



COURT OPERATIONAL REVIEW COMMON FINDINGS IN LIMITED JURISDICTION COURTS

The Court Operations Unit, part of the Court Services Division, conducts operational reviews which examine several case processing areas, such as misdemeanors (including DUI), court order enforcement, protective orders, warrants, civil default, eviction action, civil traffic, small claims, time standards, and financial management. While each court's processes and procedures may vary, the operational reviews often identify the same types of issues from court to court. Common findings identified in operational reviews include:

GENERAL OBSERVATIONS

- ***Advisement of Rights*** - The court did not correctly advise the defendant of all pertinent rights during initial appearance, arraignment, and/or accepting a plea of guilty or no contest. The Arizona Rules of Criminal Procedure, Rule 4.2, Rule 14.1, Rule 14.2, and Rule 17.2, requires the court to advise the defendant of all pertinent rights.
- ***Required Signage*** - The court did not have a statement posted advising victims of their constitutional rights and/or the court did not have required signage posted advising the public of the Legal Advice – Legal Information Guidelines. Arizona Revised Statute (ARS) § 13-4438 requires the victim statement to be prominently displayed in the court and AO2007-28 requires the adopted policy statement to be displayed at court services counters, self-service counters and law libraries open to the public.

DUI and NON-DUI CASE PROCESSING

- ***Financial Questionnaire*** – A Supreme Court approved financial questionnaire is not consistently utilized to determine indigence before appointing counsel based on the defendant's financial resources. Reviewers generally find that either an unapproved questionnaire is utilized, or a questionnaire is not utilized at all before appointing counsel. The Arizona Rules of Criminal Procedure, Rule 6.4(a), requires the court to determine indigency on a form approved by the Supreme Court. The Supreme Court approved financial questionnaire can be found in Rule 41, Form 5(a) or Form 5(c), ARCrP, or at the following link: [Criminal Law \(sharepoint.com\)](https://sharepoint.com).
- ***Sentencing Documentation*** – All portions of the judgment of guilt and sentence form are not completed, or the form does not contain all required elements. ARS§ 13-607 requires courts to provide a judgment of guilt and sentence document for certain offenses and sets forth the required elements of the form, including the affixation of a single fingerprint.
- ***Mandatory Alcohol Screening or Domestic Violence Treatment for All Misdemeanor Cases*** – Alcohol/drug screening or domestic violence treatment orders listing an agency or provider

by name. The court should order the defendant to utilize a provider that is approved by the AZ Department of Health Services, the US Department of Veterans Affairs, or a Probation Department in accordance with ARS § 28-1387(B) and ARS § 13-3601.01(A).

- ***Allocation of Monies in the Case Management System (CMS)*** – Discrepancies specific to the allocation of monies in the CMS have been identified due to a lump sum amount ordered at sentencing. This results in the incorrect amounts for fines, surcharges and assessment to be entered into the CMS. Also, not assessing jail fees or documenting a waiver.
- ***Disposition Reporting to the Department of Public Safety (DPS)*** – Courts are not verifying that all criminal defendants had been fingerprinted at the time of sentencing. This practice may cause significant issues and delays with the reporting and sending of final dispositions to the DPS. The Arizona Rules of Criminal Procedure, Rule 4.2(a)(10), states that for defendants charged with a violation of A.R.S. §§ 13-1401 et seq. or A.R.S. §§ 28-1301 et seq., a domestic violence offense as defined in A.R.S. § 13-3601, or an offense listed in A.R.S. §§ 32-2422(A)(4), 32-2441(A)(4), 32-2612(A)(4), 32-2622(A)(4), 41-1758.03(B) or (C), or 41-1758.07(B) or (C), the court shall order that the defendant be fingerprinted at a designated time and place if it appears that the defendant was not previously fingerprinted.
- ***Home Detention*** – In DUI cases, courts are utilizing a home detention agency without a local ordinance and/or city contract between the funding authority and home detention agency. Home detention should be ordered in accordance with ARS § 11-251.15 and/or ARS § 9-499.07.
- ***Deferred Prosecution*** – In non-DUI misdemeanor cases, courts are assessing a deferred prosecution fee without the authority to do so.

COURT ORDER ENFORCEMENT

- ***Monetary Enforcement/Timeliness*** – Enforcement action is not timely or consistently taken in instances of defendant non-compliance with orders to pay established amounts at established intervals. In an effort to maintain the integrity of the court and the orders it issues; the court must monitor cases and adhere to the timelines set forth in its local policy when enforcing instances of non-compliance. It is suggested court action be taken within 30 days.
- ***Monitoring Compliance/Non-compliance*** – Enforcement action is not consistent when monitoring and enforcing non-monetary obligations such as alcohol screening, treatment, jail, MADD, and community restitution. The court should implement a court policy or protocol for issuing orders to ensure that action is timely and consistent. It is suggested court action be taken within 30 days.

WARRANTS

- ***ARS § 13-3903(F)/ ARS § 13-2506(A)(2) Warrant/Complaint*** – Warrants incorrectly issued for failure to appear because the court appearance for which the court is issuing the warrant is not the first court appearance or is for cases where a long form complaint was issued. In other instances, a court complaint charging the defendant with a violation of ARS § 13-3903(F) was not signed by a judge and a court clerk or other court staff and a charge of ARS § 13-2506(A)(2)

is not added into the CMS.

- **ARS § 13-2506(A)(1) Warrant/Complaint** – Warrants are incorrectly issued for failure to appear because the warrant is issued without a complaint first being filed by the prosecutor. Warrants are not issued timely when a defendant fails to appear for a court appearance. In a pre-adjudicated case, if the defendant fails to appear at a court appearance other than the first and the prosecutor has not filed a complaint, the court can issue a warrant pursuant to Rule 3.1(d), ARCrP, to secure the defendant’s appearance. In a post-adjudication case, the court can issue a warrant pursuant to Rule 26.12(c), ARCrP, to secure the defendant’s appearance if the defendant has not complied with a court order and the prosecutor has not filed a complaint.
- **Timeliness** – Warrants or summons, as appropriate, are not issued timely in instances of defendant non-compliance. In an effort to maintain the integrity of the court and the orders issued, the court should adhere to timelines set forth in its local policy to enforce instances of non-compliance. It is suggested court action be taken within 30 days.
- **Warrant Fee** – The local warrant fee is not consistently assessed pursuant to a local ordinance, resolution, or a waiver of the fee is not documented.
- **Docketing** – In many cases the warrant issuance date in the case docket or register of actions does not match the date the judge actually signed (issued) the warrant. Reviewers also identify several instances in which the warrant quash/termination date in the case docket or register of actions does not match the date the warrant was actually quashed or terminated. Lastly, at times, reviewers identify instances in which pre-adjudicated warrants are docketed as post-adjudicated warrants, and vice versa.

ORDERS OF PROTECTION

- **Forms** – Forms that comport with the Supreme Court model forms for protective order cases are not consistently utilized. Reviewers generally find that either outdated forms are being utilized or forms which have verbiage that has been added, modified, or deleted from the model forms are being utilized. The Arizona Rules of Protective Order Procedure, Rule 13, and the Arizona Code of Judicial Administration (ACJA) § 5-207, require courts to use only those protective order forms adopted by the Arizona Supreme Court. Any modifications to these forms must be submitted to the Supreme Court for approval. The Supreme Court model forms can be found at the following link: [Protective Orders \(sharepoint.com\)](#).
- **Protective Order Hearings** – Protective order hearings requested by the defendant are not set within the required timeframe. Arizona Revised Statute § 13-3602(I) and Rule 38(b), ARPOP, require the court to set protective order hearings at the earliest time possible and within five court business days of the request when exclusive use of the home is granted, and within ten court business days of the request when exclusive use of the home is not granted.
- **Safety Plan** – The court is not providing **both** parties with a safety plan or information regarding emergency and counseling services pursuant to ARS § 13-3602(D) and Rule 15, ARPOP.

CIVIL DEFAULT CASE PROCESSING

- ***Rulings*** – The judge did not rule on all motions within 60 days of the motion being submitted pursuant to ARS § 11-424.02.
- ***Judgment Amounts*** – Amount ordered in the signed judgment does not match the judgment amount entered into the case management system. The judgment amount ordered and signed by the judge should be the judgment amount entered into the case management system.

SMALL CLAIMS CASE PROCESSING

- ***Judgment Amounts*** – Amount ordered in the signed judgment does not match the judgment amount entered into the case management system. The judgment amount ordered and signed by the judge should be the judgment amount entered into the case management system.
- ***Court Dismissal*** – Court does not dismiss the complaint when proof of service was not filed within 45 days after the filing of the complaint pursuant to Rule 5(a) Arizona Rules Small Claims Procedures.

EVICITION ACTION CASE PROCESSING

- ***Rulings*** – The court did not set the hearing date within three to six days from the date of filing pursuant to ARS § 33-1377(B).

FINANCIAL MANAGEMENT PRACTICES

- ***Accounting for Unissued Manual Receipts*** – Unissued manual receipts are not being reviewed to ensure that all receipts are accounted for and not issued. Minimum Accounting Standards (MAS) require the court to review unissued manual receipts at least quarterly to ensure that unissued manual receipts are accounted for.
- ***Bond Receipting*** – Bond receipts not reflecting the bond poster name on the receipt and reviewers were unable to determine if bonds were receipted timely because the documentation received with the bond check and retained in case file was not date stamped. Minimum Accounting Standards requires the name of the person (other than the defendant) be included on the receipt and that payments are receipted by the next business day.
- ***Voided Receipts*** – Several issues are identified in the operational reviews with respect to voided receipts, such as no cross-referencing of the voided receipt number to the new receipt number and no second person verification or documentation of the second person verification on voided receipt copies, if maintained by the court.
- ***Second Person Verification*** – Second person signature or initials and date not found on all disbursements, deposits, voided receipts, and daily and monthly reconciliations. Minimum Accounting Standards requires a second person to verify and sign/initial the documentation along with the date of the verification.
- ***Integrity of Financial Documents*** – Use of correction fluid to correct financial errors have

been observed during the operational review process. Minimum Accounting Standards require corrections to financial errors be made by striking through the original entry, initialing and dating the correct entry, and obtaining a second person's verification initials.

- ***Bond Disbursements*** – No written guidelines established for disbursing bonds; not having an established timeframe within which bonds are to be disbursed; and disbursing bonds without a written judicial order.
- ***Overpayment Disbursements*** – No written guidelines established for disbursing overpayment that include the threshold amount and the time in which an overpayment would be disbursed.
- ***Change Funds*** – The change funds either lack documentation of the count of the funds before and after usage, specific to the beginning (clerk) change fund; or in the case of the “court” change funds, they are not counted daily; or each of these change funds are counted and the preparer count is adequately documented, but the count is not also verified, and that verification documented by a second person.
- ***Hold Account (AJACS Courts)*** – Receipting bond monies into the account instead of receipting as a bond, not reviewing/managing monies in the account on a weekly basis. Courts should receipt monies into the hold account when the case number is unknown, there is an issue with sentencing, the case has not been filed etc. Best practice is to review the hold account weekly.
- ***Daily and Monthly Reconciliations*** – The court did not perform reconciliations on a daily or monthly basis as required by Minimum Accounting Standards (such as beginning change fund or bond reconciliations), or the reconciliations lack second person verification or documentation of the second person verification. This would include monthly review of hold receipts received within the hold account in the AJACS case management system.
- ***Outstanding Bond Reconciliation*** – Bonds outstanding over 90 days are not consistently reconciled monthly as part of the bank reconciliation process, as required by MAS (L)(2)(e); or the outstanding bond review required by Minimum Accounting Standards (M.3) is either not documented or does not account for all bonds that may date back to CMS inception date (1/1/1995) necessary to ensure full bond review. The 1/1/1995 beginning date would also be applicable in the AJACS case management system.
- ***Monthly Remittance Reports*** – Documentation is not received from the local treasurer acknowledging the court's submission of its monthly remittance reports.
- ***Security of Monies*** – The safety and security of court monies is not always provided for. Examples include non-court personnel having access to areas of the court where monies and financial records are stored, not assigning each cashier their own locking bank bag or drawer, and not keeping the safe locked throughout the business day.

If you have any questions or need further information about the operational review process, please contact Jennifer Jones, Sr. Lead Specialist - Court Operations Unit, at (602) 452-3765 or jjones2@courts.az.gov.