

**Arizona Supreme Court
Commission on Victims in the Courts**

September 21, 2012 Meeting Agenda
1501 W. Washington St. Phoenix, AZ 85007
State Courts Building, Conference Room 345 A/B
Conference Phone Number: 602.452.3193, ID# 1112

Call to Order

10:00 a.m.	Announcements	Hon. Ron Reinstein, Chair
	<i>Approval of May 2012 Meeting Minutes**</i>	
	<i>Approval of 2013 COVIC meeting dates**</i>	
	January 25, 2013	
	May 17, 2013	
	October 25, 2013	

Presentations

10:10 a.m.	Criminal Restitution Orders-Frequently Asked Questions	Kim Knox, Maricopa County Finance
10:30 a.m.	Update from the Committee on the Impact of Wireless Mobile Technology and Social Media on Court Proceedings	Mark Meltzer, AOC
10:50 a.m.	Technical Revisions to A.C.J.A. § 5-204	Carol Mitchell, AOC
11:00 a.m.	Language Access and Victim Issues	
	Services for Crime Victims and Next of Kin	Scott Loos, Maricopa County Superior Court
	Language Access Update	Carol Mitchell, AOC

Old Business

11:40 a.m.	Victim ID Protection Rule Petition Update	Hon. Ron Reinstein
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Call to the Public/Adjourn

*****Important Voting items***

All times are approximate. The Chair reserves the right to set the order of the agenda. For any item on the agenda, the Committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration §1-202. Please contact Carol Mitchell at (602) 452-3965 with any questions concerning this agenda. Persons with a disability may request a reasonable accommodation by contacting Jerri Medina at (602) 452-3647. Requests should be made as early as possible to allow time to arrange for the accommodation.

Maricopa County Department of Finance County Collections Unit Frequently Asked Questions

Date Published: July 18, 2012

Criminal Restitution Order and Restitution

What is a Criminal Restitution Order (CRO)?

A CRO is a restitution lien that is created on all post probation, post prison and probation absconders that have remaining financial sanctions. CROs are further discussed in the Criminal Code within Arizona Revised Statute (A.R.S.) §13-805. A.R.S. can be found at the following link: <http://www.azleg.state.az.us/>

What is a Restitution Lien?

A CRO is a restitution lien against all current and future interests in property which includes personal property, real estate, mobile homes, vehicles, boats, all-terrain vehicles, etc., within the State of Arizona. The CRO would need to be paid in full in order for the lien to be released. Maricopa County does not subordinate.

Restitution Liens are not financial liens in which the lienholder is typically a bank, finance company, or other financial institution whom you have a signed agreement to borrow money using a particular asset as collateral.

Where can I find a copy of the CRO?

A CRO is a recorded public document and can be found by accessing the Maricopa County Recorder's website at the following link: www.recorder.maricopa.gov.

How are CROs enforced?

CROs are enforced by filing a lien against interests in personal property. This is done by filing the lien with the secretary of state, except for titled motor vehicles which are filed with Arizona Department of Transportation (ADOT) Motor Vehicles Division (MVD). A CRO is placed against real property by filing the lien with the Maricopa County Recorder's Office in which the property is located.

Pursuant to A.R.S. §13-806, CROs do not expire until paid in full and are not dischargeable in bankruptcy.

County Collection Unit

What is the purpose of the Maricopa County Department of Finance County Collections Unit (CCU)?

CCU collects on the amounts owed for all CROs that are ordered by the Maricopa County Superior Court. The CCU sends a series of letters in an effort to make contact with the debtor and establish a payment plan. If no payment is received, the CCU sends the account to a collection agency for further collections. If payments are made, the CCU will send a billing acknowledgment letter that the payment was received.

Do you report to the credit bureaus?

The CCU does not report to the credit bureaus; however CROs are recorded public documents.

Why does the balance on the letter I received seem higher than what I thought I owed?

In addition to the remaining court ordered financial sanction (principal), pursuant to A.R.S §13-805, a CRO accrues interest at a rate of 10% per annum (from the date the CRO was signed). Also a collection fee may be added which is calculated as a percentage of the principal.

How is the interest calculated?

The interest is accrued on a daily basis at an annual rate of 10%. For demonstration purposes only, if the outstanding principal is \$1,375.00, then the interest is figured as follows:

- $\$1,375.00 \times 10\% = \137.50 per year/365 days = \$0.38 per day (rounded)
- $\$0.38$ per day \times 30 day month = \$11.40 per month

How can I contact CCU about my CRO?

The CCU can be reached by:

- Phone: 602-506-0073
- Email: www.collections@mail.maricopa.gov
- Mail: P.O. Box 20187, Phoenix, AZ 85036-0187

Can I set up a payment plan?

Yes, call or email and the CCU will assist you. Keep in mind that in order to see your outstanding financial obligation decrease, your monthly payments will need to be more than your monthly accrued interest and any collection fees.

What forms of payment do you accept?

The CCU will accept personal checks, cashier's checks, and money orders (preferred method). The CCU is able to accept credit or debit cards for cases that do not have victim restitution. The CCU cannot accept cash and/or title to property for payment. The Clerk of the Superior Court will accept cashier's checks, money orders, and cash.

Where can I make a payment?

In most cases, payments can be made to:

- In Person: Clerk of the Superior Court at 175 W Madison, 12th Floor, Phoenix, AZ 85003.
- By Mail: P.O. Box 20187, Phoenix, AZ 85036-0187

If you make a payment in person, you will need to inform the CCU of the payment. This can be done preferable by phone, 602-506-0073, or email, www.collections@mail.maricopa.gov. Notification can also be made in person at Maricopa County, 301 W Jefferson, 9th Floor, Phoenix, AZ 85003

What if I made an overpayment?

If it is determined that an overpayment is due, a refund check will be issued and mailed by the Clerk of the Superior Court.

What if I can't make a payment?

If the account is delinquent, the CCU will send your account to a private collection agency. The collection agencies have additional fees (collection fees) that will be added to your outstanding financial obligation.

Why did the CCU take my Arizona State Tax Refund?

The CCU can intercept your Arizona State Tax Refund and lottery winnings for all non-current (delinquent) accounts. At this time, the CCU cannot intercept Federal Tax Refunds and casino winnings.

Once I pay the CRO in full, what happens?

The CCU will create, record, and file with the Court, a Satisfaction of Judgment. The CCU will also release the restitution liens and holds placed with the Maricopa County Recorder's Office and MVD as a result of the CRO.

Maricopa County Clerk of the Superior Court (COSC)

Where can I obtain a copy of my payment history?

You will need to contact the COSC, Criminal Financial Obligation (CFO) Unit by email, CFOResponse@mail.maricopa.gov, or phone, 602-506-8621. The CFO charges a fee to obtain your payment history.

What if I don't agree with the balance or I think there are missing payments?

You will need to compare your payments with the Courts payment history and provide evidence that your account is in error. Examples of "evidence" would be COSC receipts or front and backs of cancelled checks or money orders.

Can I negotiate or settle my debt for less than what is owed?

The debt is based on a criminal sanction, neither the COSC nor the CCU is able to collect or negotiate, less than what has been ordered by the Court.

As a victim, how can I update my address with the Court?

You will need to contact the COSC, CFO by email, CFOResponse@mail.maricopa.gov, or phone, at 602-506-8621.

Maricopa County Superior Court

How do I file a motion with the Court?

The CCU cannot provide legal advice and this "Frequently Asked Questions" is for informational purposes only.

It is best if you contact an attorney or you may visit the Maricopa County Law Library or a Public Library for additional research. The Maricopa County Law Library is located at 101 W Jefferson, 1st Floor, Phoenix, AZ 85003 or they can be reached at 602-506-3461.

How do I get my rights restored or get my undesignated felony reduced to a misdemeanor?

Once all of the terms of your sentence are met, you should contact the Criminal Filing Counter at 602-506-4919.

What if I have a CRO and my case is joint and severally liable?

All co-defendants are responsible for the same financial obligation of the restitution. If you have a CRO against you it will be for the entire amount that is due for all co-defendants. If for some reason you need to have a lien lifted, then the entire amount will have to be paid in full.

Arizona Department of Transportation Motor Vehicle Division (MVD)

I have already sold my vehicle and I can't transfer my title to the buyer.

Chances are you have a CRO against the vehicle and this has stopped the title transfer. The CCU files all CROs directly with the MVD. Pursuant to A.R.S. §13-806, in order to transfer the title out of your name, the debt must be paid in full.

I bought a vehicle and MVD will not let me transfer the title into my name.

Chances are the person on the title has a CRO against them and this is preventing the title transfer. Pursuant to A.R.S. §13-806, in order to transfer the title into your name, the debt must

be paid in full. The CCU suggests that you contact the person that you bought the vehicle from and speak to them about the situation.

What options do I have as either the buyer or the seller?

Aside from paying the debt in full, you can file a motion with the court. The County is not a financial lien holder so we can't take possession of the vehicle in lieu of payment. The CCU cannot release the CRO lien without either the debt being paid in full or a Court order to release.

How long does it take for the hold to be released once the debt is paid in full?

All releases are done electronically. Typically the hold is released by MVD within a few hours, but it may take up to 24 to 48 hrs.

How can I protect myself from buying a vehicle that has a lien on it?

It is recommended that you contact MVD prior to the exchange of money. MVD should be able to tell you whether there is any reason the vehicle can't be transferred into your name. You will need to have the Vehicle Identification Number (VIN) when contacting MVD.

Helpful Links and References:

Arizona Judicial Branch
www.azcourts.gov/restitution

Arizona State Legislature
<http://www.azleg.state.az.us/>

Maricopa County
www.maricopa.gov

Maricopa County Clerk of Superior Court
www.clerkofcourt.maricopa.gov

Maricopa County Recorder's Office
www.recorder.maricopa.gov

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
September 21, 2012	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Update from the Committee on the Impact of Wireless Mobile Technology and Social Media on Court Proceedings

PRESENTER: Mark Meltzer, committee staff

DISCUSSION & TIME ESTIMATE: Administrative Order 2012-22 established the Committee on the Impact of Wireless Mobile Technology and Social Media on Court Proceedings. Justice Brutinel serves as committee chair. The committee has discussed revisions to Supreme Court Rule 122 concerning the use of cameras in the courtroom. Although the current version of Rule 122 does not contain a specific provision concerning victims, the committee's revised version has such a provision.

Staff will discuss this draft provision and request COVIC's informal comments.

Time estimate: 15 minutes

RECOMMENDED MOTION (IF ANY): None

Rule 122. Use of a Camera during a Court Proceeding

a. Purpose. This rule allows the use of a camera during a court proceeding, subject to specified limitations and only after approval of the judge conducting the proceeding.

b. Definitions. The following definitions apply in this rule:

1. “*Camera*” is any electronic or mechanical device used to photograph, record, or broadcast still or moving images. The singular of “*camera*” includes the plural.
2. “*Court proceedings*” are events conducted in courtrooms. Court proceedings do not include events conducted in judicial chambers, in anterooms, in rooms where jurors assemble or deliberate, or in other areas of the courthouse.
3. “*Cover*” and “*coverage*” refer to the use of a camera.
4. A “*person*” includes an organization.

c. Request to cover a court proceeding. A person who wishes to use a camera during a court proceeding must file a written request asking the judge conducting the proceeding to approve camera coverage. The person must file the request with the presiding judge or a designated office of the court, and must specify the case number, the court proceeding, and the date(s) of the proposed coverage. The filing of a request to cover a court proceeding provides a person with standing under this rule, but it does not confer upon the person the status of a party to the case. If the specified proceeding is a trial, the request must be filed at least seven calendar days before the trial date; otherwise, the request must be filed as soon as possible, and no less than forty-eight hours, before the specified proceeding to allow the judge to consider the request in a timely manner. The judge will promptly hold a hearing if the judge intends to deny the request or a portion of the request, or if a party objects to a request.

d. Time for objection to a request. A party must object to the request in writing or on the record no later than the conclusion of a hearing held under section (c) or the commencement of the specified proceeding, whichever occurs first, or any objection is waived. A non-party witness may object to coverage of his or her appearance or testimony at any time before or during the witness’ appearance or testimony.

e. Factors to be considered. In deciding whether to approve a request to cover a court proceeding, the judge conducting the proceeding must consider the following factors:

- (1) The impact of coverage upon the right of any party to a fair trial;
- (2) The impact of coverage upon the right of privacy of any party or witness;
- (3) The impact of coverage upon the safety and well-being of any party, witness or juror;

Revised Supreme Court Rule 122
Draft for COVIC Meeting 09.21.2012

- (4) The likelihood that coverage would distract participants, or that coverage would detract from the dignity of or disrupt a proceeding;
- (5) The adequacy of the physical facilities of the court;
- (6) The timeliness of the request pursuant to section (c) of this rule;
- (7) Whether the person making the request is engaged in the dissemination of news to a broad community; and
- (8) Any other factor affecting the fair administration of justice.

f. Findings when a request for coverage is limited or denied. The judge conducting the proceeding may limit or prohibit coverage only after making specific, on-the-record findings that there is a likelihood of harm arising from one or more of the above factors, and that the harm outweighs the benefit of camera coverage to the public. A judge may prohibit coverage of the appearance or testimony of a particular witness only upon a determination that it would have a greater adverse impact upon the witness or his or her testimony than other traditional methods of news reporting. A judge's decision to limit or to deny a request for coverage under this rule is reviewable only by special action.

g. Manner of coverage. The judge conducting the proceeding will preserve the dignity of the proceeding by designating the placement of equipment and personnel for photographing, recording, or broadcasting that proceeding, and all equipment and personnel will be restricted to the designated area. Photographers and camera operators may not move about the courtroom while court is in session. All persons and affiliated individuals engaged in the coverage must avoid conduct or dress that may detract from the dignity of the proceeding. The judge conducting the proceeding may order a restriction or cessation of camera coverage during a proceeding in furtherance of the interests of justice.

h. Equipment. Whenever possible, media equipment must remain outside the courtroom. Equipment must not be installed, moved or taken from the courtroom during a court proceeding. Wiring must be hidden as much as possible and must not cause an inconvenience or a hazard. Equipment used to provide coverage may be connected to existing courtroom sound systems, if possible, but equipment must not be connected to a court's digital recording system. A person must not bring flash devices, strobe lights or other artificial lights of any kind into the courtroom. If a person wishes to use additional standard light fixtures or higher wattage light bulbs, additional microphones, or other modifications or improvements concerning lighting or sound, the person must submit this information in the request under section (c). The judge may direct whatever modifications or improvements deemed necessary, and may require that public funds not be used to make or to maintain any such modifications or improvements. Cameras and microphones used for coverage must meet current industry standards, so that they are as unobtrusive and as equivalent in technical quality and sensitivity as equipment in general use by major broadcast stations in the community where the courtroom is located. Cameras that

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produce distracting sounds are not permitted. Any questions concerning whether particular equipment complies with this rule will be resolved by the presiding judge or a designee.

i. Number of cameras; pool cameras. A request submitted under section (c) may ask the judge to approve coverage by video camera or by still camera. The presumptive limits are one video camera and/or one still camera, but the judge conducting the proceeding has discretion to approve a request for more than one video camera. If a judge approves requests by more than one person to cover a court proceeding, those persons must pool their resources to limit cameras in the courtroom to the number approved by the judge. Those persons have the responsibility to settle their own disputes, to facilitate pooling as necessary, and to implement procedures that meet the approval of the assigned judge prior to any coverage and without disruption to the court.

j. Recording not admissible as evidence. No video, photograph, or audio reproduction of a judicial proceeding that is obtained pursuant to this rule may be used to modify or supplement the official court record of that proceeding, nor is it admissible at that or any subsequent proceeding unless it is offered for another purpose allowed under the Arizona Rules of Evidence.

k. Informal approval of camera use. Notwithstanding other provisions of this rule, a person may informally request, and a judge may informally approve, use of a camera in a courtroom to photograph or to record celebratory or ceremonial court proceedings, or use of a camera in a courtroom while court is not in session.

l. Prohibitions. Recording or broadcasting is not permitted in the following circumstances.

1. Jurors. Cameras must be placed to avoid showing jurors in any manner. Audio or video recordings or broadcasts of juror interviews, statements, or conversations are also prohibited, except that a juror may expressly consent to an interview after the jury has been discharged.

2. Attorney conferences. Audio recordings or broadcasts of bench conferences between a judge and counsel, or off-the-record conferences between attorneys and their clients, or between attorneys, anywhere in the courthouse are prohibited.

3. Other areas of the courthouse. A person whose request under this rule has been granted may not photograph, record in, or broadcast from, locations in a court building where a court proceeding is not being conducted, without the judge's express approval.

4. Juvenile proceedings. Photographing, recording, or broadcasting of juvenile court proceedings is prohibited, except as provided in section (k).

5. Criminal proceedings. The victim or the next of kin in a criminal proceeding may request the judge that he or she not be photographed, recorded, or broadcast while in the courtroom, or that only audio coverage of his or her testimony be permitted.

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Draft for COVIC Meeting 09.21.2012

m. Personal audio recorders. A credentialed journalist, without approval of the judge conducting the proceeding, may use a personal audio recorder in the courtroom if that use is not obtrusive or distracting.

n. Camera use prohibited without prior approval; signs. Use of a camera during court proceedings is forbidden except as allowed by this rule. Every courtroom must have at least one sign that informs the public: *“Use of a camera during court proceedings without permission of the judge may be punished as contempt of court and require surrender of the camera.”*

o. Other governing law. The law generally applicable to inclusion or exclusion of the press or public at court proceedings or during the testimony of a particular witness applies to persons who submit a request under this rule. Nothing in this rule alters the obligation of any attorney to comply with the provisions of the Arizona Rules of Professional Conduct governing trial publicity.

p. Appellate courts. For coverage of proceedings in the Arizona Supreme Court and Courts of Appeal, any reference in this rule to the *“judge conducting the proceeding”* or to the *“presiding judge”* means the Chief Justice of the Arizona Supreme Court or the Chief Judge of the Court of Appeals, as applicable.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

v.

[REDACTED]

[REDACTED]

[REDACTED]

ORDER RE CAMERA COVERAGE / CAPITAL CASE

The request of In Session for camera coverage having been considered,

IT IS ORDERED granting In Session's request and permitting camera/audio coverage at the time of trial in this matter, limited to the courtroom in which the proceeding is being held. There shall be no use of cameras in any hallway, stairwell, elevator, cafeteria, or other public or private area of the courthouse, without specific judicial approval. No jurors, victims or next of kin shall be filmed or recorded. There shall be no use of flashbulbs, strobe lights or other artificial lights anywhere in the courthouse. All authorized persons with cameras shall comply with all provisions of Rule 122, of the Rules of the Supreme Court of Arizona, whether court is in session or not.

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
September 21, 2012	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	A.C.J.A. §5-204 Revision

FROM: Administrative Office of the Courts

PRESENTER(S): Carol Mitchell, Caseflow Management Unit

DISCUSSION & TIME ESTIMATE:

Review of minor technical changes to A.C.J.A. §5-204: Administration of Victim Rights

RECOMMENDED MOTION (IF ANY):

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 5: Court Operations
Chapter 2: Programs and Standards
Section 5-204: Administration of Victims' Rights

A. Definitions. In this section the following definitions apply:

“Court” means the superior court or any court of limited jurisdiction.

“Criminal Offense” means “conduct that gives a peace officer or prosecutor probable cause to believe that a felony, a misdemeanor, a petty offense or a violation of local criminal ordinance has occurred,” as provided by A.R.S. § 13-4401(6).

“Delinquent act” means an act committed by a juvenile that if committed by an adult would be either (1) a misdemeanor offense involving physical injury, the threat of physical injury or a sexual offense; or (2) a felony offense, in accordance with A.R.S. §§ 8-381 and -382.

“Victim”, except as otherwise specified, means a person against whom a criminal offense or delinquent act has been committed, or if the person is killed or incapacitated, the person's spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or other lawful representative, except if the person's spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused as provided in Az. Const. Art. 2, § 2.1, A.R.S. §§ 8-382 and 13-4401.

B. Purpose and Applicability. This section defines the role and responsibility of courts in preserving and protecting victims' rights to justice and due process as provided by Az. Const. Art. 2, § 2.1, Art. 6 § 3 and A.R.S. §§ 13-603, -804, -4401 et seq. and 8-381 et seq.

C. Notice of Criminal Proceedings.

1. The court shall provide at least five business days notice before the scheduled proceeding to the prosecutor, by written document, telephonic transmission followed up with a written confirmation, facsimile transmission, or any other electronically transmitted message or document which includes the transmittal date, case number, defendant's name, type of hearing, and the date, time and place of next hearing. The court may provide additional information. If notice is initially given by telephonic transmission, the court shall record the name of the person contacted on a confirming written notice.
2. In the superior court, continuances shall only be granted when extraordinary circumstances exist weighing these circumstances against the victim's right to a speedy trial. The court shall state on the record the reason for any continuance.

3. In the supreme court and court of appeals cases, victims who have requested post-conviction notifications shall be sent a copy of the memorandum decision or opinion from the issuing court concurrently with the parties. If the victim is represented by counsel, the notice shall be provided to the victim's counsel.

D. Notice of Victim Rights. The statement of victim rights shall be prominently posted in each superior, justice of the peace, and municipal court in this state and, in superior court, shall be read out loud by the judge at the daily commencement of the regular criminal or delinquent docket.

E. Victim Statements. Any victim requests and victim statements received by court offices shall be forwarded to the appropriate court or prosecuting agency.

F. Transcripts for Crime Victims. On the request of the victim, the court or clerk shall provide at no charge, the minute entry or portion of the record of any proceeding in the case that is reasonably necessary for the purpose of pursuing a claimed victim's right.

G. Inspection of Pre-sentence/Disposition Report. Each court in conjunction with the prosecutor shall develop a written plan and procedures to allow the victim to inspect the pre-sentence/disposition report. When requested by the victim, the pre-sentence/disposition report should be made available to the victim within the same time frame it is available to the sentencing judge as prescribed in Rule 26.4, Rules of Criminal Procedure and Rule 30.A.1., Rules of Procedure for the Juvenile Court.

H. Criminal History Record Information. Pursuant to Rule 123, Rules of the Supreme Court, all criminal history record information in court files shall be included as an addendum to the pre-sentence report and shall not be made available for review by the victim. The clerk shall maintain a filing system that will ensure that confidential criminal history information does not become part of the public record and that criminal history and other confidential information is made available only to authorized criminal justice agencies.

I. Minimizing Victim Contacts.

1. The court shall work closely with law enforcement officials, prosecutors, and defense attorneys to assist with separation of defendant and defendant's family from the victim and victim's family or representative.
2. When new court facilities are constructed or renovated, provisions shall be made for separation of the victim and victim's family or representative from the defendant and the defendant's family or representative.

J. Victim Right to Privacy. The court shall develop a written plan and procedures to ensure that victim information is not improperly disclosed.

K. Restitution Payment Processing.

1. Collection of restitution should be done pursuant to ACJA §§ 3-401 and 4-301.
2. The clerk of court or other court entity responsible for receipting and disbursing restitution shall forward all restitution payments made by cash, cashiers' check, credit card or money order to victims within ten business days, unless the amount of any single disbursement is less than thirty dollars. The court, clerk of court, or other court agency responsible for receipting and disbursing restitution shall disburse all personal check payments within 21 calendar days of receipt. Where a single disbursement is less than thirty dollars the court may develop a clearly defined business system routine to hold funds received for individual victims until the aggregate total in an account reaches a minimum of thirty dollars.
3. Notwithstanding subsection (2) above, courts receiving restitution payments shall remit all amounts collected over one dollar to victims not less than once each calendar year. In cases where victims cannot be located, courts, clerks or other agencies responsible for restitution payments shall follow state unclaimed property provisions.
4. For purposes of this subsection (K), "victim" also includes any person, including the surviving dependent of a person, who has suffered physical injury or pecuniary loss resulting from the crime or delinquent act of the accused or a corporation, partnership, association or other legal entity.

L. Nonpayment of Restitution. Upon notice from the clerk, regarding a defendant's default in payment of restitution, the court, on motion of the prosecutor, on petition of any person entitled to restitution pursuant to a court order or on its own motion, shall require the defendant to show cause why the defendant's default should not be treated as contempt and may issue a summons or warrant for arrest of the defendant's appearance.

Adopted by Administrative Order 2004-94, effective November 10, 2004. Amended by Administrative Order 2008-23, effective February 28, 2008. The former subsection K(4) was removed from this code section due to its suspension by Administrative Order 2008-55, effective June 12, 2008. Amended by Administrative Order 2009-129, effective December 23, 2009. Amended by Administrative Order 2012-69, effective August 15, 2012.

Commission on Victims in the Courts

Meeting Date:

September 21, 2012

**Type of Action
Required:**

- Formal Action
Request**
- Information
Only**
- Other**

Subject:

Language services for
crime victims and next
of kin in court process

FROM:

PRESENTER(S): Scott Loos, Interpreter, Maricopa County Superior Court

DISCUSSION & TIME ESTIMATE:

30 minutes

RECOMMENDED MOTION (IF ANY): Mr. Loos will present information about available services and potential oversight of same in the future

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
September 21, 2012	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Language Access Update

FROM: Administrative Office of the Courts

PRESENTER(S): Carol Mitchell, Caseflow Management Unit

DISCUSSION & TIME ESTIMATE:

Administrative Order No. 2011-96 required courts to develop formal, written language access plans that describe court services for non-English speaking court users. This presentation will highlight important elements of submitted plans and remind courts of available resources and potential educational projects to assist in enhancing language access services.

Link to AJIN Interpreter Resources Page:

http://supreme22/ctserv/CMU/CMU_CourtInterpreter.htm

RECOMMENDED MOTION (IF ANY):

AOC's Language Access Update

COVIC Meeting September 21, 2012

Language Access Plans

- Administrative Order 2011-96
- Continue to review current services and identify plans for enhancements
- Analyze language requests to help quantify impact for future budget requests
- Annual review/update of plan and submission to AOC, if necessary

Interpreter Coordinator Summit (June 2012)

- Highlights
- DOJ enforcement
 - Colorado experience; North Carolina
- Workgroups established
 - Code of Professional Responsibility
 - Translated Forms Repository

Resources

Spoken Language Benchcard
Court sharing ideas (vital document translations/signage- i.e. victim notice)
AOC registry and E-mail listserv
Contracting with other agencies (telephonic services, i.e. Language Line)

Potential future projects

AOC Language Access/Interpreter Webpage
Educational opportunities in conjunction with Education Services
National Summit in October
Remote Video Interpretation pilot

For more information on interpreter/language access:

AJIN Interpreter page: http://supreme22/ctserv/CMU/CMU_CourtInterpreter.htm

CSD Staff Contact: Carol Mitchell 602-452-3965

Email: cmitchell@courts.az.gov

Arizona Judiciary

Working with Spoken Language Interpreters

In accordance with Arizona Revised Statute §12-241, and Title VI of the 1964 Civil Rights Act, Limited-English proficient speakers (hereinafter LEP speakers) are entitled to interpreter services during court hearings. Moreover, Arizona case law (see *State v. Natividad*, 111 Ariz. 191, 526 P.2d 730 (1974)) requires that the interpreter services offered to LEP speakers be effective. The provision of interpreter services to LEP speakers protects their due process rights and allows them access to the Arizona courts. Please consult A.O. 2011-96 and your local court's language access plan for more information.

How Can I Facilitate Communication in an Interpreted Proceeding?

Prior to the start of the proceeding:

- Determine if the LEP speaker requires interpreting services.
- Utilize two (2) interpreters for proceedings lasting longer than one hour; this is a best practice that ensures accuracy of the record.
- Allow the interpreter to converse with the LEP speaker prior to the proceeding to ensure effective communication and to identify concerns.
- Allow interpreters to view, well in advance of proceedings, court files, printed materials, audio, and video in order to prepare for and to render efficient interpretation in court. Interpreters should be familiar with relevant case information including names, charges, dates, quantities, locations and items.
- Provide the interpreter, prior to their introduction and use, a copy of any printed material to be used during trial such as the list of potential jurors, opening and closing jury instructions, all exhibits, expert witness reports, any other records/materials that will be the basis of testimony and the jury verdict form.
- Allow the interpreter to move freely about the courtroom and close to the speaker in order to clearly hear any utterance.

For the LEP speaker:

- Ask if the LEP speaker is able to understand and communicate with the interpreter.
- Instruct the LEP speaker to inform you if something is not understood.

Reminders for the Judge and Counsel:

- Instruct participants to speak clearly, at a normal pace and allow only one person to speak at a time.
- Speak directly to the LEP speaker, using the "first person", not to the interpreter. Use of the "first person" by the interpreter allows the speaker to be accurately reflected in the record.
- Do not ask the interpreter to explain or restate anything the party or witness says; rather ask the party or witness to do so.
- Advise the interpreter to notify the court when breaks are needed.
- Advise attorneys and other parties that it is the duty and responsibility of the interpreter to render every utterance made on the record.

The checklist, provided below, contains recommended scripts that may be utilized during court proceedings, particularly when working with non-staff interpreters or interpreters of lesser used languages.

Judicial Checklist

- a) Determine the need for an interpreter and the number of interpreters required. (See 1)
- b) Determine what equipment may be needed, including assistive listening devices. ADA needs should be referred to your court's ADA coordinator.
- c) Confirm the Interpreter's Qualifications (see 2)
- d) Administer the Interpreter's Oath (see 3)
- e) Clarify the Role of the Interpreter (see 4)
- f) Assess interpreter performance (see 5)
- g) Schedule future proceedings allowing sufficient time to procure interpreter services or, preferably, confirm that the interpreter present will be available for the next proceeding.

1. LEP Assessment

- What is your name?
- How comfortable are you proceeding with this matter in English? If not, which language are you most comfortable in communicating?
- Would you like the court to provide an interpreter to help you communicate and to understand what is being said?

Arizona Judiciary

Working with Spoken Language Interpreters

2. Interpreter Voir Dire:

- What professional credentials do you hold? (FCIC, NAJIT, NCSC, Your Court)
- Describe your formal training related to legal interpretation.
- How many times and what types of cases have you interpreted in court?
- What Code of Ethics do you subscribe to? (Federal, NAJIT, NCSC, Your Court)
- Are you related to or know any parties involved in this case?
- Are you a potential party or witness in this case?
- Are there any professional or personal issues that may influence your interpretation given the nature of this case?
- When interpreting errors occur, how do you intend to inform the court?

3. Interpreter Oath:

Before the proceeding starts, it is recommended that you confirm the interpreter's oath is on record. If it is not, then this oath is provided for your use.

Do you solemnly swear or affirm that you will interpret from _____ to English and English to _____ accurately, completely and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the Interpreter Code of Ethics; that you will follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?

4. Clarify the Role of the Interpreter:

Judges may use the following scripts to clarify the role of the interpreter prior to the beginning of the proceedings:

For the Defendant/Witness:

An official court interpreter is going to assist today in these proceedings. The court interpreter is an officer of the court and not a party in this case. The interpreter is neutral and impartial and is here only to interpret the proceedings accurately between two languages without adding, omitting or summarizing anything.

The interpreter will interpret everything you state, so do not say anything you do not want everyone to hear.

When speaking, speak directly to the attorney or to me. Do not ask the interpreter for any advice, legal or otherwise. If you do not understand the interpreter, then please tell me. If you need a question or answer repeated, tell me. Allow the interpreter to finish interpreting the entire utterance before you answer. Do you have any questions?

For the Jury:

Modes of communication other than spoken English may be used during this trial. The only evidence you are to consider is that provided through the official court interpreter(s).

Although some of you may understand the witness that speaks a language other than English, it is important for all jurors to consider the same evidence. Therefore, you must base your decision only on the evidence presented via the interpretation.

5. Assess Interpreter Performance

A judge's observation can aid in the evaluation of an interpreter's performance. Accordingly, consider the following to determine if the interpreter is effectively facilitating the communication during the proceeding:

- Are there significant differences in the length of interpretation as compared to the original testimony?
- Does the individual needing the interpreter appear to be asking questions of the interpreter?
- Is the interpreter acting in a professional manner?
- Is the interpretation being done in the first person?
- If the interpreter or bilingual speaker has a question or comment, is it addressed to the Court in the third-person (e.g. "Your honor the interpreter could not hear your last question...") to keep a clear record?

Credit: Special thanks to *The Supreme Court of Ohio*, and *The New York State Unified Court System*. This document was adapted from their model bench cards.