



Task Force on Fair Justice for All

Draft Minutes

April 7, 2016

State Courts Building ♦ 1501 West Washington St. ♦ Conference Room 101
Phoenix, Arizona

Present: Dave Byers, Chair, Tom O’Connell, Vice Chair, Kent Batty, Judge Michael Bluff, Judge Maria Elena Cruz, India Davis, Jeffrey Fine, Ryan Glover, Robert James, Paul Julien, Judge Catherine Kelley, Doug Kooi, Officer Michael Kurtenbach, Judge Dorothy Little, Jeremy Mussman, Tony Penn, Judge Antonio Riojas, Judge Lisa Roberts, Judge Thomas Robinson, Mary Ellen Sheppard, Rebecca Steele, Judge Don Taylor

Presenters/Guests: Chief Justice Scott Bales, Tim Schnacke, Bert Cisneros, Judge John Hudson, Mark Meltzer, Heather Murphy, Dianne Post, Marcus Reinkensmeyer

Staff: Theresa Barrett, Kathy Sekardi, Jennifer Greene, Patrick Scott, Susan Pickard, Susan Hunt, Sabrina Nash, Alicia Moffatt, Administrative Office of the Courts (AOC)

Call to Order

Dave Byers called the first meeting of the Task Force on Fair Justice for All to order at 10:00 a.m. After a brief welcome and housekeeping matters, Mr. Byers introduced Chief Justice Scott Bales.

Opening Remarks

Chief Justice Bales echoed Mr. Byers’ welcome, thanking the members for their willingness to serve, and confront one of the most important initiatives of today. Chief Justice Bales noted the importance of the report authored by the Department of Justice, Civil Rights Division, “Investigation of the Ferguson Police Department” in bringing to the forefront the issues of self-defeating statutes, and court rules that can compound the issues of poverty. His Honor discussed the principles enumerated in Administrative Order 2016-16. Chief Justice Bales ended by noting innovations like Phoenix’s Customer Assistance Program, Glendale’s warrant wipe-out program and the Pima County stakeholder group.

Welcome and Introductions

Task Force members introduced themselves. Each member discussed his or her interest in the Task Force, providing abbreviated background and expertise information, and expressing gratitude for being included in this initiative.

Task Force on Fair Justice for All: Court-Ordered Fines, Penalties, Fees, and Pretrial Release Policies

Changing the Bail Culture and Improving Pretrial Release and Detention

Tim Schnacke, Executive Director, Center for Legal and Evidence-Based Practices, presented the history of bail/no bail (release/detention), and its progression from a personal surety release process into a money-based process. Mr. Schnacke discussed case law; the purposes of the bail process, to maximize court appearance and public safety; and the use of validated risk assessment tools.

Violation Review Data-Driven Results

Bert Cisneros, AOC, presented civil traffic, criminal traffic and misdemeanor statistics derived from 800,000 charges filed in fiscal year 2014. Mr. Cisneros discussed the sample data and the life cycle of a case before delving into demographics, disposition and sentencing, defaults, failures to appear and license suspensions, assessments, time payment fees, and the impact of the Fines, Fees and Restitution Enforcement (FARE) program and subsequent violations.

Promising Practices

Compliance Assistance Program, City of Phoenix

Judge Don Taylor discussed the change of course the City of Phoenix has made in regard to defendant financial obligation enforcement.

Use of Notifications, Pima County

Doug Kooi discussed the success that Pima County has experienced using an Interactive Voice Response (IVR) outbound call system in reducing failure to appear rates. The system is also used to remind defendants about time payments.

Lunch

The Task Force broke for lunch at 12:52. During the break, information continued to be presented to the members. The video presentations included “Last Week Tonight with John Oliver – Bail,” a satirical look at the American bail system, and “Joe Got a Ticket,” a compelling example of how first offenses and multiple failures to appear can compound into financial impossibilities for the work poor and indigent in Arizona.

Promising Practices (continued)

McArthur Grant Funding, Pima County

Kent Batty discussed the McArthur Foundation invitation regarding grant funding for planning and a possible future significantly larger grant to reduce jail populations and any associated racial and ethnic disparities.

Break-out sessions

At 2:00 p.m. Task Force members separated into limited jurisdiction and general jurisdiction workgroups to discuss and develop recommendations to be brought back to the Task Force for consideration. The Limited Jurisdiction Workgroup convened in Conference Room 330, while the General Jurisdiction Workgroup remained in Conference Room 101.

Plans for April 8

At 4:30 p.m. Task Force members reconvened to clarify plans for the following day. Members Task Force on Fair Justice for All: Court-Ordered Fines, Penalties, Fees, and Pretrial Release Policies

were asked to gather in Conference Room 101, before returning to the workgroup break-out sessions on the 8th.

Draft Minutes
April 8, 2016
State Courts Building ♦ 1501 West Washington St. ♦ Conference Room 101
Phoenix, Arizona

Present: Dave Byers, Chair, Tom O’Connell, Vice Chair, Kent Batty, Judge Michael Bluff, Judge Maria Elena Cruz, India Davis, Jeffrey Fine, Ryan Glover, Robert James, Paul Julien, Judge Catherine Kelley, Doug Kooi, Officer Michael Kurtenbach, Jeremy Mussman, Tony Penn, Judge Antonio Riojas, Judge Lisa Roberts, Judge Thomas Robinson, Mary Ellen Sheppard, Rebecca Steele, Judge Don Taylor

Absent/Excused: Judge Dorothy Little

Presenters/Guests: Tim Schnacke, Judge John Hudson, Mark Meltzer, Dianne Post

Staff: Theresa Barrett, Kathy Sekardi, Jennifer Greene, Susan Pickard, Susan Hunt, Sabrina Nash, Alicia Moffatt, Administrative Office of the Courts (AOC)

Call to Order

Dave Byers called the meeting to order at 8:30 a.m. Members were welcomed back and housekeeping announcements were made.

Break-out sessions

Task Force members separated into limited jurisdiction and general jurisdiction workgroups to continue the discussion and development of recommendations to be brought back to the Task Force for consideration. The Limited Jurisdiction Workgroup convened in Conference Room 330, while the General Jurisdiction Workgroup remained in Conference Room 101.

Task Force Reconvening

With neither workgroup completing the deliberations, each broke for the day separately and did not reconvene to discuss each workgroup’s highlights and top priorities.

Call to the Public

The Call to the Public was made by the General Jurisdiction Workgroup on behalf of the Task Force in the meeting room noted on the agenda. Jamaar Williams and Dulce Juarez spoke.

Next Meeting: Friday, May 20, 2016 – State Courts Building – Conference Room 101



 **Task Force on Fair Justice for All**

Minutes

May 20, 2016

State Courts Building ♦ 1501 West Washington St. ♦ Conference Room 101
Phoenix, Arizona

Present: Dave Byers, Chair, Tom O’Connell, Vice Chair, Judge Maria Elena Cruz, India Davis, Jeffrey Fine, Ryan Glover, Judge John Hudson, Robert James, Paul Julien, Doug Kooi, Judge Dorothy Little, Jeremy Mussman, Lisa Martinez (Proxy for Dianne Post), Judge Antonio Riojas, Judge Lisa Roberts, Judge Thomas Robinson, MaryEllen Sheppard, Alessandra Soler, Rebecca Steele, Judge Don Taylor, Kathy Waters

Absent: Kent Batty, Judge Michael Bluff, Michael Kurtenbach, Tony Penn, Leonardo Ruiz

Presenters/Guests: Judge Lilia Alvarez, Paul Thomas, Madeline Carbaja, Dorrie Wiltberger, Paul Ammes, Jessica Swanson, Karla Rodriguez, Elisabeth Rapaez, Leonard Montanaro, Judge Alice Wright (Ret.), Judge Ron Reinstein, Sandra Mendez, Randy Perez, Don Dutton, Judge J. Matias Tafoya, Heather Murphy, Alec Shaffer

Staff: Theresa Barrett, Kathy Sekardi, Jennifer Greene, Patrick Scott, Susan Pickard, Sabrina Nash, Administrative Office of the Courts (AOC)

Call to Order

Dave Byers called the meeting of the *Task Force on Fair Justice for All* to order at 10:34 a.m.

Welcome and Opening Remarks

After thanking members for their enthusiasm during the April 9 and 10 meeting, Mr. Byers welcomed the members back.

Mr. Byers announced the addition of four members to the Task Force; Judge John Hudson, Gilbert Municipal Court; Leonardo Ruiz, Maricopa County Attorney’s Office; Dianne Post, Legal Advocate; and Alessandra Soler, American Civil Liberties Union of Arizona. Judge Hudson and Ms. Post introduced themselves during the April 28th meeting. Mr. Ruiz was not present. Alessandra Soler, Executive Director, discussed her interest in the Task Force, providing abbreviated background and expertise information.

Mr. Byers noted that Lisa Martinez was attending as Dianne Post’s proxy.

Mr. Byers, Judge Don Taylor and MaryEllen Sheppard provided highlights of the recent Western Summit of States where the topic was pretrial reform which inherently includes cash bail, fines,

Task Force on Fair Justice for All: Court-Ordered Fines, Penalties, Fees, and Pretrial Release Policies

and fees. Fifteen state teams, including Maryland and Missouri, and the U.S. territory of Guam led by supreme court justices met in Santa Fe, New Mexico. The enthusiasm at the summit was much like that exhibited in this Task Force's meetings. The Arizona team did not hear any ideas different from the ones discussed by the Task Force and came away with a strong understanding that the money-for-freedom systems used in most jurisdictions must be eliminated. Mr. Byers noted that 15 law suits have been filed against mainly local city jurisdictions. Nine of the cases have settled. A common thread in most of the settlements is the elimination of bond schedules.

Report on unique problems with municipal court population regarding fines, fees, and bail, and suggestions to alleviate these problems.

Judge Lilia Alvarez, Guadalupe Municipal Court Presiding Judge, presented the court's transition to better serve a highly diverse, low-income, high poverty population. The changes range from treating everyone with dignity and respect to adjusted bond card sanction amounts. Guadalupe Municipal Court has experienced an 84% jail cost reduction and reports a 95 – 100% appearance rate. As the Task Force has, Judge Alvarez questioned the propriety of revenue generation for local and state governments.

Report on Rule 11 pilot project in Mesa City Court

Paul Thomas, Mesa Municipal Court Administrator, presented the preliminary outcomes of the Rule 11 Pilot program, and the positive impacts of not issuing warrants for failure to pay offenses, electronic monitoring in lieu of bond, and hearing and payment reminders via autodialer. Mr. Thomas announced a new initiative in collaboration with Maricopa County Adult Probation regarding pretrial supervision, full implementation of the risk assessment tool, conversion of jail court to an initial appearance only court, and establishment of two dedicated arraignment courts.

Multi-voting: Prioritizing recommendations

Mr. Byers and Mr. O'Connell briefly introduced each of the 35 preliminary recommendations developed during the Task Force's April 7th and 8th meetings. Members were asked to prioritize the recommendations by an informal vote. While the actual results were not announced in the meeting, Mr. Byers noted that the members had coalesced around some topic areas.

Mr. Byers laid out a general understanding of report presentation and recommendation approval beginning with the Court Leadership Conference and the Arizona Judicial Council in October.

The Task Force broke for lunch at 12:30 p.m.

Break-out sessions

At 1:30, Task Force members separated into limited jurisdiction and general jurisdiction workgroups to discuss and develop recommendations regarding each workgroup's remaining topic areas. The Limited Jurisdiction Workgroup convened in Conference Room 330, while the General Jurisdiction Workgroup remained in Conference Room 101.

Task Force on Fair Justice for All: Court-Ordered Fines, Penalties, Fees, and Pretrial Release Policies

Task Force Reconvening

Having completed deliberations, the Task Force reconvened in Conference Room 101 at 3:20 p.m.

Call to the Public

The Call to the Public was made shortly after reconvening. No members of the public were present, therefore no comment was made.

Next Meeting: Thursday and Friday, June 9 and 10, 2016 – State Courts Building – Conference Room 101



Minutes

June 9, 2016

State Courts Building ♦ 1501 West Washington St. ♦ Conference Room 101
Phoenix, Arizona

Present: Dave Byers, Chair, Tom O’Connell, Vice Chair, Kent Batty, Judge Maria Elena Cruz, India Davis, Jeffrey Fine, Adam Walterson (proxy for Judge John Hudson during the morning session), Judge John Hudson during the afternoon session, Robert James, Paul Julien, Doug Kooi, Michael Kurtenbach, Judge Dorothy Little, Jeremy Mussman, Tony Penn, Dianne Post, Judge Antonio Riojas, Judge Lisa Roberts, Judge Thomas Robinson, Leonard Ruiz, MaryEllen Sheppard, Alessandra Soler, Rebecca Steele, Judge Don Taylor, Kathy Waters

Absent: Judge Michael Bluff, Ryan Glover

Presenters/Guests: Barbara Broderick, Francisca Porchas, Heather Hamel, Norma Jimenez, Adriana Garcia Maximiliano, Jerry Landau, Paul Thomas, Amy Love

Staff: Theresa Barrett, Kathy Sekardi, Jennifer Greene, Patrick Scott, Susan Pickard, Sabrina Nash, Administrative Office of the Courts (AOC)

Call to Order

Dave Byers called the meeting of the *Task Force on Fair Justice for All* to order at 10:00 a.m.

Welcome and Opening Remarks

Mr. Byers welcomed the members back.

Having announced Leonardo Ruiz’ appointment at the May 20th meeting, Mr. Byers welcomed him.

Mr. Byers noted that Adam Walterson was attending as Judge John Hudson’s proxy until the afternoon session.

Approval of Minutes from May 20, 2016

Motion: To approved the May 20, 2016, minutes as written. Motion seconded.

Vote: Passed unanimously

The effects of fees and fines on probation terms

Barbara Broderick, Maricopa County Chief Probation Officer, provided the members with a handout that enumerated current issues and possible solutions related to bail/bond, failure to Task Force on Fair Justice for All: Court-Ordered Fines, Penalties, Fees, and Pretrial Release Policies

appear bench warrants, financial sanctions, holds/bonds that hinder treatment, payment of fines/fees, and criminal restitution orders. As Ms. Broderick discussed her recommendations, some of which are in the task force's preliminary report, she cited several case studies that clearly demonstrated the issues.

Action Item: Review Ms. Broderick's recommendations that are not duplicative for possible inclusion in the recommendations of the task force.

Report on unique problems with various advocacy group populations regarding fines, fees, and bail, and suggestions to alleviate these problems.

Alessandra Soler introduced representatives from four community organizations: Francisca Porchas, Organizing Director, Puente Human Rights Movement; Norma Jimenez, Project Coordinator, Center for Neighborhood Leadership; Heather Hamel, Executive Director, Justice That Works; and Adriana Garcia Maximiliano, Board Member, Center for Neighborhood Leadership & Unlimited Potential. After thanking the task force for the opportunity to participate and applauding the work being done, the group offered insight into their communities. Joining Ms. Jimenez in her presentation was Angela Reyes, a member of Arizona's immigrant community, who discussed her first traffic ticket experience. The groups also provided a handout that documented the groups' input on 29 of the 35 preliminary recommendations.

Action Item: Review the group's comments on the recommendations for possible inclusion in the recommendations of the task force.

Call to the Public

No members of the public were present.

Information regarding the use of technology to score a defendant's ability to pay

Rebecca Steele reported the research she conducted for the Clerk of the Superior Court in Maricopa County regarding an estimator tool for assessing ability to pay. This tool combines vast consumer data aggregation and customizable, pre-built modeling variables with a predictive modeling engine to provide real-time scoring and information services to validate defendant financial information without impacting defendant credit reports.

Review of draft legislation proposals

Jerry Landau, Government Affairs Director, presented draft proposed amendments to the following Arizona Revised Statutes:

- 12-116.01 Surcharges; fund deposits
- 12-116.02 Additional surcharges; fund deposits
- 13-603 Authorized disposition of offenders
- 13-824 Community restitution in lieu of fines, fees, assessments or incarceration costs
- 13-825 Misdemeanors; community restitution – new section
- 13-826 Civil penalties or fines; waiver – new section
- 28-857 School bus signs; overtaking and passing school bus; violation; driver license

Task Force on Fair Justice for All: Court-Ordered Fines, Penalties, Fees, and Pretrial Release Policies

- suspension; civil penalty
- 28-2532 Registration; violation; civil penalties
- 28-3473 Driving violations on a suspended, cancelled, revoked or refused license; classification; restricted privilege to drive
- 28-4135 Motor vehicle financial responsibility requirement; civil penalties; evidence at hearing

The Task Force broke for lunch at 12:30 p.m.

Report regarding the Western Region Pretrial Summit

Mary Ellen Sheppard reported on the Arizona team priorities, communities that need better solutions, language of proposed rule or legislative changes, and other related suggestions that resulted from 2016 Conference of Chief Justices (CCJ)/Conference of State Court Administrators (COSCA) Western Region Pretrial Reform Summit.

Review of Recommendations

Dave Byers and Tom O’Connell took the members through a review of the draft recommendations. Members voted to ‘Yes’ include in the report, ‘No’ do not include in the report or ‘Yes – Amend’ include in report as amended. All votes indicated were unanimous or by a majority.

Rec #	Vote	Rec. #	Vote	Rec. #	Vote
1	Yes – Amend	11	Requires further research	21	Yes
2	Yes – Amend	12	Yes – Amend	22	Yes – Amend
3	No	13	Yes	23	Merged into #22
4	Table the review of the forms until the adoption of any statutory or rule changes	14	Captured in another recommendation	24	Merged into #22
5	Yes – Amend	15	Yes	25	Tabled
6	Yes	16	Merged into # 15	26	Yes – Amend
7	Yes – Amend	17		27	Captured in another recommendation
8	Deferred until June 10	18		28	Table for further review to crystalize this recommendation with Barbara Broderick’s recommendations
9	Yes	19		29	Merged into #22
10	Yes – Amend	20	Yes	30	Deferred until June 10

Wrap up and clarify plans for June 10 task force meeting

Thanking everyone for a hard day’s work, Dave Byers laid out the items to be covered on June 10.

For the good of the order

Jeff Fine invited everyone to the opening ceremony of the Maricopa County Justice Court Video Appearance Center on June 10 at 10 a.m.

The meeting was adjourned at 4:00 p.m.

Task Force on Fair Justice for All: Court-Ordered Fines, Penalties, Fees, and Pretrial Release Policies

Minutes

June 10, 2016

State Courts Building ♦ 1501 West Washington St. ♦ Conference Room 101
Phoenix, Arizona

Present: Dave Byers, Chair, Tom O’Connell, Vice Chair, Kent Batty, Judge Maria Elena Cruz, Ryan Glover, Judge John Hudson, Robert James, Paul Julien, Doug Kooi, Michael Kurtenbach, Judge Dorothy Little, Jeremy Mussman, Dianne Post, Judge Antonio Riojas, Judge Lisa Roberts, Judge Thomas Robinson, Leonard Ruiz, MaryEllen Sheppard, Judge Don Taylor, Kathy Waters

Absent: Judge Michael Bluff, India Davis, Jeffrey Fine, Alessandra Soler, Rebecca Steele

Presenters/Guests: Jeff Schrade

Staff: Theresa Barrett, Kathy Sekardi, Jennifer Greene, Patrick Scott, Susan Pickard, Sabrina Nash, Administrative Office of the Courts (AOC)

Call to Order

Dave Byers called the meeting of the *Task Force on Fair Justice for All* to order at 8:30 a.m.

Welcome and Opening Remarks

Dave Byers welcomed the members. He noted the handouts from Barbara Broderick and the community activists, which were received on June 9 and suggested a plan of action for review and possible inclusion into the report of the task force.

Members received an additional handout containing the Kentucky release rule.

Continue to review recommendations

Dave Byers and Tom O’Connell continued the review of the draft recommendations beginning with two (numbers 8 and 30) that were addressed on June 9. Members voted to ‘Yes’ include in the report, ‘No’ do not include in the report or ‘Yes – Amend’ include in report as amended. All votes indicated were unanimous or by a majority.

Rec #	Vote	Rec. #	Vote	Rec. #	Vote
8	Yes – Amend	32A	Yes - Amend	33	Yes
30	Yes – Amend	32B	Yes	34	Yes – Amend
31	Yes				

Review of Task Force future plans

Jeff Schrade presented an outline of the education and training plan, and a timeline. Mr. Schrade suggested establishing an explicit training requirement in the Arizona Code of Judicial Administration with Committee on Judicial Education and Training setting the specific requirement. The training plan included a multi-branch stakeholder summit, plenary at the 2017 Judicial Conference with live broadcast for court staff, bench book updates, and ongoing integration into other training sessions.

Task Force on Fair Justice for All: Court-Ordered Fines, Penalties, Fees, and Pretrial Release Policies

Recommendations – Education

Dave Byers and Tom O’Connell took the members through a review of the draft education recommendations. Members voted to ‘Yes’ include in the report, ‘No’ do not include in the report or ‘Yes – Amend’ include in report as amended. All votes indicated were unanimous or by a majority.

Rec #	Vote	Rec. #	Vote	Rec. #	Vote
1	Yes – Amend	6	Yes – Amend	10	Captured in another recommendation
2	Yes	7	Yes – Amend	11	Yes – Amend
3	Yes	8	Yes – Amend	12	Captured in another recommendation
4	Yes	9	Yes	13	To be reviewed along with the recommendations made by Barbara Broderick
5	Yes				

Continued recommendation review

The members returned to the review of the recommendations. The same method of voting as was used earlier in the day continued.

Rec #	Vote	Rec. #	Vote	Rec. #	Vote
35	Table more research needed	37	Yes - Amend	39	Captured in another recommendation
36	Captured in another recommendation	38	Yes – Amend		

The Task Force broke for lunch at 12:00 p.m.

Discuss and review preliminary draft report

Dave Byers discussed the outline of the report; principles followed by the pertinent recommendations. With a number of suggestions captured, Mr. Byers asked members to submit any other comments and assigned writing tasks to Kathy Sekardi by June 20.

Review project plan and timeline

Mr. Byers and the members discussed the proposed project plan and timeline from task force draft report finalization and presentation of the report, through legislative proposal and rule circulation, to possible presentation of new legislation and adopted rules. Included in this discussion was the routing of the report to the Arizona Judicial Council and its appropriate standing committees.

Continued recommendation review

The members completed the review of the recommendations, voting as follows:

Rec #	Vote	Rec. #	Vote	Rec. #	Vote
40	Merged with 30	45	Yes	49	Yes
41	Yes	46	Captured in another recommendation	50	Yes

42	Yes	47	Yes	51	Yes – Amend
43	Yes	48	No	52	Yes – Amend
44	Yes – Amend				

For the good of the order

Kent Batty announced the award of the MacArthur Foundation Grant to Pima County.

The meeting was adjourned at 1:46 p.m.

Next Meeting: August 5, 2016



Task Force on Fair Justice for All

Minutes

August 5, 2016

State Courts Building ♦ 1501 West Washington St. ♦ Conference Room 101
Phoenix, Arizona

Present: Dave Byers, Chair, Tom O’Connell, Vice Chair, Kent Batty, Judge Maria Elena Cruz, India Davis, Jeffrey Fine, Ryan Glover, Judge John Hudson, Robert James, Paul Julien, Doug Kooi, Michael Kurtenbach, Judge Dorothy Little, Jeremy Mussman, Tony Penn, Dianne Post, Judge Antonio Riojas, Judge Lisa Roberts, Judge Thomas Robinson, Leonard Ruiz, MaryEllen Sheppard, Will Ganaugh (proxy for Alessandra Soler), Rebecca Steele, Judge Don Taylor, Kathy Waters

Absent: Judge Michael Bluff

Presenters/Guests: Mike Baumstark, Michael Breeze, Scott Davis, Ben Giles (Capitol Times), Jerry Landau, Heather Murphy, Judge Ron Reinstein, Karen Roush, David Withey, Jennifer Greene

Staff: Theresa Barrett, Kathy Sekardi, Susan Pickard, Sabrina Nash, Administrative Office of the Courts (AOC)

Call to Order

Dave Byers called the meeting of the Task Force on Fair Justice for All to order at 10:00 a.m.

Welcome and Opening Remarks

Mr. Byers welcomed the members back.

Jeff Fine introduced two new members of Maricopa County Justice Courts: Scott Davis, Communications Officer and Karen Roush, Management Assistant, who is spearheading reform and best practices in areas of enforcement.

Will Ganaugh announced his attendance as proxy for Alessandra Soler.

Approval of Minutes from June 9-10, 2016

Motion: To approved the June 9-10, 2016, minutes as amended. Motion seconded.

Vote: Passed unanimously.

Review of draft Task Force Report and Recommendations

Mr. Byers announced that the goal for this meeting is to adopt the recommendations and draft report so that the task force’s work can be routed through the AJC Standing Committees and can then be considered on the Court’s December Rules Agenda. The release of this report is timely as the Conference of State Courts Administrators is scheduled to release a white paper on this topic in September and the state Chief Justices’ are looking forward to reviewing specific and detailed recommendations.

The members discussed and developed language for amendments as follows:

Page 10

- Courts are not ~~primarily~~ revenue-generating centers.
- ~~Not so~~ But in Arizona. ~~The Arizona~~, the Supreme Court has administrative oversight over all state courts—appellate, superior, justice, and municipal courts.
- Such administrative authority has been exercised periodically in Arizona history. For example, in 2014 ~~the City of Maricopa~~ a combined justice and municipal court in ~~Pinal County~~ was placed under the control of the local county presiding judge. In this case, the municipal court judge was eventually removed from office.

Page 13

- While everyone should face consequences for violating the law, criminal fines and civil penalties should not themselves ~~cultivate~~ contribute to or further ~~a cycle of poverty~~ an individual's impoverishment by imposing excessive amounts or unduly restricting a person's ability to be gainfully employed.
- The task force also concludes that "justice for all" means just that—regardless of race, income, gender, culture, ~~and ethnicity~~, or other factors, fair justice should apply to everyone.
- The purpose of a sanction is to ~~incentivize~~ hold a person ~~to comply~~ accountable and encourage future compliance with the law. Imposing a financial sanction on a low-income individual that is so high that it would be almost impossible for the person to pay ~~only may~~ promote hopelessness ~~frustration, despair~~ and disrespect for the justice system. Suspending the person's ~~driver's license~~ driving privilege as a result of an inability to pay the sanction further exacerbates the problem, fosters a cycle of poverty, and fills costly jail cells. Sanctions such as fees and fines should be imposed in a manner that is sustainable and promotes, rather than impedes, compliance with the law, economic opportunity, and family stability.

Page 14

- ~~Reclassifying~~ Additionally, reclassifying first-time offenses of some misdemeanors, such as littering, speeding, and expired out-of-state vehicle registrations, to civil charges will make it easier to process certain minor crimes. ~~Additionally, it would~~ It could also reduce the stigma associated with a criminal record and eliminates the potential for incarceration for these minor offenses.

Page 15

- 5. Seek legislation to reclassify certain criminal charges to civil violations for first-time offenses such as:
 - Driving on a suspended license
 - Driver license restriction violations (for example, corrective lens)
 - Littering
 - ~~Criminal speeding~~
 - Expired out-of-state registration
- Principle Two: Reasonable, convenient, time payment plans should be provided and based on a defendant's ability to pay.

Page 16

- ~~Currently in Arizona, more than \$686 million is owed in restitution from felony cases.~~ (Moved to Page 17.)

Page 17

- Currently in Arizona, more than \$686 million is owed in restitution from felony cases. (Moved from Page 16.) Reasonable adjustments to fines and fees will enable defendants with limited financial means to devote more of their resources to victim restitution.
- Therefore, revising the requirement to read "has paid at least the minimum ordered restitution payment for the month" would help maintain the requirement to ~~pay~~ make restitution payments.
- ~~Upon completion of probation, unpaid~~ Unpaid balances on financial obligations to the state are converted to criminal restitution orders pursuant to A.R.S. § 13-805(E) (Jurisdiction), which sets an annual interest rate of ten percent. This high interest rate is unrealistic in today's economy and should be reduced to a more appropriate amount, perhaps tied to market rates or eliminated altogether.
- 9. Request legislation similar to Arizona Revised Statutes (A.R.S.) § 12-288 (Removal of debts from accounting system) that would ~~authorize grant~~ courts discretion to close cases and write off fines and fees after a 20-year period if reasonable collection efforts have not been effective.
- Remaining narrative from principal four (Moved from Page 20.)
Currently, most court informational websites do not indicate that time payments are an option. Courts should modify online citation information to indicate clearly that if a person is unable to pay the full amount due at that time, the person can come to court to arrange for a time payment or community restitution (service) plan.

Page 18

- 12. Modify court website information, bond cards, reminder letters, FARE letters, and instructions for online citation payment to explain in language appropriate to the defendant that if the defendant intends to plead guilty or responsible but cannot afford to pay the full amount of the court sanctions at the time of the hearing, the defendant may request a time payment plan. (Moved from Page 20)

Page 19

- Twenty-two percent (22%) of ~~those individuals who pleaded guilty or responsible~~ charged with certain traffic offenses resolved their cases by completing defensive driving courses in FY2014.9F[1]
- 13. Request amendment of A.R.S. § 13-603 (Authorized disposition of offenders) to authorize judges to impose a direct sentence a defendant directly to which may include community restitution (service), and education and treatment programs, curfew, or travel restrictions as available sentencing options for misdemeanor offenses.

Page 20

- Principle Four: ~~Defendants~~ Courts should appear ~~employ~~ practices that promote a defendant's voluntary appearance in court.
- Regardless of how many options and reminders the court may provide, a person must take personal responsibility to avoid consequences that could escalate and include incarceration. Those who appear in court when first cited might have the case dismissed (15 percent) if there is a defense, have the fine reduced, be allowed to make time payments, or perform community service as an alternative to paying fines. Failure to appear, on the other hand, puts into motion consequences that can be devastating to an individual. (Moved from lower on the page.)

Page 22

- It would also be desirable to change the current classification of driving on a suspended license for the first time from a criminal offense to a civil ~~offense~~ violation.

- 30. ~~Notify defendants about the opportunity to return to the court to establish a payment plan before issuing a warrant for failure to pay.~~

Page 23

- 30. Prior to or in lieu of issuing a warrant to bring a person to court for failure to pay, courts should employ proactive practices that promote voluntary compliance and appearance such as: notifying defendants of non-payment, consequences and resolution options; scheduling of an order to show cause hearing, or sentence review.

Page 24

- 32. ~~Promote the use of restitution courts, status conferences, and probation review hearings to ensure in a manner that ensures due process and consider considers the wishes of the victim. Establish criteria for referring defendants to restitution court. Provide judicial training on the appropriate use of Orders to Show Cause in lieu of warrants and set standards for processes regarding willful contempt appointment of counsel at hearings involving a defendant's loss of liberty.~~

Page 25

- 35. Bring together criminal, justice, and mental health stakeholders in larger jurisdictions to adopt protocols for addressing people with mental health issues who have been brought to court.

Page 27

- ~~Some of the highest-risk individuals, such as members of gangs or drug cartels, are likely to have access to money to post a cash surety.~~

Page 30

- 40. Clarify by rule or statute that small bonds (\$5 - \$100) are not required to ensure that the defendant gets credit for time served when defendant is also being held ~~on a second, more serious charge in another case.~~
- 41. Authorize the court to ~~temporarily~~ release a "hold" from a limited jurisdiction court and order placement directly into a substance abuse treatment program upon recommendation of the probation department.

Page 33

- Principle Ten: ~~Cash-Money~~ bond is not required to secure appearance of defendants.

Page 34

- When using risk assessment to make pretrial release decisions, generally judges should release low risk defendants with minimal or no conditions, release moderate risk defendants with interventions and services targeted to mitigate the risk and should detain the highest risk defendants in custody. In jurisdictions where evidence-based risk assessments are utilized, such as Washington, D.C., three primary release types are used:
 - low-risk defendants are released on their own recognizance or with a unsecured appearance bond,
 - moderate-risk defendants are released to Pretrial Services with specific release conditions imposed to mitigate the risks presented,
 - high-risk defendants are held in custody as preventive detention when no condition or combination of conditions of release can reasonably assure the appearance of the person or will endanger the safety of any person or the community.

The task force believes that Arizona should strive to eliminate money for freedom and shift to a risk based system. Fully achieving this goal will require a constitutional amendment, rule changes, and a change in the current culture to substitute preventative detention for the current practice of imposing high dollar bonds. A high dollar bond may keep some individuals in

jail, the Arnold Foundation research showed in the jurisdictions they researched that 50% of individuals with high dollar bonds could post the bond and be released. The task force recognizes these changes will take some time to fully implement.

Court of Appeals case, Simpson v. Miller and Steinle, State of Arizona, Real Party in Interest. Nos. 1 CA-SA 15-0292, 1 CA-SA 15-0295 (Consolidated) now under appeal at the supreme court may have some impact on this subject.

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- While no issues have been found with the PSA instrument to date, some other assessments have been found to be problematic indicating that this is an area that requires careful and constant examination.
- Additionally, the task force discussed concerns that the PSA does not take into consideration ~~those defendants who are foreign-born~~ the immigration status of and recommend that additional research be conducted for this population. Finally the task force understands that no instrument can eliminate all bias that may creep into the justice system and therefore recommends that judges continue to receive training regarding avoiding implicit bias.
- 47. Eliminate the requirement for use of cash surety bond to the greatest extent possible and instead impose reasonable conditions based on the individual's risk. When it must be used, the preference should be for the surety bond to be in actual cash deposited with the clerk of the court with the amount paid returned to the defendant if charges are not filed, the person is found innocent, or if no violations of the release conditions occur. to secure a defendant's appearance.

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- 51. Request the Arnold Foundation to conduct research ~~to determine whether foreign-born defendants have a greater~~ on the impact of immigration status on the likelihood of not returning to court if released. to ascertain whether it is good public policy to hold these defendants on cash bond.
- 58. Train judicial officers on the risk principle and methodology behind the risk assessment tool ~~tools.~~

Motion: Move to adopt the report as amended. **Seconded.**

Vote: 22-1-0

The finalized report is attached to these minutes as Appendix A.

Discuss Proposed Changes to Rules

Working within the parameters of current law, Jerry Landau and David Withey discussed the recommended rule changes listed below. Once any proposed legislation is signed into law or constitutional amendment is ratified, the rules will be reviewed for any additional changes needed to further the task force's recommendations.

After spending some time discussing the details related to processes and procedures, the members agreed that the main impetus of the report is to eliminate money bonds. Understanding that rule, legislative, and constitutional changes have associated timelines, which inherently requires an incremented approach, there will be time to further examine the resources, processes, and procedures needed to implement the task force's recommendations fully.

Motion: Move to authorize AOC Legal Counsel to draft rules as discussed.

Second. Vote: Passed unanimously.

Task Force on Fair Justice for All: Court-Ordered Fines, Penalties, Fees, and Pretrial Release Policies

Discuss Proposed Statutory Amendments

Mr. Landau discussed his process, the draft proposals and the changes needed after listening to today's discussion. Members agreed to leave the statutes out of the adopted report to allow for additional changes. As the drafting process continues, members will be kept abreast of changes and are asked to send input to Mr. Landau via email. The final draft proposals will be presented to the task force on November 3rd for adoption. Mr. Landau noted that a delayed effective date of January 1, 2018 will be requested for the legislative changes.

Discuss Constitutional Amendment

Mr. Landau discussed the timeline for constitutional amendments. The Legislature traditionally considers constitutional amendments in the even number years of the second year of the term. If all goes as planned the amendment will not appear as a ballot referendum until 2018. Members re-emphasized the reasons for a person to be held non-bondable reasonably assuring: the safety of a person or the community, the appearance of the person at all court proceedings, and the propensity for new criminal behavior.

Next steps

Mr. Byers detailed the timeline for the rule change petition. Highlights included:

1. File when ready, requesting a 60-day comment period.
2. Present at the Court Leadership Conference on Wednesday, October 26.
3. Task force to reconvene on Thursday, November 3, 2016 to review and discuss comments to rule change petition and prepare a reply.
4. Submit reply to staff attorneys.
5. Request adoption of rules at December Rules Agenda.

Court Leadership Conference

Mr. Byers invited all task force members to attend the Court Leadership Conference on October 26. There will be a presentation from a national expert and a task force panel discussion.

The AJC will meeting the following day to consider among other items, the report as presented by Mr. Byers and select task force members.

Call to the Public – None.

Meeting adjourned at 3:46 p.m.

Next meeting: November 3, 2016



Minutes

November 3, 2016

State Courts Building ♦ 1501 West Washington St. ♦ Conference Room 101
Phoenix, Arizona

Present: Dave Byers, Chair, Tom O’Connell, Vice Chair, Kent Batty, Judge Michael Bluff, India Davis, Jeffrey Fine, Judge John Hudson, Bob James, Paul Julien, Doug Kooi, Judge Dorothy Little, Jeremy Mussman, Dianne Post, Judge Antonio Riojas, Judge Lisa Roberts, Judge Thomas Robinson, Leonard Ruiz, MaryEllen Sheppard, Alessandra Soler, Rebecca Steele, Judge Don Taylor, Kathy Waters

Absent: Judge Maria Elena Cruz, Ryan Glover, Officer Michael Kurtenbach, Tony Penn

Presenters/Guests: Marc A. Adair, Tasha Aikens, Cathy Clarich, Tom Collins, Colleen Clase, Samantha DuMond, Kirstin Flores, Jennifer Greene, Donald Jacobson, Jerry Landau, Heather Murphy, Levi Reed, Rebecca Reiben, Judge Ron Reinstein, Trey Williams, David Withey

Staff: Theresa Barrett, Kathy Sekardi, Susan Pickard, Sabrina Nash, Patrick Scott, Administrative Office of the Courts (AOC)

CALL TO ORDER - Dave Byers called the meeting of the Task Force on Fair Justice for All to order at 10:00 a.m.

WELCOME AND OPENING REMARKS - Mr. Byers welcomed the members back.

APPROVAL OF MINUTES FROM AUGUST 5, 2016

MOTION: To approved the August 5, 2016, minutes as amended. Motion seconded.

VOTE: Passed unanimously

REPORT ON PRESENTATIONS MADE TO OCTOBER LEADERSHIP CONFERENCE, SUPREME COURT STANDING COMMITTEES AND OTHER ENTITIES - Mr. Byers thanked the members for taking the time from their busy schedules to present the task force’s recommendations to the following organizations:

- Department of Justice
- National Association of Presiding Judges
- Arizona Criminal Justice Commission
- Arizona Prosecuting Attorneys’ Advisory Council
- Chief of Police Association
- Probation Chief’s Association
- NAACP chapters in Tucson, Maricopa County, and Pinal County
- Maricopa County Bar
- Lorna Lockwood Inn of Court at the University Club
- Arizona Judicial Council
- County Presiding Judges
- Arizona Court Leadership Conference
- Arizona Commission on Access to Justice
- Commission on Minorities in the Judiciary
- Commission on Victims in the Court
- Committee on Limited Jurisdiction Courts
- Committee on Superior Court
- Court Interpreter Advisory Committee
- Adult Management Meeting (AMM)
- Committee on Probation

Mr. Byers noted that overall the report's reception has been positive with one exception. The Commission on Victims in the Court (COVIC) submitted their comments in writing. Mr. Byers stated that those concerns will be addressed during the task force's legislative packet discussion.

RESULTS FROM THE ARIZONA JUDICIAL COUNCIL (AJC) AND PRESIDING JUDGES MEETINGS - Mr. Byers reported that the presiding judges endorsed the task force's recommendations and recommended AJC approval. The next day, the AJC approved the recommendations in concept with the exception of decriminalizing littering due to the legislative drafting complexity. The AJC also noted that the comments of the COVIC should be kept in mind during the development of the legislative package.

UPDATE ON RECOMMENDATIONS IN PROGRESS – Mr. Byers introduced Don Jacobson. Mr. Jacobson will be managing the implementation of the task force's recommendations. Mr. Byers continued with a report on the efforts that have taken place to-date:

- The Q&A document – AOC staff worked with a committee of judges and court administrators to reformat and reorganize the Q&A to produce the current Municipal Court Governance Roles and Responsibilities document. Members were asked to contact Kathy Sekardi or David Withey with additional changes.
- Funding – Review ongoing.
- Income verification software – One software package has been tested in-house and at Phoenix and Scottsdale Municipal Courts. It did not prove to be sufficiently accurate.
- Notification technology – A Request for Proposal (RFP) will be posted. The request will be made for a statewide contract that any court can use.
- 2017 Judicial Conference – The work of the task force will be presented as a plenary with breakout sessions. Planning is underway to broadcast the plenary session, allowing all court personnel to participate.
- ASU-CLE – Planning for a full day *Fair Justice for All* is underway.

Judge Little and Paul Julien indicated that they are already sensing subtle changes in the judiciary. As the members surmised, and as is being experienced in Mohave County, the more a judge works with the Public Safety Assessment (PSA) tool, the more comfortable the judge becomes with making risk assessment decisions.

PRESENTATION FROM BAIL BOND REPRESENTATIVES - Attorneys, Marc Adair and Samantha DuMond, who in combination represent a majority of the state's bond companies, discussed the bail bond industry, and its benefits to the criminal justice system and defendants. They noted that for small bond issuance to be feasible, legislative amendments regarding forfeiture are needed. Additionally, they requested that rule amendments be considered to standardize the amount of time that is allowed to find a defendant and the number of continuances that are allowed prior to bond forfeiture (Pima County - 3 weeks/0 continuances versus Maricopa County – up to 6 months with continuances).

CALL TO THE PUBLIC: (10:55 a.m.) - Tom Collins, Arizona Citizens Clean Elections Commission (Clean Elections), spoke.

DISCUSS RULE CHANGE PETITION COMMENTS (R-15-0041) AND RESPONSE TO FILE - With four comments filed, the comment period for Rule Change Petition R-16-0041 closed October 21. The draft Petitioner’s Reply was presented for review and comments.

MOTION: To adopt and file the Petitioner’s Reply as amended. Motion seconded.

VOTE: Passed unanimously.

DISCUSSION:

- Court processes and procedures regarding a superior court judge releasing another court’s “hold” to directly place a defendant into a substance abuse treatment program has been removed from the petition for further examination.
- The petition does not address the presence of court-appointed counsel and prosecutor at Initial Appearance. This recommendation (#44) also requires additional examination and can be addressed in a later rule change petition.
- Court processes and procedures regarding unsecured bonds can be addressed by training and perhaps an administrative order.
- ARCrP Rule 3.2
 - A proposed change to the current language - “warrant shall state the amount of secured appearance bond,” changing “shall” to “may” was offered. The discussion that followed included:
 - Training should include the ability of a judge to reconsider the bond amount set on the warrant by another court at Initial Appearance and after a risk assessment.
 - Setting a bond amount on a warrant establishes a “get out of booking” process usable by law enforcement. This process directly impacts those who can afford the bond, which likens to the unconstitutionality of bond schedules.

MOTION: To establish a workgroup to develop language for inclusion in the Petitioner’s Reply consistent with probation department comments. Motion seconded.

VOTE: Passed. 16 - 5 - 0

DISCUSSION:

- Stakeholder consultation is needed.
- The process of closing the warrant because the bond was paid and the defendant was released could have the unintended consequence of establishing a cycle of issued and closed warrants.
- Not all courts are using the risk-based assessment and there are differing processes in each county.

DISCUSS LEGISLATIVE PACKET MODIFICATIONS - Jerry Landau discussed the changes that have been made to the legislative packet since the August 5th meeting. The comments from the members included:

2017-01: Sentencing; fines; fees; probation

- Section 6. § 13-805. Jurisdiction – the proposed amendment now clarifies that the interest rate on a criminal restitution order issued in favor of a victim remains at 10% (no change) while the interest rate on a criminal restitution order issued in favor of the state is reduced to 4%, consistent with civil judgments. Additionally, the proposed amendment would allow the court to waive all or part of the interest upon agreement of the state, victim, and defendant. Judge Ron Reinstein was present and agreed that this would resolve some of the COVIC issues.
- Section 12. § 13-924. Probation; earned time credit; applicability - the proposed amendment removes the requirement that a probationer be current on the payment of monetary obligations (however, must be current on restitution) in order to receive earned time credit.

2017-02: Driving; violations; restricted license; penalties

- Section 1. § 28-603. Driver license or permit; restrictions – consolidates all sections of Title 28 regarding license restriction into one section.
- Section 13. § 28-3473 and Section 14. 28-3473.01 – address driving on a suspended, canceled, revoked or refused license; classification; restricted privilege to drive is criminal unless it is suspended for failure to appear or failure to pay and then it is civil.
- Delayed effective date was a compromise between the Motor Vehicle Department (MVD) and Mr. Landau.

ACTION ITEM: A member requested further examination of underage drinking and driving in relation to this proposed bill.

2017-03: Bailable offenses; hearing; schedule

Mr. Landau requested the task force's guidance in the drafting of the legislation in this bill. He requested a formal action regarding 1.) changing the bond schedule to a deposit schedule; and 2.) whether to split serious/dangerous criminal traffic from criminal traffic where there was not a victim, making the former non-bondable and the later bondable with a deposit schedule.

MOTION: To postpone any action on this discussion until the December meeting and establish a workgroup to develop recommended language. Motion seconded.

VOTE: Passed unanimously.

A member questioned the removal of the 24-hour hearing from § 13-3961. Mr. Landau noted that the process is fully included in the rule to be discussed later in the meeting.

2017-04: Competency examination; jurisdiction

Provides for increased jurisdiction for limited jurisdiction courts with respect to competency hearings.

DISCUSS CLARIFICATION OF SENDING NOTIFICATIONS PRIOR TO INCARCERATION FOR FAILURE TO PAY FINES.

This agenda item was taken out of order. Jeff Fine began the discussion about A.R.S. § 28-1525 and § 13-810.

At issue in § 28-1525 are the \$125 warrant fee for failure to pay warrants and existing local ordinances to recover costs associated with warrants. Mr. Fine identified the following options:

1. The \$125 fee becomes the warrant recovery fee for all warrants, making it equitable across the board with the proceeds being disbursed for more than constable funding.
2. Proposed that the \$125 fee be stricken as it unfairly impacts defendants who have failed to pay, whether willfully or not.
3. Determine if ordinances trump statute or vice versus.

ACTION ITEMS: Jerry Landau was asked to speak with the Arizona Association of Counties (AAOC), and MaryEllen Sheppard was asked to speak with Maricopa County to gather information.

David Withey was asked to review the Attorney General's opinion regarding which fee should be charged - the state or local fee.

This discussion will be an item on the December agenda to determine if correcting this issue is within the task force's charge.

At issue in § 13-810 are 1.) the authority of a court to issue a summons or warrant for non-payment without undertaking some type of effort to compel voluntary appearance, 2.) formal contempt hearings, 3.) due process during a court's determination of willful non-payment, and 4.) the use of contempt procedures for restitution when a defendant is on active probation and the requirement of representation.

ACTION ITEM: Mr. Byers established a workgroup to examine § 13-810 and associated civil rules for potential amendments, and identified volunteers for the three new workgroups.

Mr. Fine introduced Tasha Aikens, U.S. Department of Justice, Phoenix Office.

DISCUSS RULES CONCERNING NOT-BAILABLE DETERMINATIONS (SIMPSON HEARINGS)

This agenda item was taken out of order. David Withey reviewed Rule 4.2 and the associated Arizona constitutional provisions using a flowchart that was part of the meeting materials. Member comments included:

- Timing of hearings for bondable versus non-bondable defendants
- When does appointment of counsel occur?
- The amount of time needed for notice of defendant's attorney
- The amount of time needed for disclosure

MOTION: To establish a workgroup for further examination. Motion seconded.

VOTE: Passed unanimously.

CALL TO THE PUBLIC: Colleen Clase, Senior Attorney, Arizona Voice for Crime Victims spoke.

Meeting adjourned at 2:22 p.m.

NEXT MEETING: December 13, 2016



Minutes

December 13, 2016

State Courts Building ♦ 1501 West Washington St. ♦ Conference Room 101
Phoenix, Arizona

Present: Dave Byers, Chair, Tom O’Connell, Vice Chair, Kent Batty, Judge Michael Bluff, Nancy Grey-Eade (proxy for Judge Maria Elena Cruz), India Davis, Jeffrey Fine, Kirstin Flores, Ryan Glover, Bob James, Paul Julien, Doug Kooi, Jeremy Mussman, Tony Penn, Dianne Post, Judge Antonio Riojas, Judge Thomas Robinson, Leonard Ruiz, MaryEllen Sheppard, Alessandra Soler, Kathy Waters

Absent: Judge John Hudson, Officer Michael Kurtenbach, Judge Dorothy Little, Rebecca Steele, Judge Lisa Roberts, Judge Don Taylor

Presenters/Guests: Candace Atkinson, Jennifer Greene, Dorothy Givens, Donald Jacobson, Megan Kintner, Jerry Landau, Heather Murphy, David Nicholas, Marcus Reinkensmeyer, Judge Ron Reinstein, Gary Reitano (U.S. Attorney’s Office), David Withey

Staff: Theresa Barrett, Kathy Sekardi, Susan Pickard, Sabrina Nash, Patrick Scott, Administrative Office of the Courts (AOC)

CALL TO ORDER - Dave Byers called the meeting of the Task Force on Fair Justice for All to order at 10:02 a.m. without a quorum.

WELCOME AND OPENING REMARKS – Everyone present made self-introductions, including the newest appointee, Kirstin Flores, Executive Director, Office of Victim Services, Arizona Attorney General’s Office. During the introductions a quorum of the membership was reached. Mr. Byers announced that Chief Justice Bales had extended the task force to August 31, 2017.

The *Report and Recommendations of the Task Force on Fair Justice for All* was, or will be, presented to the following organizations:

- Humanist Society of Greater Phoenix
- State Bar of Arizona
 - Military Legal Affairs Committee
 - Board of Governors
- Governor’s Office of Highway Safety
- Inn of Courts
- Sandra Day O’Connor Law School
- Conference of State Court Administrators
- Arizona Attorneys for Criminal Justice
- Pending presentations include:
 - Mohave County Strategic Planning Session, January
 - Inn of Courts in the Valley, February
 - Problem-Solving Court Conference, April
 - Arizona Courts Association, April
 - State Bar Conference, June

Presenters continue to report positive feedback, and evidence of modest culture change.

Mr. Byers shared news from around the country, which included:

- New Mexico passed a Constitutional amendment that allows judges to deny bail to defendants considered exceptionally dangerous.
- American Legislative Exchange Council (ALEC) resolution on criminal justice fines and fees was adopted on September 12, 2016. This Resolution supports ensuring that fines and fees imposed by the criminal justice system are reasonable, transparent, and proportionate, and not in conflict with the goals of improving public safety, reducing recidivism, ensuring victims receive restitution, and enabling offenders and ex-offenders to meet obligations to their families, especially children.
- The National Task Force on Fines, Fees and Bail Practices has released the *Lawful Collection of Legal Financial Obligations, A Bench Card for Judges* intended to assist judges in ability-to-pay determinations.

APPROVAL OF MINUTES FROM NOVEMBER 3, 2016

MOTION: To approve the November 3, 2016, minutes as presented. Motion seconded.

VOTE: Passed unanimously.

UPDATE ON LEGISLATIVE PACKET MODIFICATIONS – (This agenda item was taken out of order.) Jerry Landau provided the members with updated fact sheets for the following legislative proposals noting the changes to each:

- **2017-01: Sentencing; fines; fees; probation** – clarifies that assessments, fees, and forfeitures can be mitigated the same as fines.
- **2017-02: Driving; violations; restricted license; penalties** – 1) removes provisions permitting the court to restrict a driver license as a result of a conviction of a major traffic violation, 2) permits the court to order a restriction of a driver license if a person fails to pay a civil or traffic violation, 3) the Arizona Department of Transportation (ADOT) has agreed to the January 1, 2018, effective date. Logistics are still being worked out with Motor Vehicle Department.
- **2017-03: Bailable offenses; hearing; schedule** – the language requiring that the *Simpson* hearing be held within 24 hours and some of the court procedural language has been removed from the statute and will be addressed by court rule; and cleans up some language in the mandatory bond card.
- **2017-04: Competency examination; jurisdiction** – No changes reported.

UPDATE ON RECOMMENDATIONS IN PROGRESS – Mr. Byers and Don Jacobson provided an update on the progress of recommendation implementation:

- The Legislative Summit is scheduled for January 10, 2016 from 11:00 a.m. to 1:30 p.m. This meeting is expected to garner legislative support and build momentum of the task force's recommendations. Ninety legislators and their staff, key staff from the Governor's Office, one representative from each county board of supervisors, and representatives from the League of Towns and Cities have been invited. In addition, members of the press will be present. RSVP's from the task force members was requested by December 30.
- Arizona Judicial Automated Case System (AJACS) Online Payment – Pending successful pilots in Apache Junction Municipal Court and a justice court, courts using the AJACS case management system will be receiving an integrated online payment system.
- Proof of Compliance – Acknowledging that the City of Tucson already has a program in place, Mr. Byers announced that the City of Phoenix will be viewing a demonstration of the Matterhorn online case resolution platform soon. (See MJ Cartwright's presentation later in the minutes.) Additional programs available from an e-filing vendor, Xerox, and a company that developed online check deposit for a California credit union are being reviewed.

- Presiding Judge Mental Health Stakeholder Meetings – Pima County will be hosting a summit for all presiding judges in May regarding how to reduce criminal justice system involvement with those who have mental health issues.
- Income Verification – Work to identify accurate income verification software continues. Discussions have begun with Harvard to find additional data avenues.
- Yuma Fine Reduction Pilot Program – Scheduled to rollout in January with up to 50% reductions on civil traffic, reinstatement of driver license, and payment plans.
- Arizona Traffic Ticket and Complaint (ATTC) – The ATTC will be updated to include fields for cell or alternate telephone numbers as well as information about not ignoring financial responsibility and the availability of payment plans.
- Expanded Use of the Public Safety Assessment – Opening discussions with the Arnold Foundation and IBM regarding the use of Watson Analytics’ predictive forecasting to make the assessment more resource-effective and financially affordable.
- Education – The AOC, Education Services Division (ESD) is planning the June 2017 Judicial Conference, as well as developing special training for judges pro tem and part-time judges who conduct Initial Appearance Hearings. ESD staff are discovering that the educational aspect of this project goes way beyond the educational recommendations to include almost all of the task force recommendations.

OTHER PROGRESS OF NOTE:

- Starting January 3rd, Tucson City Court will be implementing their version of Phoenix CAP program. All fines and fees owed on criminal, civil, and parking will be consolidated, and with 10% or \$500, whichever is less, down payment, the defendant’s driver license will be reinstated and a payment plan established based upon on much the defendant can afford to pay monthly.
- Maricopa County Justice Courts’ (MCJC) video appearance program has reduced pre-trial confinement time by 53%. Another 30% reduction is anticipated when MCJC moves to the Intake and Release Facility (ITR). Weekend appearance hearings are also being considered.

UPDATE ON RULE CHANGE PETITION (R-16-0041) – A number of comments were received from several stakeholders. Modifications were made to the petition based upon some of the comments. The amended petition was filed. The Supreme Court met on December 12 and adopted all of the recommended changes as modified.

PRESENTATION OF ONLINE CASE RESOLUTION SOFTWARE – MJ Cartwright demonstrated Matterhorn, a mobile online platform developed by Court Innovations with the University of Michigan to help reduce congested courtrooms and address those for whom appearing at court is a near impossibility (37% of Michigan cases). Matterhorn can provide efficiencies for not only courts, judges, and court staff, but also law enforcement, lawyers and the general public. It provides a vehicle for resolving traffic tickets, parking tickets, warrants, license suspension, small claims and family law matters.

NOTE: Kirsten Flores announced that she would be abstaining from the following rule-related votes.

REPORT FROM ARS § 13-810/OSC SUB-WORKGROUP – Jennifer Greene, AOC Counsel, presented the amendments to Criminal Rules 26.12, 27.8, and 27.9 that resulted from the sub-workgroup’s meeting on November 23, 2016.

Rule 26.12 – The Purge Review Hearing process from probation violation and order to show cause to possible civil contempt and incarceration.

Motion: To submit the amendments to Criminal Rules 26.12 as presented. Motion was seconded.

Discussion: The *Bearden* language as it appeared in the green handout regarding Criminal Rule 26.12(c)(5) needs to be added to ensue due process.

Motion: To amend motion to add *Bearden* language. Motion was seconded.

Vote: Passed 20-0-1

Amended Motion: To submit the amendments to Criminal Rules 26.12 including the *Bearden* language. Motion was seconded.

Vote: Passed 20-0-1

Rule 27.8 and 27.9

Motion: To approve the amendments in concept limiting the protections to the case in question. Motion was seconded.

Vote: Passed 20-0-1

REPORT FROM RULES 4.2 AND 7.2 SUB-WORKGROUP – David Withey, AOC Chief Counsel, reviewed Maricopa County data regarding charges and set bond amounts for calendar year 2016, then presented the amendments to Criminal Rules 4.2 and 7.2 that resulted from the sub-workgroup’s meeting on November 23, 2016. Jeremy Mussman expressed the concerns of criminal defense attorneys regarding limiting entry and procedural protections.

Motion: While moving forward with the legislation, to file the rule change petition with the best possible versions of the rules in January. Motion was seconded.

Vote: Passed 16-3-1

Members of this workgroup will be notified of the next meeting possibly occurring during the first week of January 2017.

CHIEF JUSTICE BALES – Midway through the discussion above, Chief Justice Bales dropped in to express his sincere gratitude to the members for the remarkable accomplishments of the task force toward the Court’s top priority, fair justice.

CALL TO THE PUBLIC – Officer David Nichols, Buckeye Police Department, on behalf of Chief of Police Larry Hall, spoke.

Meeting adjourned at 1:45 p.m.

NEXT MEETING – To be determined.



Task Force on Fair Justice for All

Minutes

May 2, 2017

State Courts Building ♦ 1501 West Washington St. ♦ Conference Room 101
Phoenix, Arizona

Present: Dave Byers, Tom O’Connell, Kent Batty, Judge Maria Elena Cruz, India Davis, Jeff Fine, Kirstin Flores, Ryan Glover, Judge John Hudson, Robert James, Paul Julien, Doug Kooi, Jeremy Mussman, Dianne Post, Judge Antonio Riojas, Judge Lisa Roberts, Leonard Ruiz, Alessandra Soler (Will Gaona), Judge Don Taylor, Kathy Waters

Telephonic: Judge Michael Bluff, Judge Dorothy Little, Rebecca Steele

Absent: Michael Kurtenbach, Tony Penn, Judge Thomas Robinson

Presenters/Guests: Jerry Landau, David Withey, Jennifer Greene, Colleen Clase, Joel Edman, Donald Jacobson, Martin Lynch, Judge Steven McMurry, Sam Myers

Staff: Theresa Barrett, Susan Pickard, Sabrina Nash, Kathy Sekardi, Administrative Office of the Courts (AOC)

CALL TO ORDER – Dave Byers, Chair, called the meeting of the Task Force on Fair Justice for All to order at 10:04 a.m. with a quorum of the members present.

WELCOME AND OPENING REMARKS – Since the last Task Force meeting, *The Report and Recommendations of the Task Force on Fair Justice for All* has been presented to the following organizations:

- Harvard School of Law
- Morrison Institute at ASU, Public Forum
- Coconino County limited jurisdiction judges meeting
- Training Coordinators Annual Conference
- Pima County Annual Conference
- Arizona Courts Association
- Problem Solving Court Conference
- American Probation and Parole Association
- Mid-Atlantic States
- Arizona Magistrates Conference

APPROVAL OF MINUTES FROM DECEMBER 13, 2016

MOTION: To approve the minutes from December 13, 2016, as presented. Motion seconded. **VOTE:** Passed unanimously.

UPDATE ON RECOMMENDATIONS IN PROGRESS – Don Jacobson provided an update on the sentencing and bail reform efforts that are underway or being considered. He highlighted the following:

- Arizona Traffic Ticket and Complaint – modifications approved;
- Statewide text notification system – vendor selected, contract signed;
- Centralized ticket processing web site – built into the AJACS case management system currently being rolled out, research underway regarding the addition of submission of proof functionality;
- Compliance Assistance Programs (CAP) – implemented in four courts, differs by court;
- Fine Reduction Programs (FRP) – Yuma County pilot complete, implemented on a countywide basis;
- Plea by Mail reinstated effective October 2017
- Bench Card for Order to Show Cause hearings in relation to judges determining willfulness of non-payment, includes a tiered approach to monetary obligation reduction based on federal poverty levels the routine tasks of which could be delegated to staff – in draft form - seeking approval of concept of tiered approach

MOTION: to recommend that the Arizona Judicial Council adopt the Bench Card with the tie to the Federal Poverty Level and presumptive percentage amounts of reduction. **VOTE:** Passed 22-1-0

Suggested improvements to the bench card include:

1. Note that this process does not include victim restitution
2. Highlight that this process cannot be used in cases with plea agreements
3. Add the statutory citations for which this process applies
4. Make clear that the defendant’s probation cannot be revoked in a contempt hearing, but must be addressed in a probation revocation hearing.

- Direct sentencing to community restitution or probation education and treatment programs;
- Timeframe for notification processes prior to issuing FTA or FTP license suspension;
- Collaboration with Motor Vehicle Department to better utilize the directors ability to restrict rather than suspend a license for insurance violations;
- Appointment of counsel at Initial Appearance if a person will be held for inability to pay bond;
- Unsecured bond default process with the bond becoming the warrant amount and the judge’s determination about what to do with the funds;
- Elimination of criminal bail schedules – administrative order being drafted to address changes;
- Automation of Public Safety Assessments to make feasible for limited jurisdiction courts;
- Education programs; and
- Municipal Court Governance Roles and Responsibilities (formerly the Q&A) updated.

Kent Batty announced the Pima County Mental Health Summit sponsored by Pima County Behavioral Health scheduled for May 16 and 17, 2017. He invited those who are interested in supporting the development of a robust and response system for mental illness treatment alternatives to incarceration to attend.

ACTION ITEM: The Task Force agreed that a subcommittee should be established to address Mental Health.

Mr. Batty also provided an update regarding the Pima County MacArthur Grant noting the following:

- Pretrial services staff are conducting mental health pre-screenings (SAMSA and drug screening tools) and a follow up referral to mental health services for qualified defendants.

- Research into identifying how to conduct mental health pre-screenings before the person is booked into jail is underway.
- Justice of the Peace Court Weekend Warrant Resolution Court participation is declining and is specifically linked to issue resolution. The Warrant Resolution Court has added text messaging in English and Spanish as well as remote video appearance to achieve additional appearances.
- The municipal court is just starting its Warrant Resolution Court and anticipates using text messaging and facetime, and continued license restoration through iCAP.
- The participation in home detention and electronic monitoring, instead of work release for those with appropriate risk factors, has slowed under new Sheriff's Office leadership.

UPDATE ON LEGISLATIVE PACKET MODIFICATIONS

Jerry Landau announced that absent the competency examination; jurisdiction bill (2017-04) and the court security bill, the other three bills sentencing; fines; fees; probation (2017-01), driving; violations; restricted license; penalties (2017-02) and bailable offenses; hearing; schedule (2017-03) did not get scheduled for a hearing in the House Judiciary Committee. A strike everything amendment containing the three stalled bills has been sponsored by Senator Burges.

Arizona Department of Transportation (ADOT) omnibus bill changes the definition of suspension, and will allow license auto reinstatement at the end of the suspension.

UPDATE ON RULE CHANGE PETITION (R-17-0015) – David Withey discussed two court opinions that were recently issued; *Simpson v Miller* (CR-16-0227-PR) and *Chantry v Astrosky* (1 CA-SA 17-0081). These actions require the harmonization of the rule change petition with that case law. It was noted that *State v Goodman* issued this week, should also be considered with the rule. David also discussed the timing of the bail eligibility hearing and the APAAC comment on the bail eligibility hearing timing.

MOTION: To stay the course with reference to bail eligibility hearing timing. Motion seconded.

VOTE: Passed unanimously.

CALL TO THE PUBLIC – Martin Lynch addressed the Task Force.

Dave Byers noted the new Subcommittee on Post-conviction Set-aside that will be meeting in five minutes, and the agreement by the Task Force to establish a mental health subcommittee.

ADJOURNMENT – Mr. Byers adjourned the meeting at 12:55 p.m.



Task Force on Fair Justice for All

Draft Minutes

November 27, 2017 - 10:00 a.m. to 2:00 p.m.

Present: Dave Byers, Tom O’Connell, Judge Michael Bluff, Judge Maria Elena Cruz, Jeff Fine, Judge John Hudson, Robert James, Paul Julien, Judge Dorothy Little, Jeremy Mussman, Tony Penn, Dianne Post, Judge Antonio Riojas, Leonard Ruiz, Alessandra Soler (Jared Keenan), Judge Don Taylor, Kathy Waters

Telephonic: Mary Ellen Sheppard, Rebecca Steele

Absent: Kent Batty, Kirstin Flores, Ryan Glover, Michael Kurtenbach, Judge Lisa Roberts, Lisa Royal

Presenters/Guests: Donald Jacobson, Julie Dybas, Judge Joseph Olcavage, Jerry Landau, Jennifer Greene, Judge Ron Reinstein (Ret.), Heather Murphy

Staff: Theresa Barrett, Susan Pickard, Sabrina Nash, Kathy Sekardi, Administrative Office of the Courts (AOC)

Welcome and Opening Remarks

David Byers welcomed the members and asked Kathy Sekardi to call the roll. Mr. Byers noted the recently signed administrative order extending this task force through to June 20, 2018.

Approval of Minutes from May 2, 2017

David Byers presented the minutes of the May 2, 2017, meeting.

Motion: To approved the minutes of the May 2, 2017, meeting as written. The motion was seconded. **Action:** Passed **Vote:** Unanimous

Update on Recommendations in Progress

Don Jacobson provided an update on the progress being made on the Arizona Judicial Council-approved Task Force recommendations.

Setting release conditions

- Changes have been made to Rules 6 and 7, and Forms 6 and 7 to establish options regarding appearance bonds and release conditions.
- Administrative Order (A.O.) 2017-69 changes “bond schedules” to “fine and deposit schedules.”

- The adoption of Petition R-17-0015 changes preventative detention goes into effect April 2, 2018.
- The Post-Conviction Actions Subcommittee has been established and is working toward statute and rule changes regarding set aside.
- Public Safety Assessments (PSA) have been implemented in all courts. A pilot of moving court information into the Justice Web Interface (JWI) to allow all information to be accessible in a single source. Next step is to work toward reducing human involvement by identifying only those areas where interpretation is needed.

Financial Sanctions

- Statements regarding payment plans have been added to the Arizona Traffic Ticket and Complaint (ATTC)
- Model language regarding payment plans has been developed and distributed to all courts for use on web sites.
- A.O. 2017-80 requires payment plans to be instituted in all courts and specifies the types of payment to be accepted by courts.
- Scripts and tools for reduction of legal financial obligations, and CAP and FRP programs have been developed.
- An Order to Show Cause bench card has been developed.
- The adoption of R-17-0015 also requires courts to only use a warrant when all other options have failed.

Education

- A.O. 2017-101 makes specialized training for all judges who conduct Initial Appearance (IA) hearings mandatory.
- Training sessions and tools for reducing fines and surcharges, and determining ability to pay are being presented at every opportunity.

Defendant treatment needs

- The Mental Health in the Criminal Justice System Subcommittee has been established to review statute and rules, and develop standards and reporting processes.
- Developed a template A.O. for presiding judges that would allow Rule 11 hearings to be conducted by limited jurisdiction courts.
- A State Justice Institute (SJI) grant to help develop protocols, with the help of the National Center for State Courts (NCSC), for presiding judges to hold a convening of local stakeholders related to mental illness in the criminal justice system has been submitted.

Additional Efforts

- Text Notification System – pilot complete - rolling out to all AJACs courts – Tucson Police Department has made the cell phone number field mandatory. The officer cannot print the ticket without it.

- Online Dispute Resolution – pilots moving forward under the Arizona Commission on Access to Justice.
- Legislative proposals, similar to last year’s, are ready to be submitted to the legislative process.
- In agreement with Clean Elections, process for reducing surcharges has been modified.
- Researching the use of online dispute resolution process for correctable violations.
- Exploring alternatives to immediate suspension of drivers licenses due to a civil traffic failure to appear.

Side Note:

The Pretrial Justice Institute (PJI) released a study of the state of pretrial justice in America in November 2017. Arizona received one of only ten B’s given in the study. Only New Jersey received an A.

Concerns/Comments:

- Has outreach been made to members of the law enforcement master list regarding the changes to the ATTC? Yes.
- The benefit eligibility letter from the Department of Economic Security provides the most accurate information and can be accessed online and printed by the recipient.
- Is the text notification system available in Spanish? Yes.

Action Item: Jeremy Mussman offered to share a letter regarding social security disability benefits and discretionary fines and fee with Kathy Waters and David Byers.

[Report on the Scottsdale Municipal Court initiatives based on Fair Justice for all Task Force recommendations](#)

Julie Dybas, Court Administrator introduced Judge Joseph Olcavage, Presiding Magistrate Scottsdale Municipal Court, who provided an update on the court’s efforts to implement the Task Force recommendations. While there have been challenges, the court has achieved the following:

CAP: Implemented 11-18-16 and through 11-18-17. Program requires 5 to 20% down

- Cases in program 1,699
- Cases removed 751
- Cases paid in full 308
- Total amount waived 0
- Total paid in program \$662,143.49

TIME PAYMENTS: Payment contracts are freely given, based on ability to pay. Minimum payment is \$50, but can be waived. No judicial involvement.

AVAILABLE PAYMENT OPTIONS: Pay on-line (court pays transaction fee); over the phone, in-person, recurring billing; Apple Pay; and Google Wallet

Judge Olcavage shared the Scottsdale's Simplified Payment Ability Form, automated "Ability to Pay" tool, and notification models for failure to pay and failure to appear.

Some of Scottsdale's programs include:

- Walk-in calendar to address warrants,
- Exploration of online capability to post bond,
- A public defender is present for in-custody Initial Appearance hearings,
- If a defendant is going to be referred to Mental Health Court an attorney is appointed,
- An MVD kiosk is available at the court,
- Two Information windows to assist customers have been added,
- Closed caption videos (arraignment video in English and Spanish),
- Telephonic pleas,
- Call-in available for OSC,
- Ability to email or fax proof of compliance,
- Submitting car monitor report to the court enables defendant not to appear in court that month, and
- Exploring LA County approach of providing information to the public using avatars

[Update from the Mental Health and the Criminal Justice System Subcommittee](#)

On behalf of Chair, Kent Batty, Don Jacobson provided an update on the progress of the Mental Health and the Criminal Justice System Subcommittee. This subcommittee is tasked to examine the management of cases for individuals who have mental health issues.

[Rule 11 Workgroup progress](#)

Mr. Jacobson began with a review of the template administrative order to implement competency proceedings in criminal matters in limited jurisdiction courts, then discussed the Rule 11 policy and procedure outline. Mr. Jacobson thanked the Glendale and Mesa Municipal Courts for their work in piloting the process.

Dianne Post expressed her concern about ensuring the mental health providers are qualified to be appointed as a mental health expert and asked that additional guiding language be added to the outline. Jeremy Mussman offered to provide language to Ms. Post regarding Maricopa County's process for annual or bi-annual review of court appointed counsel who appear on their list. Mr. Byers offered to take the language to AJC for consideration.

Action Item: Dianne Post to provide additional language regarding evaluations of expertise to staff.

Motion: To support the adoption of the template administrative order and the policy and procedure manual outline for use, if a county wants to extend the ability to conduct Rule 11 hearings to a limited jurisdiction court. The motion was seconded. **Action:** Passed **Vote:** Unanimous

Proposed Rule 11.5 amendments

The confluence of this Task Force's recommended amendments and those of the Criminal Rules Task Force created some confusion between the processes managed by the superior court and those managed by the limited jurisdiction court.

At issue are:

- Whether a superior court should authorize a limited jurisdiction court to order restoration of competency.
- Section (b)(2)(A)(i) – The superior court is mandated to order competency restoration treatment, if it finds the defendant to be restorable. This offers no alternative for those cases in which pursuit of restoration does not make sense. The superior court should have the option to dismiss.
- Section (b)(2)(A)(ii) – ‘15 months’ should be changed to “within the timeframes allowed by law” mirroring (b)(2)(A)(i).
- Section (b)(3)(A) – Concern was expressed that the language in (A) makes referral to superior court mandatory even if the State moves to dismiss the charge, and in the case of minor crimes, the resources required to pursue civil commitment or appointing a guardian may exceed the value to the community of continuing supervision over the defendant.

Motion: To request that the Mental Health Subcommittee allow the Task Force to submit a rule change petition in January to:

- 1) change section (2)(A)(ii) by deleting “15 months” and replacing that language with “the timeframes allowed by law;”
- 2) maintain option for the superior court to authorize the limited jurisdiction court to order competency restoration treatment; and
- 3) clarify that a limited jurisdiction judge cannot order civil commitment or appointment of a guardian;

The motion was seconded. **Action:** Passed. **Vote:** Unanimous.

The Task Force agreed the LJ court should not be tasked with oversight of non-restorable defendants, but discussed whether, in those cases in which the non-restorable defendant appears to be a danger to self or others, there shouldn't be a mechanism for the LJ court to order initiation of civil commitment proceedings by somebody. The Task Force referred this issue to the Subcommittee for a recommendation.

The discussions regarding the Sequential Intercept Model, a Rule 11 records central repository, and LJ court competency hearing outcome reporting that were listed on the agenda were tabled due to time.

Update from the Post-Conviction Action Subcommittee

Jerry Landau, Subcommittee Chair, provided an overview of the subcommittee; its three workgroups: Statutes, Rules and Records; and newly formed Juvenile Adjudication Set Aside, and progress.

Mr. Landau highlighted the proposed changes to A.R.S. §13-907

1. A person will be informed of the right to apply for a set aside at sentencing.
2. There is a two-year waiting period, if the person is sentenced or revoked to the Department of Corrections.
3. The Clerk of Court will not charge a fee for filing the application.
4. If a conviction is set aside:
 - a. The Clerk of the Court is required to notify the Department of Public Safety (DPS) and must restrict from public access and shall not disclose any information regarding the case except to a law enforcement agency, prosecuting agency or probation department, or by court order.
 - b. DPS will annotate the set aside on the person's criminal history, but will not redact or remove a record.
 - c. The person is not required to disclose the conviction or the arrest.
 - d. Notwithstanding section 13-905 or 13-906, the person's right to possess a gun or firearm is restored.
5. Nothing precludes an employer or prospective employer from either conducting a background check.
6. Set aside does not apply to the conviction of a criminal offense that involves a serious or violent or aggravated offense as list in section 13-706, an offense list in title 13, chapter 23 or title 13, chapter 35.1, an offense which the person is required to register pursuant to section 13-3821, an offense for which there has been a finding of sexual motivation pursuant to section 13-118, or a moving traffic violation.

Mr. Landau noted that discussion is ongoing about whether to exclude criminal offenses involving a dangerous offense from set aside. While the subcommittee previously did not exclude dangerous offenses, the topic will be reopened at the November 30th meeting because the proposed legislation may not move forward without the exclusion.

Concerns/Comments:

- Leave dangerous offenses in the list of exclusions or remove both dangerous offenses and the restoration of gun rights.
- Removal of dangerous offenses from the list of exclusions may greatly expand the restoration of gun rights and unintended consequences of that restoration.
- Dangerous offenses include a person having any instrument that could be used to cause serious bodily injury, and is overly broad. Whereas violent offense covers those offenses that the truly violent and serious offenses.

- Dangerous offenses are usually dropped in association with a plea agreement. When those offenses are charged, the offense was usually committed with a knife or a gun.
- Not excluding moving traffic violation would have numerous Arizona Department of Transportation (ADOT) ramifications.
- Breakup the dangerous offenses by excluding dangerous offenses that result in physical injury.

Motion: To support the amendments to A.R.S. § 13-907 with the exclusion of dangerous offense from set aside. The motion was seconded. **Action:** Passed Voice **Vote:** While there were members who voted “no,” the majority of the members voted Yea.

The vote regarding the Rules and Forms and the discussion regarding juvenile adjudication set aside that were listed on the agenda were tabled due to time.

Legislative Update

Jerry Landau reviewed the three restructure bills on which the Arizona Judicial Council (AJC) voted to seek legislation.

2018:01: driver license; sanction; civil traffic violations

- permits the court to restrict, in addition to suspend, a driver license,
- adds assessments to the list of financial obligations the Supreme Court may include,
- permits the court to employ alternative sanctions to community restitution upon a DUI conviction,
- permits the court to mitigate any mandatory civil penalty if the payment would cause a hardship,
- reclassified driving on a license suspended for failure to appear or pay to a civil traffic violation, and
- removes the requirement that law enforcement impound a vehicle if a person is driving on a suspended license.

2018-02: criminal offenses; monetary obligations

- permits a judge to mitigate any fine for hardship reasons, or waive all or part of mandatory community restitution due to medical condition,
- adds civil penalties and surcharges (except for Clean Elections) to the list of financial obligations for which a court may order community restitution,
- reduces annual interest on a criminal restitution order in favor of the state from 10% to 4%,
- allows a probationer to be eligible for earned time credit if restitution payments are current, and

- removes the ability to revoke probation at a civil contempt hearing and substitutes the ability to refer for revocation.

2018-03: sentencing; misdemeanors – authorizes the court to impose a term of community restitution, education, or treatment.

Call to the public

No persons from the public made comment.

A task force member suggested the addition of “Attaching court records may be helpful.” to the forms that were in the meeting packet, but were not discussed.

Mr. Byers noted that a final meeting of the Task Force would be scheduled for summer 2018.

Adjournment

Mr. Byers adjourned the meeting at 2:20 p.m.