, data was gathered based on a review of the following documentation, dated October, 2009 through November, 2010: 1 unidentified payment, 20 issued manual receipts, 1 voided manual receipt, 13 voided automated receipts, 12 bond disbursements, 16 restitution disbursements, 10 overpayment disbursements, 8 voided checks, daily and monthly reconciliation documents, and staff interviews.

It should be noted that the court reported it was in compliance with all applicable standards on the MAS compliance Checklist for 2010. The court had its triennial external audit for the period of January 1, 2009 through December 31, 2009. The final audit report, dated July 19, 2010, did not cite any findings.

While reviewers attempt to determine compliance or non-compliance with MAS, at times, a small number of applicable data restrict the reviewer's ability to determine compliance. Reviewers were unable to determine compliance for the following MAS area:

- The requirement to receipt unidentified monies into a "suspense account" within one business day as required by MAS I.3.b. and retain documentation as required by MAS I.3.c.

## **Receipting**

**Compliance Areas:** The court demonstrated satisfactory compliance in the following areas:

- The court allows only authorized personnel to receipt payments, pursuant to MAS I.1.a.
- During the cash drawer reconciliation observation, reviewers found the court immediately endorsed all 16 checks and money orders that were receipted throughout the day as required by MAS I.2.
- The court issued all 20 manual and 712 automated receipts in sequential order for the months reviewed pursuant to MAS I.4.c.
- Automated receipts contain all of the elements required by MAS I.4.d.; manual receipts contain all of the elements required by MAS I.5.c.
- The court receipted all 10 overpayments as an overpayment and not as a fine, surcharge, bond, or restitution during the months reviewed as required by MAS I.4.g.
- The court has a policy in place to detect counterfeit monies<sup>8</sup> pursuant to MAS I.7.
- The person issuing the manual receipt and the person verifying the issuance both initial the receipt, as required by MAS H.2.
- The court allocates restitution payments received in accordance with ACJA § 4-301.

**Finding #10: The court needs to improve its receipting processes relative to receipting of monies and manual receipts.**

### Manual Receipts

The court does not fully comply with all MAS standards regarding manual receipt processing. For instance, during on-site observations and interviews with staff, reviewers learned the court begins its cash drawer reconciliations at 4:30 p.m. Because the court remains open until 5:00 p.m., any payments made after 4:30 p.m. are receipted manually. Minimum Accounting Standard I.5.a. permits the court to use manual receipts as a primary receipt only when the court's automated financial management system is inoperable. The court should adhere to this MAS requirement and best business practices by maintaining one open drawer in AZTEC until 5:00 p.m., continuing the use of automated receipting.

Although the court cross-referenced the automated receipt number to the corresponding manual receipt on all 20 manual receipts reviewed, court staff did not enter the manual receipt number in the case management system when issuing the corresponding automated

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<sup>8</sup> During cash drawer reconciliation, reviewers observed that court staff used a counterfeit detection pen on currency.

receipt on all 20 manual receipts reviewed from April 1, 2010 to October 31, 2010. Minimum Accounting Standard I.5.e requires the court to cross-reference by receipt number all manual receipts entered in the financial management system. Additionally, reviewers noted that 3 of these 20 (15%) manual receipts did not include the date payment was received, and 2 of 20 (10%) manual receipts did not include a case number, as required by MAS I.4.d.(2),(5).

#### Voided Automated Receipts

The court does not properly document or retain all voided automated receipts. Minimum Accounting Standard L.4 requires the court to maintain daily and monthly financial reconciliations and supporting documentation in accordance with the records retention schedule, however, copies of the voided receipt were only retained in 10 of the 13 (77%) receipts reviewed. Furthermore, a review of the 10 copies of automated receipts voided revealed the court did not mark "VOID" and did not note the reason for voiding the receipt on any of the 10 (100%) copies of voided automated receipts retained. Minimum Accounting Standard I.6.a requires the court to mark "VOID" on all copies of the receipt and MAS I.6.b requires the court to state the reason for the void on all voided receipts.

#### **Recommendations:**

30. The court should keep one cash drawer open until 5:00 p.m. and issue automated receipts until the court closes for the day.
31. The court shall ensure the manual receipt number is cross-referenced on the corresponding automated receipts issued.
32. The court shall ensure that all required information is recorded on manual receipts issued.
33. The court shall document the verification of voided automated receipts by having the second person initial the copy of the void and writing the reason the receipt was voided.
34. The court shall retain all voided receipts in accordance with the records retention schedule.

#### **COURT RESPONSE:**

30. Agree, and have implemented the recommendation. Once this was brought to the court's attention during the operational review, the Court Administrator implemented a process whereby the cash drawer is open until 5:00 p.m.
31. Agree, and have implemented the recommendation. Manual Receipts have always been cross referenced on the corresponding automated receipts issued.
32. Agree, and have implemented the recommendation. Manual Receipts are required to have specific information that conforms to MAS.
33. Agree and the court has previously implemented the recommendation. The Accounting Support Specialist and the Court Administrator have provided staff with the information that is required on the voided receipts.
34. Agree, and has previously implemented the recommendation. This court has always maintained the voided receipts in accordance with the records retention schedule.

## **Disbursements**

**Compliance Areas:** The court demonstrated satisfactory compliance in the following areas:

- The court disburses all monies in the form of a check, pre-numbered and disbursed in sequential order, as required by MAS J.1.a and J.2.d.
- The court allows only authorized signers to sign checks issued for refunds of bonds and overpayments and restitution disbursements as evidenced by a comparison of the current bank signature card to authorized signers on cancelled checks issued by the court during the months of September through November, 2010 pursuant to MAS F.10, J.1.b, and K.2.
- Restitution payments were disbursed in accordance with ACJA § 5-204.
- The court disbursed bond monies only upon order of the court as required by MAS J.3.a.

**Finding #11: The court needs to improve its disbursement processes relative to bonds, restitution, recording disbursements and voided checks.**

#### Check Requests

The check requests used by the court are not signed or initialed by the preparer. The court clerk prepares a check request form on the computer, prints it out and submits it to the court administrator to approve. Because the form is computer generated and the clerk who prepares the form does not initial nor sign it, the reviewer is unable to determine who actually prepared the form. Minimum Accounting Standard H.3 requires a second authorized person to sign checks or check requisition forms prepared by someone else.

#### Bonds

Although reviewers found the court disbursed bond monies within 10 days<sup>9</sup>, the court lacked a written policy describing the timeframe within which bond monies are to be disbursed. Due to this lack of a written policy, reviewers could not determine whether bond monies were disbursed timely. MAS J.3.e. requires the court to establish written guidelines for refunding bond monies and disbursing bond monies to the appropriate party within a time period prescribed by the court's policies or procedures.

#### Disbursement Journal

The court does not record complete and accurate disbursement check information in its automated financial management system. A review of voided checks, replacement checks, cancelled checks, the check register and the AZTEC written checks report during the review period of November 2009 through November 2010 for disbursements of bond refunds, overpayments, and restitution disbursements to victims, revealed the court did not record the actual date of the check in the written checks report for 32 of 52 (62%) checks.<sup>10</sup> Minimum Accounting Standard J.6.a requires the court to automate all disbursements in accordance with ACJA § 1-501 and to record all disbursements into the court's automated financial system by the end of the next business day.

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<sup>9</sup> Per the financial clerk, bond refunds are issued within 10 days from the date the court orders the refund to the actual disbursement.

<sup>10</sup> Reviewers noted that 1 of the 16 (7%) checks in this sample issued to the victim of a case is incorrectly dated for the day before the payment receipt date.

Additionally, checks voided during the review showed the court did not cross-reference the voided check number to the new check number for 2 of 7 (29%) voided checks, and did not cross-reference the new check number to the voided check number for 5 of 7 (71%) new checks in the automated disbursement journal or in the case docket. Minimum Accounting Standard J.10 requires the court to cross-reference the new check number and the cancelled check number on all accounting records.

#### Overpayments

The court does not follow its own policy, or Administrative Order 2008-1, regarding Overpayments/Underpayments<sup>11</sup>. A review of the overpayment disbursements from November 1, 2009 thru November 30, 2010 revealed the court disbursed 3 of 10 (30%) overpayments for \$2.00, \$10.00, and \$10.00. Further, the court does not have a written policy dictating the time period in which overpayments should be disbursed. In one instance the court disbursed an overpayment the same day as a check payment was receipted to the case. Approximately 13 days later, the same check was returned to the court for in-sufficient funds. Minimum Accounting Standard J.5 states “The court shall establish written guidelines for refunding overpayments and disbursing overpayments to the appropriate party within a time period prescribed by the court’s policies and procedures.”

#### **Recommendations:**

35. The court shall establish a written policy or procedure outlining the timeframe for disbursing bond refunds and overpayments.
36. The court shall cross reference the voided check number to the new check number and vice versa in AZTEC as well as on the check register.
37. The court shall ensure the date in the court’s check register coincides with the date of the disbursement in AZTEC.
38. Court staff should follow Administrative Order 2008-1 for overpayment refunds.

#### **COURT RESPONSE:**

35. Agrees and the court has previously implemented the recommendation. A written policy (Procedure Number 703), Accounting Overpayments/Underpayment Procedure has been implemented which lists the time frames as well as the AZTEC process.
36. Agree and the court has previously implemented the recommendation. The receipts when voided in AZTEC always have void on them from the system.
37. Agree and the court has previously implemented the recommendation. Checks are being disbursed in AZTEC on the date they are written.
38. Agree and the court has previously implemented the recommendation and as stated above Procedure Number 703 is now in effect in compliance with Administrative Order 2008-1.

## **Safeguarding/Internal Controls**

**Compliance Areas:** The court demonstrated satisfactory compliance in the following areas:

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<sup>11</sup> The AO directs overpayments of \$10.00 and under be deposited into the county’s general fund and overpayments of \$10.01 and over be refunded to the payee.

- The court performs end of day cash drawer reconciliation in a room out of public view pursuant to MAS F.2.
- The court keeps cash drawers and the vault locked when not in use pursuant to MAS F.11.
- The court is aware of the requirement to change the safe combination when an employee who was granted full access to the safe leaves the employ of the court pursuant to MAS F.5. Court staff reported the combination to the vault was changed on July 1, 2010.
- The court does not use signature stamps when signing financial documents such as checks pursuant to MAS F.10.
- The court uses tamper-proof plastic bags to transport its deposit monies to the bank as required by MAS F.14.
- The court maintains bank accounts in the court's name; maintains a list of all bank accounts; court bank accounts are FDIC insured; and maintains current bank account signature cards pursuant to MAS K.1.a-c and K.2.
- The court deposits court monies only into court accounts; deposits all monies in the same form as received; and deposits monies by the next business day when receipts equal or exceed \$300 pursuant to MAS K.3.a-c.
- The court secures all manual receipt books and ensures they are accessible only to those authorized individuals pursuant to MAS F9.

**Finding #12: The court needs to improve its safekeeping/internal control processes relative to the use of locking cash boxes and the commingling of personal and court monies.**

Although the court assigns each clerk their own cash box, which are kept in separate locked drawers, controls are still lacking at the court. During the cash drawer reconciliation processing, reviewers observed a clerk, use one key to retrieve both unlocked cash boxes from the locked drawers. Minimum Accounting Standard F.6 requires the court to assign each cashier a separate cash drawer fund stored in a locked cash drawer or locking bank bag.

The court stores personal items with court monies in the vault. An inventory of the contents of the vault revealed a box containing a coin collection and a metal bin containing life insurance policies. Minimum Accounting Standard F.17 requires that court staff not commingle personal monies with court monies.

**Recommendations:**

39. The court should assign each clerk who receipts money their own locking cash box or locking bank bag. There should be only one key per drawer, which is held by the person that is assigned the locking cash box or locking bank bag.
40. The court should not store personal monies or personal documents in the court's vault that contains court monies. Such items should be removed from the vault.

**COURT RESPONSE:**

39. Agree and the court has previously implemented the recommendation. The Courts Administrator has put processes into place whereby clerks are assigned their own locking cash drawer, and they are the only ones who have access to their drawer.

40. Agree, the court has previously implemented the recommendation. The court does not commingle or store personal monies or personal documents in the court's vault.

## **Reconciliation**

**Compliance Areas:** The court demonstrated satisfactory compliance in the following areas:

- The court reviews outstanding checks monthly and as of the review date the court had one check outstanding over six months. The court sent a follow-up letter to the payee and retained a copy of the letter pursuant to MAS M.1 and M.2.
- The court uses its petty cash fund only for small purchases and reconciles its petty cash fund monthly pursuant to MAS J.11.a & b, L.2.g and L.4.
- The court reviews monthly all bonds pending and outstanding over 90 days and bond records to determine the status of each bond. The court takes appropriate action and retains documentation of the review pursuant to MAS N. Court staff reported the court maintains a record of bonds posted on an Excel spreadsheet which is reviewed and updated monthly to track outstanding bonds and to record disposition of bonds (refund/forfeit).
- The court performs monthly reconciliations pursuant to L.2.a-g.
- The court maintains records for the bank account as required by L.3.a-g.

**Finding #13: The court's reconciliation processes need improvement relative to the reconciliation of petty cash, reconciliation of cash drawer funds (bank bags) and the court's change fund, reconciliation documentation retention, verification, the documenting of verifications, and outstanding bonds.**

### Daily Reconciliations

The court's daily reconciliation process is inadequate. Although court staff reconcile monies with the AZTEC financial reports at the end of the day, verification and documentation is not performed when control of all monies changes from one clerk to the other. The clerk assigned to receipt monies does not perform or document the initial reconciliation of the cash drawer, or have it verified by a second person who should then document the verification by initialing the reconciliation. MAS L.1.b requires each court employee responsible for a cash drawer fund to reconcile and balance all monies received after each shift with the cash receipts journal.

Also, even though the court may run the FARE batch process daily, the court is not running reconciliation reports daily. A review of the 19 AZTEC reports associated with the FARE program for September and October 2010, revealed 10 of 19 (53%) of the reports were not run the same day.

In addition to daily receipting reconciliations, the court is not verifying the change fund before usage. Although court staff reported the court's change fund was counted and

documented at the end of the day by the fund custodian, it was not counted before usage at the beginning of each day and a second person did not verify the change fund and document the verification. Minimum Accounting Standard L.1.a requires each court employee responsible for a cash drawer fund to verify the beginning cash fund [change fund] before usage. Furthermore, MAS H.1 requires a second authorized person to verify daily reconciliations and to document the verification.

Finally, the court has inadequate procedures for investigating, documenting and reporting overages and shortages. During observations of the end of day reconciliation process on January 24, 2011, the initial count of the cash drawer found it to be over by \$1.50. The monies were then counted by a second person who confirmed the overage. Staff advised the reviewers this had never occurred before and they were unaware of how to proceed. Minimum Accounting Standard F.18 requires court staff to investigate any shortage or overage of monies by the end of each business day. If there is still a discrepancy, this shall be reported to court management and documented.

#### Monthly Reconciliations

The court does not adequately reconcile monthly its outstanding bonds with the AZTEC bail/bond reports. In addition, the court does not adequately document the reconciliation and verification by having both the person who prepared and the second person who verified the reconciliation initial/sign the reconciliations of open bonds. Court staff reports the AZTEC bail/bond report for the month is compared with the court's bond log, an Excel spreadsheet, maintained by the court. However, copies of the AZTEC bail/bond reports were not included with the court's monthly bond reconciliation documents that were provided to reviewers.

Reviewers generated the AZTEC bail/bond report for September 2010 using the inception date (01/01/1985 to 09/30/10) and found the outstanding bond amount did not reconcile with the court's records. The AZTEC Bail/Bond report shows outstanding bonds of \$26,185.88; and the court's outstanding bond log as of 09/30/2010 shows \$11,043.63, a difference of \$15,142.25. Reviewers generated the AZTEC bail/bond report for October 2010 using the inception date (01/01/1985 to 10/31/10) and found the outstanding bond amount did not reconcile with the court's records. The AZTEC Bail/Bond report shows outstanding bonds of \$25,974.38; and the court's bond log shows outstanding bonds totaling \$10,832.13, a difference of \$15,142.25. Court staff reported that bonds are reviewed monthly to follow-up on outstanding bonds and to take appropriate action (refund/forfeit bonds). However, the court has not conducted research and made the necessary adjustments to correct the AZTEC bail/bond reports.

Minimum Accounting Standard L.2.e. states court employees shall perform monthly reconciliations of open items, such as bonds, with all bank accounts and case balances. Minimum Accounting Standard N requires the court, on a monthly basis, to review all pending and outstanding bonds posted more than ninety days, as well as bond records, to determine the status of bonds relevant to court order. The court should then take the appropriate action on any relevant bond activity, such as forfeitures and appearances.

### Petty Cash

Although the court reconciles its petty cash fund three times per week, the reconciliation is not adequate. The custodian of the fund reconciles the fund and documents the reconciliation with the date and the amount. However, a second person does not verify the reconciliation. Minimum Accounting Standard H.1 requires a second authorized person to verify disbursements, deposits, voided receipts and daily and monthly reconciliations and to document the verification.

### Unclaimed Funds

The court does not report unclaimed funds according to statute. In an evaluation of the court's unclaimed property reports for 2009, reviewers found 6 of 6 (100%) cases where monies (\$83.05 total) were remitted as unclaimed funds to the county treasurer prematurely. This is due to the court's process, which is to place a stop payment on the check in AZTEC and remit the monies to the county treasurer in less than one year from the date the initial check was issued. Arizona Revised Statute § 22-116(A) requires the court by April 1 of each year to compile a list of all unclaimed funds on deposit with the court for more than 2 years and to then remit the funds to the county treasurer.

### **Recommendations:**

41. The court should ensure the persons performing and verifying the daily and monthly reconciliations such as the change fund, bank bags, deposits, outstanding bonds, bank accounts and monthly remittance reports, fully and accurately complete and document the reconciliations including the initials/signatures of both persons. Further, the court should run reconciliation reports for the FARE program on the day the batch process is done.
42. The court should have each employee responsible for a cash drawer fund verify and document the beginning cash fund as well as reconcile and balance all monies after each shift. After the initial reconciliation is completed and documented, a second person should verify all monies (cash, checks, money orders and credit card payments) in each clerk's cash drawer in the presence of the clerk when control of the monies is transferred from the clerk.
43. The court should receipt overages to the overpayment/overage event code (5014) set up in AZTEC.
44. The court should monthly reconcile its outstanding bonds with the AZTEC Bail/Bond Summary Report from inception to date (1/1/1985 through date of reconciliation) to ensure all bonds are reflected in the reports. The court needs to conduct a review of their bonds and make necessary adjustments in AZTEC so that the ending balance on the Bail/Bond Summary and the Bail/Bond Detail reports are in agreement.
45. The court should report unclaimed funds pursuant to statute.
46. The custodian of the petty cash fund should initial the reconciliation and have a second person verify the reconciliation, sign and date the documentation.

### **COURT RESPONSE:**

41. The court should ensure the persons performing and verifying the daily and monthly reconciliations such as the change fund, bank bags, deposits, outstanding bonds, bank accounts and monthly remittance reports, and fully and accurately complete and document the reconciliations including the initials/signatures of both persons.

42. Agree, the court has previously implemented the recommendation as stated in the report. Once this was brought to the court administrator and the accounting support specialist attention this issue was attended to immediately.

43. Disagree, the court will not implement the recommendation. The court utilizes this event code (5014) when monies are disbursed in AZTEC system. The AZTEC System automatically generates the event code. Overages are created with payment code 9517. Once the appropriate code is entered and there is a disbursement the AZTEC system automatically generates Code 5014.

44. Agrees, but cannot implement the recommendation. Whenever the Accounting Clerk attempts to run the report from 1985 to the present an error report is generated. The Accounting Clerk runs a monthly report and reconciles the report with the Excel Sheet and the Bond Reconciliation Form.

45. Agree, the court has implemented the recommendation as stated in the report. This was also brought to the court administrator and the accounting support specialist attention during the operational review and they attended to this issue immediately.

46. Agree, the court has implemented the recommendation as stated in the report. This was also brought to the court administrator and accounting support specialist attention during the operational review and they attended to this issue immediately.

## **Reporting**

**Compliance Area:** The court demonstrated satisfactory compliance in the following area:

- The court submitted its monthly remittance report for September and October 2010 timely to the county treasurer pursuant to A.R.S. § 12-116.01 and 12-116.02, and MAS O.1 and O.2.

**Finding #14: The court's monthly remittance report is inaccurate, and the county treasurer inaccurately reported funds to the state treasurer.**

The reviewer evaluated the court's monthly remittance reports for September 2010 and October 2010 to determine whether the court correctly applied the 5% set-aside for Fill-the-Gap funds. Arizona Revised Statutes § 41-2421(A) requires courts to set aside 5% of any monies collected and remitted to the county treasurer with the exception of certain funds. Arizona Code of Judicial Administration § 5-103 specifies the funds subject to the Fill-the-Gap 5% set-aside. For the month of September, the reviewer found the court incorrectly applied the 5% set-aside to jail fees (\$45.96), attorney fees including public defender fees (\$7.54), and the time payment fee (\$38.33). The court should have applied the 5% set-aside to bond forfeitures (\$5.40) and adult probation fees (\$24.30). By incorrectly applying the 5% set-aside, the court withheld \$62.13 more than it should have from September's state remittance. For the month of October, the reviewer found the court incorrectly applied the 5% set-aside to jail fees (\$28.75), attorney fees including public defender fees (\$13.26), and the time payment fee (\$28.34). The court should have applied the 5% set-aside to bond forfeitures (\$0) and adult probation fees (\$51.50). By incorrectly applying the 5% set-aside, the court withheld \$18.85 more than it should have for October's state remittance.

Further the court is incorrectly combing the local and state filing fees and remitting one amount to the county treasurer. After reviewing the court's monthly remittance report for September 2010 and October 2010, the reviewer found only one line item to remit the amount collected for the Judicial Collections Enhancement Fund. Therefore, the local treasurer remitted \$24.81 and \$22.21, respectively, over what should have been remitted for the state's portion of the Judicial Collections Enhancement Fund.

Additionally, reviewers compared the court's remittance report to the state treasurer's office revenue report for September 2010 and October 2010. The court accurately reported the FARE Special Collection fees of \$1974.03 and \$1703.64 and FARE Delinquency Fees of \$885.06 and \$661.23 to the county treasurer. The county treasurer, however, remitted \$885.06 and \$661.23 for the FARE Special Collection fee and \$1974.03 and \$1703.64 for the FARE Delinquency Fee to the State for a variance of \$1088.97 and \$1042.41 respectively. The county treasurer does not provide a receipt to the court showing how monies were disbursed to the state treasurer. Minimum Accounting Standard O.3 requires the court to verify that monies are correctly distributed and reported to the appropriate agencies pursuant to statute if a city, county, or state treasurer collects monies on behalf of the court or if the court deposits money with the city, county or state treasurer.

**Recommendations:**

47. The court should ensure it correctly applies the Fill-the-Gap 5% set-aside to the appropriate funds.
48. The court should add a line to its monthly remittance report so that the correct percentage of filing fees collected are allocated by the county treasurer to JCEF pursuant to A.R.S. § 22-281.D.
49. The court should obtain a receipt from the county treasurer, which lists the fund and the amounts submitted to the state treasurer and verify the amounts.

**COURT RESPONSE:**

47. Agree and the court has implemented the recommendation as stated in the report. Ms. Jennifer Jones, during the Operational Review addressed this issue with the Accounting Support Specialist. Once this was brought to the accounting support specialist attention this issue was rectified and the 5% Set-Aside is being correctly applied.
48. Agree, and the court has implemented the recommendation as stated in the report.
49. Agree and the court has implemented the recommendation. The court now receives a monthly report from the Treasurer to verify the amounts submitted into the various funds. The court is in compliance.

## **Administrative Requirements**

**Compliance Areas:** The court demonstrated satisfactory compliance in the following areas:

- The court timely completed and submitted the 2010 MAS Compliance Checklist to the AOC as required by MAS E.1.a. The court reported it was in compliance with all applicable standards.

- The court provided a copy of MAS to each entity receiving or making payments on behalf of the court pursuant to MAS E.1.d.
- The court's financial policy is posted in a conspicuous location in the lobby and contains the necessary elements as described in MAS E.4.a-d.
- The court had its triennial external review conducted timely and submitted the final report to the AOC<sup>12</sup> as required by MAS G. The report did not cite any findings.

## CONCLUSION

The AOC extends its appreciation to Judge Maria Alvillar and the staff of the Ajo Justice Court for their cooperation and assistance during the operational review. The findings identified in this report reveal issues the court must address to become compliant with statutory and administrative authorities, in addition to the court's own policies and procedures.

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<sup>12</sup> The final audit report dated July 19, 2010 for the external review conducted for the period from January 1, 2009 through December 31, 2009, was not date stamped by the court and therefore, the reviewer could not determine if the court sent the report to the AOC timely. The report was received by the AOC on August 23, 2010

## **COURT RESPONSE**

JUSTICE  
MARIA L. ALVILLAR  
JUSTICE COURT NO. 3  
111 LA MINA AVENUE  
AJO, ARIZONA 85321  
(520) 387-7684



GEORGE GRADILLAS  
CONSTABLE  
(520) 387-5403

June 19, 2012

Mr. Brian Granillo  
Court Operational Review Specialist  
Court Operations Unit  
1501 West Washington Street  
Phoenix, Arizona 85007-3231

RE: Ajo Justice Court Operational Review Draft Report

Dear Mr. Granillo,

A preliminary response to the operational review report for the Ajo Justice Court is attached for your review. It is my understanding that you will be meeting with the court on Friday, June 29, 2012.

Effective as of 6/18/12 the Rural Court Administrator is on leave. Please note that the Administrator had attended to numerous policies for the Ajo Justice Court. With the Rural Court Administrator being on leave this has undermined my ability to fully and completely address all issues in the AOC Report. The court will provide some of the written policies on the date of the meeting.

Thank you for your assistance and cooperation throughout this process. I look forward to meeting with you on Friday, June 29, 2012.

Sincerely,

Maria L. Alvillar  
Justice of the Peace

Enclosure

Cc: Honorable Sally Simmons  
Pima County Presiding Superior Court Judge  
Lisa Royal, Court Administrator

CASE MANAGEMENT FINDINGS AND RECOMMENDATIONS:

DRIVING UNDER THE INFLUENCE (DUI)

FINDING #1: The court does not collect and review all financial affidavits before appointing counsel.

Recommendation #1: The court agrees and has implemented the recommendation as stated in the report. The court requires each defendant who is requesting counsel to complete a financial questionnaire. The financial questionnaire is reviewed by the court prior to the appointment of counsel by the court.

Financial Statement to be provided.

FINDING #2: When sentencing defendants, the court must ensure that its sentencing documents contain all of the statutorily required elements, that mandatory monetary penalties are levied, and that the appropriate counseling referrals are made.

Recommendation #2: The court agrees and has implemented the recommendation as stated in the report.

Recommendation #3: The court disagrees and has implemented the recommendation as stated in the report. The court in May 2011 implemented a DUI Minute Entry in which the mandatory assessments are listed. The court also maintains the sentencing chart on the Bench. Staff have received the sentencing chart and the mandatory fine/fee chart along with AZTEC training on entering the mandated fines and assessments. The Courts surcharge guide has also been updated.

The previous Minute Entries did not list the individual assessments, but they were listed on the plea agreements. Staff were previously instructed to review the assessments listed on the plea agreements. One lump sum was never to be entered into the system. Beginning in August of 2005 the court noticed that plea agreements were being submitted to the court which had incorrect fine amounts. The court was continually bringing this to the prosecutor's attention. In November 2011 a permanent County Attorney was assigned to the court and plea agreements are being reviewed prior to the plea to ensure the mandated fines are being assessed.

Recommendation #4: The court Agrees, and has previously implemented the recommendation. The court assesses every plea agreement before a formal acceptance is made to ensure that it meets the mandatory requirements under the statute for the offenses being plead to and that the sentence (fines) coincide with the date of the violation.

Recommendation #5: The court disagrees, and will follow the recommendation. The "Court Fee Chart" is followed at all times and it is NOT used purely as a reference for cost assessments in older violations. It is used for all violations, old and new. The chart has been updated and disbursed to all staff. Since bond amounts change often, the court and staff refer to various fee charts and bond books as they are updated.

Recommendation #6: The court agrees and has previously implemented the recommendation as stated in the report. The court is requiring Defendant's to attend counseling with an approved department of health services facility. The court maintains the approved list on the bench.

FINDING #3: The court is not ensuring dispositions are consistently, accurately and timely reported to the Arizona Motor Vehicle Department (MVD) and Department of Public Safety (DPS), as required by A.R.S. Section 28-1559(B) and Rule 37.1(a), ARCrP.

Recommendation #7: The court agrees, and a Court Procedure by which Disposition Reports are to be reported to DPS per A.R.S 28-1559(B) was implemented. Procedure #402

was implemented once this was brought to the courts attention at the Operational Review and all staff received training on this procedure  
Procedure to be provided.

Recommendation #8: The court agrees, and is currently addressing the back log and have managed to eliminate 87% percent of the DPS Disposition Reports. Adjudications are now processed as they occur so that additional back log is not created. The court reviews the file at time of sentencing and ensures that the fingerprints are in the file. If not the courtroom clerk is instructed to check and see if the fingerprints have been submitted to the court from the appropriate agency. The court also issues orders for Defendant's to be fingerprinted if there is no evidence that this has been completed. If fingerprints are not on file a Defendant is court ordered to be fingerprinted on that date and produce proof of compliance by no later than 4:00 p.m. that same day.

Court staff have received training on DPS Disposition Reports. The processing of the DPS Disposition Reports are not the sole responsibility of one individual.

The court also relies on the Pima County Sheriff's Office to submit the disposition reports, but due to circumstances beyond the court's control, reports are not received timely. The Administrator has been in contact with the Sheriff's Department to continue to resolve this issue. The Court Administrator is in contact with the Sheriff's Department several times a week to ensure that the court receives the reports timely. The Administrator is currently working with the Sheriff's Department on trying to resolve this issue by receiving the reports electronically.

Recommendation #9: The court agrees, and has previously implemented the recommendation as stated in the report. No one clerk is solely responsible for processing the DPS Disposition Reports, but the courtroom clerk has primary responsibility for completing the DPS reports at the time of adjudication since the report is in the case file.

Recommendation #10: The court agrees, and has implemented the recommendation as stated in the report. Procedure #402 was implemented and cases are being logged. The clerk every five days reviews the log to attend to cases in which the disposition sheets have not been filed with the court (5<sup>th</sup>, 10<sup>th</sup>, 15<sup>th</sup>, 20<sup>th</sup>, 25<sup>th</sup> and the 30<sup>th</sup> day). This responsibility belongs to the clerk who assists the courtroom clerk

## PROTECTIVE ORDERS

FINDING #4: The court must improve upon it's docketing and reporting procedures when processing protective orders, and ensure that only the most current Supreme Court approved forms are used.

Recommendation #11: Agrees, and has previously implemented the recommendations. Once this was brought to the courts attention during the Operational Review, the forms were updated, and implemented the current forms. In February 2012 the forms were again reviewed/updated and implemented.

Recommendation #12: Agrees, and has previously implemented the recommendations. Once this was brought to the courts attention during the Operational Review, a staff meeting was held and all staff were given instructions as to how to process the orders. The Field Trainer has also gone over the Orders of Protection with court staff, along with the data that is required in the AZTEC computer system.

Recommendation #13: Agrees, and the court has previously implemented the recommendation. The court notes that the courtroom clerk enters the appropriate codes and prints a copy from AZTEC and includes it in the file. A review of all current OP's and

Injunctions reflects that the correct codes are currently used and other necessary information has been obtained.

#### COURT ORDERED ENFORCEMENT

FINDING #5: The court's enforcement measures need improvement in the monitoring of court-ordered Mothers Against Drunk Driving (MADD) victim impact panels and alcohol screening:

Recommendation #14: Agrees, and has previously implemented the recommendations. Since this was brought to the courts attention at the Operational Review, Defendants are required to enroll with MADD within 7 days and complete within 90 days. They are to attend and successfully complete counseling within 6 months and documentation is to be provided/submitted to the court on a monthly basis and received prior to the Review Hearings. Review Hearings are held every 30 to 45 days and the court monitors the court's orders along with MADD compliance.

Recommendation #15: Agrees, and the court has previously implemented the recommendation. This court has always documented a Defendant's progress during the scheduled review hearings. If a Defendant is noncompliant, the clerks forward the file to the court, an Order to Show Cause Hearing is set. Notice is sent to the Defendant's last known address and if the Defendant fails to appear for the Order to Show Cause Hearing then a Rule Warrant is Ordered/issued and warrant fees assessed.

#### WARRANTS

FINDING #6: The court needs to improve the documentation and timeliness of warrant issuances, as well as the consistency of warrant fee assessments.

Recommendation #16: Agrees, and has previously implemented the recommendations. Staff have been trained to ensure that the appropriate event codes are being docketed for pre and post adjudicated warrants. Warrants are being issued in less than 30 days. The court monitors the warrants to ensure they are issued timely.

Recommendation #17: Agree, and the court has previously implemented the recommendations. Warrant fees are being assessed.

Recommendation #18: Agrees, and the court has previously implemented the recommendation. Warrants are being issued timely for non-compliance (within 20 days). The court runs reports from the AZTEC system to ensure cases are adjudicated timely.

#### CIVIL DEFAULT JUDGMENTS

FINDING #7: The court needs to improve upon the documentation and timelines of civil rulings.

Recommendation #19: Agrees, and has previously implemented the recommendations as stated in the report. Default events are tracked through the Tickler which is processed daily. Once this was brought to the courts attention and with the assistance of Pima County Consolidated Justice Courts the docketing was streamlined. Staff also received training pertaining to Civil from PCCJC. Procedures to be provided.

Recommendation #20: Agrees, and the court has previously implemented the recommendation as stated in the report. This is a circumstance due beyond the court's control in that Defaults were not being brought to the court's attention in a timely manner. The delays were caused by events that were beyond the Judge's control.

Procedure to be provided.

Recommendation #21: Agrees, and the court has previously implemented the recommendations. This was brought to the court's attention during the Operational Review. Staff have received training and instructions with the assistance from PCCJC, and the Field Trainer.

#### RECORDS MANAGEMENT

FINDING #8: The court needs to improve its records management practices, as they have produced; an extensive backlog, poor file reliability, and an inability to timely report case information to pertinent agencies.

Recommendation #22: Agrees, and the court has previously implemented the recommendations. Court staff have worked overtime and 80% of the backlog has been attended to. Procedures have been put into place where the work flow goes from one area to the other and a backlog does not occur. Reports are run from the AZTEC Computer System to ensure timely adjudication of cases.

Recommendation #23: Agrees, and the court has previously implemented the recommendations. The court continues to work on the backlog and has submitted 644 DPS Reports.

The court also relies on the Pima County Sheriff's Office to submit the disposition reports, but due to circumstances beyond the court's control, reports are not received timely. The Administrator has been in contact with the Sheriff's Department to continue to resolve this issue. Please see previous comments on Recommendation 8.

Procedure #402 was implemented and 87% of the DPS Reports have been eliminated. Please see Response for Recommendation #7 thru #10. The 87% includes new and old DPS Disposition Reports.

New clerks were previously instructed to place the DPS reports in the file and were not processed which also resulted in the backlog. Staff were handling files and not attending to the DPS reports.

Recommendation #24: Agrees, and the court has previously implemented the recommendation. A procedure for record searches which was implemented on March 17, 2011. This is procedure #501.

Procedure to be provided.

Recommendation #25: Agree, and the court has previously implemented the recommendation. A process has been implemented by which staff attend to these documents on a daily basis, to ensure that they are filed in the correct court case and location.

The court implemented a scanning process on 1/10 whereby all cases are to be scanned to a specific location therefore clerks are able to locate files immediately and place the documentation/correspondence in the appropriate file/location. The Reviewers conducting the Operational Review on 2/2012 informed the Court Administrator that the backlog would be a minimum of a 10 year clean up. The court has attended to 80% of it's backlog. In a meeting held with the Court Operations Director she also advised that the clean up would take years.

FINDING #9: The court does not maintain record retention and destruction processes which follow the schedule set forth in ACJ 4-302. Additionally, the court's blanket dismissal orders are not consistent with Arizona Court Rules.

Recommendation #26: Agrees and the court has previously implemented the recommendations. Procedures have been set forth for records retention which comply with

ACJA 4-302. All files which meet the records retention schedule have been destroyed. The court has been attending to records destruction since November 2010. All staff have been given the records retention schedule and have received training. A Purge Event Code was created for the court by the Administrative Office of the Courts.

Procedures to be provided.

Recommendation #27: Agree, and the court has previously implemented the recommendations. New filing systems were put in place keeping in mind the record retention policies.

Procedures to be provided

Recommendation #28: Agree, and the court has previously implemented the recommendations. Files are being checked against the system by the Rural Court Administrator before purging. Staff have received training in using the event codes for purging cases and keeping in mind the record retention policies. There is a process followed by staff.

Recommendation #29: Agree, and the court has previously implemented the recommendations. Although the Administrative Orders were put into place the court noted that after reviewing the list that was provided to the court by the AOC was incorrect. The list contained cases which were previously disposed of and reflected pending on the list. The court upon reviewing the physical file and the case in AZTEC and case notes found that the list was inaccurate.

#### FINANCIAL MANAGEMENT FINDINGS AND RECOMMENDATIONS

The court would also like to note that a Financial Audit was performed for the period of January 1, 2009 through December 31, 2009 which is required by Administrative Order 97-62. The report indicated no findings of non-compliance.

#### RECEIPTING

FINDING #10: The court needs to improve its receipting processes relative to receipting of monies and manual receipts.

Recommendation #30: Agree, and have implemented the recommendation. Once this was brought to the court's attention during the operational review, the Court Administrator implemented a process whereby the cash drawer is open until 5:00 p.m.

Recommendation #31: Agree, and have implemented the recommendation. Manual Receipts have always been cross referenced on the corresponding automated receipts issued. Staff have been informed that they must cross reference the receipt and they are doing so.

Recommendation #32: Agree, and have implemented the recommendation. Manual Receipts are required to have specific information that conforms with the MAS. Staff are now entering the required information.

Procedure to be provided.

Recommendation #33: Agree, and the court has previously implemented the recommendation. The Accounting Support Specialist and the Court Administrator have provided staff with the information that is required on the voided receipts. A second person has always initialed the receipt. The 2<sup>nd</sup> person is the Court Administrator.

Recommendation #34: Agree, and has previously implemented the recommendation. This court has always maintained the voided receipts in accordance with the records retention schedule.

Procedure to be provided.

## DISBURSEMENTS

FINDING #11: The court needs to improve its disbursement process relative to bonds, restitution, recording disbursements and voided checks.

Recommendation #35: Agree and the court has previously implemented the recommendation. A written policy (Procedure Number 703) Accounting Overpayments/Underpayment Procedure has been implemented which lists the time frames as well as the AZTEC process.

Procedure to be provided.

Recommendation #36: Agree and the court has previously implemented the recommendation. The receipts when voided in AZTEC always have void on them from the system. The Accounting Clerk always writes why the receipt was voided and cross references it with the new receipt issued from AZTEC. The voided receipt is also docketed under the Receipt Text in AZTEC. Void is written on the receipt, and the check register coincides.

Recommendation #37: Agree and the court has previously implemented the recommendation. Checks are being disbursed in AZTEC on the date they are written.

Procedure to be provided.

Recommendation #38: Agree and the court has previously implemented the recommendation and as stated above Procedure Number 703 is now in effect in compliance with Administrative Order 2008-1.

## SAFEGUARDING/INTERNAL CONTROLS

FINDING #12: The court needs to improve its safekeeping/internal control processes relative to the use of locking cash boxes and the commingling of personal and court monies.

Recommendation #39: Agree, and the court has previously implemented the recommendation. The Courts Administrator has put processes into place whereby clerks are assigned their own locking cash drawer, and they are the only ones who have access to their drawer. The court does not have locking bank bags.

Recommendation #40: Agree, and the court has previously implemented the recommendation. The court does not commingle or store personal monies or personal documents in the court's vault. The monies and documents were placed in the vault when the Justice of the Peace was the local coroner ( Early 1940's) and the court has attempted contacting various agencies to assist with trying to locate the heirs of the coin collection, etc. The monies and documents have been removed and placed in the empty basement vault of the courthouse.

## RECONCILIATION

FINDING #13: The court's reconciliation processes need improvement relative to the reconciliation of petty cash, reconciliation of cash drawer fund (bank bags) and the court's change fund, reconciliation documentation retention, verification, the documenting of verifications, and outstanding bonds.

Recommendation #41: Agree, and the court has previously implemented the recommendation as stated in the report. Once this was brought to the court's attention during the operational review, the court administrator and the accounting support specialist

attended to this issue immediately. The Accounting Support Specialist runs a daily batch for the payments in FARE, these reports are run daily. The backlog of FARE has been attended to and the court is 100% compliant.

Recommendation #42: Agree, and the court has previously implemented the recommendation as stated in the report. Once this was brought to the court administrator and the accounting support specialist attention this issue was attended to immediately.

Recommendation #43: Disagree, and the court will not implement the recommendation. The court utilizes this event code (5014) when monies are disbursed in AZTEC system. The AZTEC System automatically generates the event code. Overages are created with payment code 9517. Once the appropriate code is entered and there is a disbursement the AZTEC system automatically generates Code 5014. The court has been in contact with the AOC to resolve this issue.

Recommendation #44: Agrees, but cannot implement the recommendation. Whenever the Accounting Clerk attempts to run the report from 1985 to the present an error report is generated. The Accounting Clerk runs a monthly report and reconciles the report with the Excel Sheet and the Bond Reconciliation Form. The Accounting Clerk runs this report on a monthly basis just for the month. When Court Operations were auditing the court they did not request this information from the Accounting Support Specialist. The court has been in contact with the AOC to resolve this issue.

Documentation to be provided which reflects error report.

Recommendation #45: Agree, and the court has implemented the recommendation as stated in the report. This was also brought to the court administrator and the accounting support specialist attention during the operational review and they attended to this issue immediately. Ms. Jennifer Jones from Court Operations addressed this issue with the Accounting Support Specialist. The court is in compliance.

Recommendation #46: Agree, and the court has implemented the recommendation as stated in the report. This was also brought to the court administrator and accounting support specialist attention during the operational review and they attended to this issue immediately. Ms. Jennifer Jones from Court Operations addressed this issue with the Accounting Support Specialist. The court is in compliance.

## REPORTING

FINDING #14: The court's monthly remittance report is inaccurate, and the county treasurer inaccurately reported funds to the state treasurer.

Recommendation #47: Agree, and the court has implemented the recommendation as stated in the report. Ms. Jennifer Jones, during the Operational Review addressed this issue with the Accounting Support Specialist. Once this was brought to the accounting support specialist attention this issue was rectified and the 5% Set-Aside is being correctly applied.

Recommendation #48: Agree, and the court has implemented the recommendation as stated in the report. Ms. Jennifer Jones during the Operation Review addressed this specific issue and the matter was rectified.

Recommendation #49: Agree, and the court has implemented the recommendation. The court now receives a monthly report from the Treasurer to verify the amounts submitted into the various funds. The court is in compliance.