

**ARIZONA JUDICIAL COUNCIL'S
LIMITED JURISDICTION COURTS COMMITTEE**

**Arizona State Courts Building
Conference Room 345A & B
Phoenix, AZ 85007**

February 20, 2002

Members Attending:

Honorable R. Michael Traynor, Chair
Honorable George Anagnost
Ms. Faye Coakley
Honorable Judy Ferguson
Honorable John Kennedy
Mr. Don Jacobson
Mr. Theodore Jarvi

Honorable John Lamb
Honorable Michael Lester
Honorable Ronald O. McDaniel
Honorable Antonio Riojas, Jr.
Mr. Ben Rowe, Jr.
Mr. Paul Thomas

Absent Members:

Ms. Kathy Barrett (excused)
Hon. Manuel Figueroa
Honorable Sherry Geisler (excused)
Ms. Pam Jones (excused)

Hon. G.M. Osterfeld (excused)
Mr. Dale Poage (excused)
Hon. Mary Scott (excused)

Guests:

Honorable Francesca Cota

Staff:

Mr. George Diaz, Jr.
Ms. Debby Finkel
Ms. Jennifer Greene
Ms. Debra A. Hall
Mr. Karl Heckart
Ms. Lori Johnson

Mr. Mark McDermott
Mr. David Sands
Ms. Janet Scheiderer
Mr. Ted Wilson
Mr. David Withey

REGULAR BUSINESS

1. Call to Order

Judge R. Michael Traynor called the meeting to order at 10:35 a.m. He welcomed Ms. Valerie Tillman, new support staff for the committee.

2. Approval of Minutes from the November 28, 2001 Meeting

Judge Traynor asked if there were any changes or corrections to the November meeting minutes. None were made.

MOTION: Motion was made and seconded to approve the minutes from the November 28, 2001 meeting as presented. The motion was passed unanimously. LJC-02-01.

INFORMATION/POTENTIAL ACTION ITEMS

3. Legislative Update

Mr. George Diaz reviewed four of the bills that, if passed, will impact the limited jurisdiction courts.

HB 2478 - Motor Vehicle Impound; DUI. This bill has a provision that if an agency does not have a hearing officer to hold the post-storage hearing, the justice courts can hear it and then count it as a civil filing for productivity credits.

Mr. Diaz stated that he had suggested to the sponsor prior to hearings that: 1) there be a fee for post-storage hearings; 2) the defendant be notified of the hearing; and, 3) there be an appeal process after the hearing. None of his suggestions have been addressed by the sponsor. The bill does not fully take into consideration timing of hearing and storage nor the location of the impound in relation to where the defendant lives.

Many of the provisions of this bill are already law. This is seen as a way of making it enforceable and less cumbersome for law enforcement. The issues for the hearing can be invalid impoundment or financial impact of the storage fees on the defendant/family/owner.

HB 2479 - Motor Vehicle Driver Licenses. This would repeal the defensive driving program, however it failed in the House Transportation committee.

SB 1143 - Justice of the Peace Pro Tempore. This gives preferential treatment to small claims division hearing officers who have been in that position for over 0 years. It is not moving through the process.

HB 2340 - Judges; Personal Information. This adds judges to the list of those whose personal information are sealed and redacted from public records. Mr. Diaz suggested that if LJC members like this provision, they should contact committee members to support it.

SB 1124 Justice of the Peace Standards; Salary. Mr. David Sands stated that this bill reflects change that started with constable reform last year. This comes from a legislative initiative and not from the courts. This bill narrowly passed the

House Judiciary committee. The age requirement is set at 25 and may not stay in. The Associate of Arts (AA) degree may be dropped to less credit hours. This bill may end up reverting to the general qualifications.

Amended into this bill is a requirement for newly elected judges to complete new judge orientation before sitting on the bench.

This bill also seeks to increase productivity credits and increase salary. If the full-time justice of the peace has 700+ productivity credits, the jp may not sit as a city court judge. Mr. Don Jacobson expressed concern about getting pro tems to handle the work load while the new justice of the peace attends training.

Additional concerns were expressed about the impact the productivity limit has on consolidated courts where the same judge is both the justice and magistrate. Mr. Sands and Mr. David Withey will meet and discuss other statutes that may impact this issue.

SB 1591 and HB 2144 Judicial Productivity Credits; JP. These two bills revise the statutory formula for determining “judicial productivity credits”. HB 2144 passed House Judiciary and is awaiting Appropriations.

Judge John Lamb stated that productivity credits formulary should be completely repealed and revamped. Judge John Kennedy stated that productivity credit formulary does not take into account additional responsibilities different judges may have, such as administrative. Not all courts have court administrators.

HB 2472 Domestic Violence; Jury Trials. The jury trial component was removed by amendment. This bill places a provision that a court hearing or verified police report is required before an order of protection can be issued. This bill is held in House Human Services Committee.

Mr. Ted Jarvi stated that this addresses some concern about the potential abuse of orders of protection.

SB 1394 Protection Orders; Service Fees. This bill was brought by the Governor’s Office. The elimination of service fees is a requirement to receive federal monies.

Lunch Break

4. FDR’s, Warrant Information, Issuing Warrants

Judge Traynor stated that warrants are being redrafted. He and Ms. Joan Harphant are working on procedures for a training class that, when completed, may be used statewide.

**5. Arizona Code of Judicial Administration - Fee Deferral and Waiver
And New Form**

Ms. Debby Finkel presented the proposed administrative code section for fee deferral and waiver.

Motion: Motion made and seconded **to adopt the administrative code as presented. Motion passed. LJC 02-02**

Mr. Jarvi voiced his continuing objection to the consent to entry of judgment as unconstitutional.

Ms. Finkel presented a proposed one page order form for judges to use for protection orders as well as injunction orders. She thanked Judges Anagnost and Traynor and Ms. Karen Westover for their efforts on this project.

Motion: Motion was made and seconded **to adopt this form for use in the courts. Motion passed. LJC 02-03**

Mr. Jarvi reaffirmed his continuing objection to the consent to entry of judgment as unconstitutional.

6. Local Court Access to Data Warehouse and Public Access to Data Warehouse Update

Ms. Janet Scheiderer and Mr. Karl Heckart stated that an e-mail was sent out to various distribution lists soliciting comments about the information on the public access website of the data warehouse and how to access it. Concern has been expressed about the Rule 123 impact on the courts given the courts' access to the data warehouse. If the public is going to a court to get information about records in other courts, the court should be able to say that they cannot give that information out and direct the public to the AOC, who is the custodian of the data warehouse, or to the public library to use the Internet.

Judge Traynor expressed concern about people coming into the court looking for background information using Rule 123. Mr. Jacobson stated that he refers the press to the Judiciary's website for additional information. Judge George Anagnost suggested that the AOC issue an advisory alerting courts to the website. This opinion would also give the Court Answer Line (CAL) the necessary information to field telephone calls.

Mr. Withey said that the rule of thumb is to look at what is the business of that particular court. If that court would normally do that type of research, then the court should continue to do that type of research. Judge Traynor stated that the courts didn't have access to the data warehouse before. Mr. Withey stated that if the court is using the data warehouse to generate reports for the regular business of the court, those reports may be publicly accessible per Rule 123.

It is the intent of the automation plan to put all courts' case information in the warehouse. There is not enough funding to support all non-AZTEC courts at this time. If a court has money to pay for the necessary programming, then that court will be able to be linked into the data warehouse. The issue of getting linked into the Court Protective Order Repository is a different issue. The AOC is working on a way of getting all non-ACAP courts up by July, 2002.

A webpage is being developed for courts to access detailed information in the repository. The Committee on the Impact of Domestic Violence in the Courts (CIDVC) gave sketchy responses when asked who should have access. It will be on the Arizona Judicial Information Network (AJIN) intranet statewide.

Mr. Jarvi believes that the defendant has the right to view the information. Judge Antonio Riojas suggested blocking out the victim's personal information. Mr. Jacobson expressed concern that broader access to protective orders through AJIN poses some inherent dangers for information getting into the wrong hands.

Judge Anagnost stated that policies need to be developed to address the bigger issues of due process with protection orders. CIDVC, law enforcement, AOC, LJC, prosecutors, defense attorneys, etc need to work together to develop policies and procedures for protection orders and injunctions.

Ms. Jennifer Greene stated that the Committee on Public Access to Electronic Court Records is still a viable committee, and if directed by AJC, could develop policies for access to electronic information.

Judge Michael Lester suggested that if the PACR committee reconvenes, it should seek input from limited jurisdiction judges, law enforcement, advocates and others.

Judge Traynor asked that this issue come back before LJC at the May 22, 2002 meeting for an update.

Mr. Heckart asked for direction on access to the repository before law enforcement gets access. Should addresses be blocked? Should each court only be able to see its own information? Should it be limited to just the judges? Mr. Jarvi suggested that each court should only have access to its own information. Judge Riojas stated that access to unserved orders should be local access only. All served orders should be available statewide. Mr. Paul Thomas agreed, but wants policies drafted. Consensus was reached per Judge Riojas suggestion, but with policies drafted.

7. AZ Minority Judges Caucus Study and Recommendations: Interpreter Need and Practice

Honorable Francesca Cota,, presented some of the recommendations from the Arizona Minority Judges Caucus study of interpreter issues. The main recommendation is for the AOC to establish a commission and then an office, the same as was done for court reporters. There are several issues that need to be studied and are outlined in the draft final report. Arizona is not a member of the interpreter consortium of the National Center for State Courts. If Arizona does establish the commission and then the office to professionalize court interpreters, the state judiciary will be in the forefront of the nation on this issue.

Only three statutes address interpreters. There are no standards, guidelines nor protocols. Rules need to be developed to address interpreters. A copy of the report will be sent to LJC members.

Ms. Scheiderer stated that the current Access to Justice plan does address interpreter issues.

8. Statistical Reporting Standards Project

Mr. Mark McDermott stated that the Research and Statistical Unit of the AOC is in the process of calculating productivity credits. Seven of the fifteen counties are completed.

The quarterly revenue surveys are no longer be mailed out. The forms and the instructions are on the Judiciary's website. They will be mailed out to courts who need them.

His unit did the impact study of SB 1124. It was noted that the Arizona statistics reports are not picking up all petty offenses statistically. Boating violations are not being picked up as petty offenses. That is being revised. ITD is being notified. He is tying the upgrade of the reports to the rollout of the next version of AZTEC.

Mr. Heckart wants to look at the full picture of transmission of electronic information, including monthly reports for non-AZTEC courts. Tempe Municipal Court has drafted a similar report on their system and e-mails it monthly.

The bug in the statistical report is an AZTEC issue.

Judge Anagnost stated the Research and Statistical Unit is prompt in responding to requests. Judge Kennedy concurred.

**10. Defensive Driving Subcommittee
Plate to Owner Implementation**

The presenter did not appear and will be asked to present at the May meeting.

**11. Forms & Rules Subcommittee
Proposed Changes to Rule 7.2b**

Judge Michael Lester stated that Draft 1 requires a specific finding of substantial danger. He is concerned about the issues of notice and appointment of counsel.

Draft Two takes the current rule and adds a subsection b which sets a standard about substantial danger. The concerns about the issues of notice and appointment of counsel are in this draft as well.

Draft Three has no standard for substantial danger. It does have a provision for the defendant and plaintiff to request a review of the release conditions in the appellate court.

Draft Four takes the current rule and breaks it into two sections and include a review of conditions of release.

Judge Lester believes that the provisions of “substantial danger” and “threat to not appear” are both needed in the final version. He would like to continue working on Rules 7.2b, 26.9 and 31.

Mr. Jarvi looked at Draft Two of Rule 7.2b and stated that if a person poses a substantial danger, he should be incarcerated. He polled the judges regarding Rule 7.2b as a problem. The level of problem varies with the demographics of the court.

Motion: Motion made and seconded to **continue researching Rule 7.2b and bring it back to the May LJC meeting. Motion passed. LJC 02-04**

Due to personal issues, Judge Lester will not be able to remain as the lead on this project. Judge Anagnost will spearhead this effort. Mr. Thomas and Judge Kennedy will assist.

12. Strategic Planning Subcommittee

Mr. Jacobson suggested that the LJC members read the new Chief Justice’s strategic plan.

OTHER BUSINESS

14. Mr. Thomas asked if anyone knew what the potential impact would be of the settlement of the Adams DUI case statewide. Judge Lester stated that the Supreme Court refused to hear the case. DPS was acting as “gate keeper” for evidence that got deleted due to machine errors. Mr. Thomas asked if there could be a lot of Rule 32 petitions? Judge Traynor responded that one of the case rulings contradicted others. Judge Anagnost responded that the rulings would be made case by case. Judge Riojas answered that if an old case had a prior Rule 32, it was ok. Mr Jarvi stated that this issue has a potential for a class action lawsuit.
15. Judge Anagnost asked if the LJC meetings could start at 10 a.m., commencing in May. Consensus was reached that the meetings will begin at 10 a.m., starting in May.

16. Call to the Public

Judge Traynor called to the public.

17. Adjournment

Motion: Motion was made and seconded to **adjourn the meeting.**
Motion was passed. LJC 02–05.

Meeting was adjourned at 3:15 p.m.

Respectfully submitted,

Ms. Debby Finkel
Staff to the Limited Jurisdiction Courts Committee

**ARIZONA JUDICIAL COUNCIL'S
LIMITED JURISDICTION COURTS COMMITTEE**

**Arizona State Courts Building
Conference Room 345A & B
Phoenix, AZ 85007**

May 22, 2002

Members Attending:

Honorable R. Michael Traynor, Chair
Honorable George Anagnost
Ms. Kathy Barrett
Ms. Faye Coakley
Honorable Sherry Geisler
Honorable John Kennedy
Mr. Don Jacobson
Mr. Theodore Jarvi

Ms. Pam Jones
Honorable John Lamb
Honorable Michael Lester
Honorable Ronald O. McDaniel
Honorable G.M. Osterfeld
Mr. Dale Poage
Honorable Antonio Riojas, Jr.
Mr. Paul Thomas

Absent Members:

Honorable Judy Ferguson (excused)
Honorable Manuel Figueroa (excused)

Mr. Ben Rowe (excused)
Hon. Mary Scott (excused)

Guests:

Ms. Penny Martucci

Staff:

Mr. Todd Adkins
Ms. Theresa Barrett
Mr. George Diaz, Jr.
Ms. Agnes Felton
Ms. Debby Finkel
Ms. Jennifer Greene
Ms. Debra A. Hall
Mr. Karl Heckart

Ms. Lori Johnson
Ms. Nina Preston
Mr. David Sands
Mr. Bob Schaller
Ms. Janet Scheiderer
Ms. Nancy Swetnam
Ms. Amy Wood

REGULAR BUSINESS

1. Call to Order

Judge R. Michael Traynor called the meeting to order at 10:15 a.m. Judge Traynor stated that he received a number of responses to his questions about improving LJC meetings. He is forming an executive committee consisting of the chairman, vice-chairman, and subcommittee chairmen. This committee will meet in between regular LJC meetings to review potential agenda items and new projects with the intent of learning more about them prior to LJC meetings. The information will be shared with LJC members.

2. Approval of Minutes from the February 20, 2002 Meeting

Judge Traynor asked if there were any changes or corrections to the February meeting minutes. None were made.

MOTION: Motion was made and seconded to approve the minutes from the February 20, 2002 meeting as presented. The motion was passed unanimously. LJC-02-06

INFORMATION/POTENTIAL ACTION ITEMS

3. Legislative Update

Mr. George Diaz, Jr., Mr. David Sands and Mr. Todd Adkins presented an overview of the AJC package and the status of each of those proposals.

HB 2358-passed-extends the term of pro tempore judges from six months to one year.

SB 1050 amended onto SB 1394 was run by the governor. It removes fee for serving orders of protection or injunctions. It had failed but was expected to have a motion to reconsider and may be revived. Six million dollars in federal funding is in jeopardy.

SB 2354-failed-was the DROP plan for staff retirement.

SB 1049-failed-Records Retention. It was amended onto HB 2289 as was HB 2345.

HB 2289-passed and signed-is now the courts fee and records retention bill. Parking is exempt from the \$5 probation surcharge. The \$20 time payment fee is extended until 12/31/09. Bond envelopes need to be revised to reflect the new 80% surcharge (including the 3% for DNA), the \$5 probation surcharge and clean-up of §§ 22-281 and 22-404.

SB 1396-passed-establishes a DNA fund and a 3% surcharge to go to the DNA fund.

HB 2298-passed-mandates defendants reimburse city/county for incarceration costs. There is no priority of payments for this in statute. An order show cause can be issues for failure to pay which is dischargeable by jail time.

HB 2340-pending, but probably will not pass. This would offer protection for judicial officers.

HB 2452-passed- "Steven's Bill" which is racing on highways. Increases fines and reclassifies them A 1st violation is a minimum fine of \$250 with possible community service. A 2nd violation has a minimum fine of \$500 and possible

community service and 10 days in jail.

HB 2467-passed-liquor age restrictions has exceptions for religious and medicinal purposes.

SB 1124-failed-JP reform bill

HB 2478-failed-MVD impound bill

4. Arizona Code of Judicial Administration-Private Process Server

Ms. Nancy Swetnam stated that the Committee on Superior Courts (COSC) recommended passage of this code with some amendments. The new code incorporates General Rule 1. The substantive changes include that renewal of the certification has no examination requirement.

Ms. Swetnam explained that writing and validating examinations are expensive processes. The certification fees are kept by the counties. The Supreme Court has no funding for exams nor their development. Other similar programs have initial examinations and continuing education requirements. The code as it is drafted has no provision for continuing education. The superior court presiding judge and clerk will monitor the process servers.

Ethics standards are now part of the code. COSC recommended some definitions and clarification.

NOTE: Since the LJC packets did not have the full code, Ms. Swetnam was asked to provide them and to return later in the day to complete the discussion and for a motion to be made. Ms. Swetnam presented again after the New Judge Orientation Revision/Review Section. Minutes of the discussion and motion continue on page 5.

5. Plate-to-Owner Implementation

Ms. Penny Martucci, MVD, presented an update on the new plate and fee to owner legislation. As of January 1, 2002, license plates and unexpired fees on those plates remain with the original owner. The owner has 30 days to either transfer the plate to a different vehicle or turn it in to MVD or transfer the plate to a 3rd party.

When someone buys a vehicle from an individual, no plate accompanies the vehicle. A plate from a previous vehicle cannot be affixed until the title is processed. A temporary 3-day restricted permit must be purchased in order to drive the vehicle. Fifteen days are allowed to transfer the title.

Another change is that the lien holder maintains the ownership of the title. MVD will not release the title until the lien holder informs them to do so.

6. Defensive Driving Subcommittee

Alternative Delivery Methods for Defensive Driving Schools

Mr. Bob Schaller updated LJC on the status of alternative delivery methods. For identification and validation purposes, the standard for Arizona is on-site testing of participants after they complete an internet or other alternative course. However, applicant schools are free to propose other methods that may be approved if they meet the same standard. No alternative delivery schools have been certified, but there are 7 that have applied and are being reviewed.

Lunch Break

7. New Judge Orientation Revision/Review

Judge John Kennedy stated that a review committee was convened by the Chief Justice to review New Judge Orientation (NJO). The committee is comprised of a broad spectrum of people. The intent is to improve NJO. The current schedule for training is:

3 days - orientation for new judges who are non-law trained
1 week - all new judges (January of each year)
4-5 days - all new judges (April of each year)
3 days - Legal Institute for all new judges

A revised proposed schedule was distributed that no longer separates non-lawyer and lawyer judges in training and makes other organizational changes. The outline depicts core needs/foundations and then type of case categories. There is the potential of standardized lesson plans and possibility of videotapes. The intent is to have measurable objectives that will show competency before the judge is allowed to hear some types of cases.

There is currently no method to enforce what happens if a judge does not pass a core component. However, if there is a real issue with a judge, then the Commission on Judicial Conduct may be called in. The court will be considering this issue.

Ms. Agnes Felton stated that interim training will be offered to assist judges who take office mid-year. They will still be required to go through NJO.

8. Arizona Code of Judicial Administration-Private Process Server (Continued from Page 3)

This issue was brought back to the group. Judge Traynor asked if Statement 2 should include timely or notification of inability to serve?

Mr. Ted Jarvi recommends that there be an annual education requirement of eight hours. Ms. Kathy Barrett suggested that the education requirement be ten hours and related to the service of process.

Questions were raised about Section H "Complaints". Ms. Swetnam stated that the Code of Conduct section is new.

Judge George Anagnost suggested adding that the process server ask if the court has a protocol concerning service in the court building.

Judge Anagnost stated that on page 19, the appeals section refers to superior court. He suggested changing the header name to "Appellate Review."

Motion: Motion made and seconded that **the ACJA on Private Process Servers be adopted with the recommended changes that include: 1) timely service or notification of inability to serve; 2) an annual ten hour educational requirement related to the service of process; 3) the process server be required to ask the court if there is a protocol concerning service in the court building; and, 4) changing the appeals section header name to "Appellate Review."** The motion was passed unanimously.
LJC 02-07.

9. Jury Practices Committee

Ms. Theresa Barrett stated that the committee has a copy of the preliminary report. The committee, composed of superior and limited jurisdiction court judges and administrators, jury commissioners, a clerk of court and public members, was established to examine and make recommendations on a variety of jury issues. The committee reviewed the work of the original jury practices committee in order to assess what still needed to be done. It was determined that more work needed to be done streamlining the administrative process statewide.

The committee met several times and reviewed the previous committee's recommendations.

A) *Add more source lists to improve the quality of the master lists - Maricopa County conducted two tests. Both were inconclusive. The resulting recommendation was to not add to the lists at this time, but to review this issue periodically.*

- B) *Centralize jury list preparation - More time was needed to evaluate the results of the merge/purge test conducted by Pima and LaPaz Counties. There were less people on the LaPaz's master list because Pima County's jury office screened out duplicate names better. The day-to-day process of maintaining a centralized list is too onerous for one county. Moreover, creating a state office would be difficult due to financial constraints. The committee plans to recommend to continue discussion of centralization and monitor the specific data obtained by LaPaz County's jury office.*
- C) *Enforcement of summonses- The committee's preliminary recommendation stands. Jury commissioners need to follow ARS § 21-331(B) which requires sending a second notice.*
- D) *Excuse/deferral policy - Guidelines are being developed.*
- E) *Juror Pay - Preliminary recommendation remains unchanged due to the state budget situation. It was clarified that the committee still considers juror pay a high priority and recommended that juror pay be revisited in future legislative sessions.*
- F) *One-day/one-trial - A one day seminar on this topic will be presented at the October Judicial Staff Conference. In addition, language mandating implementation of one day/one trial, unless good cause can be shown, will be included in the ACJA code section being drafted for jury management standards.*
- G) *Juror bill of rights - No substantive changes.*
- H) *Juror anonymousness - No change.*
- I) *Jury management manual - Being developed.*
- J) *Jury management standards - Being developed.*
- K) *Public Service Announcements - Unchanged.*

The final report will be presented to AJC in October. The interpreters issues have not been addressed.

When asked about summoning jurors by geographic area, Ms. Barrett stated that Maricopa County had recently implemented a process for summoning jurors by geographic location. It was noted, while the new process should reduce the number of jurors summoned to a superior court location with a longer commute time than another location, it will not eliminate this problem completely.

Maricopa County's Jury Office hopes this will make jury service more convenient for jurors and reduce the amount of mileage costs paid to jurors. Judge Traynor asked Ms. Barrett to update LJC at the September meeting.

10. Management Information

Ms. Amy Wood and Mr. Robert Roll stated that they are in the process of working to create visual representations of useful management information to build on the Judicial Dashboard. Some of the reports that are already available include:

- * case mix and validity errors for one court or the same court in comparison to all courts at the same court level
- * case aging for one judge or the same judge in comparison to all judges at the same court level
- * data clean up reports.

Ms. Wood and Mr. Roll are interested in receiving input from judges and court administrators regarding automated as information tools concerning the court's status in terms of content as well as "look and feel". Ms. Wood and Mr. Roll also discussed some proposed management reports. General areas include case aging, high level financial information and warrants. These reports are geared for court use and not for public use. They requested that all ideas and lists of requested reports be sent to them.

11. Forms and Rules Subcommittee

Proposed Changes to Rules 7.2B and 30

Judge George Anagnost stated that the LJC members were sent copies of Rule 7.2A, before conviction, Rule 7.2B, after conviction, statutes regarding bail (ARS § 13-3961, 13-3961.01, 13-3962 and 22-372) and three additional related Rules 7.2, 31.6 and 30. He further stated that changes to Rule 7.2B2 may impact Rule 30.3.

The standards of release in proposed 7.2B2 is consistent with ARS §13-3961. The post conviction standard is the threat to flight or re-offend. One obvious change is that the release is at the motion of the state and not the court.

Concern was expressed regarding the difference in philosophy about proposing change, especially in domestic violence cases. Concern was also expressed regarding how to cover the time from trial to appeal where the defendant may pose a threat to the victim. Conviction is another catalyst for the defendant to pose a threat.

Judge Lester stated that the concern is with felony turn down cases. It is a small percent of cases, but those are the cases this change is meant to assist with. Maybe language regarding the community should be added.

Judge Traynor suggested adding language about absconding. Judge Anagnost stated that language in ARS §13-3961 about “upon oral motion of the state” is not in the Rule. The current rule does not address the discovery that there is a dangerous defendant. That element does not come into play until an appeal has been filed. In addition, there is no right of appeal if the defendant pleads guilty which adds another complication. The question arose concerning whether conviction alone gives clear and convincing evidence of threat of flight. Judge Traynor stated that he prefers the felony model for after-conviction release.

Judge Mike Osterfeld recommended amending the proposed Rule 7.2B2 by ending the 1st sentence after “condition of release.” He suggested striking the remainder of the sentence.

Motion: Motion was made and seconded to **strike “when it appears...” and “Any request...”**

Discussion ensued concerning what is standard and what is good cause. Members reached consensus that a finding is needed on record.

Motion: Motion was made and seconded to **table this issue until the September 25th meeting. Motion passed unanimously. LJC 02-08.**

Concern was expressed about Rule 30 and work that needs to be done to make Rules 30 and 7.2B consistent with each other.

Judge Anagnost asked for volunteers to participate in a conference call on cleaning up the Rule 7.2B issues and look at Rule 30. Judges Lester, Kennedy, McDaniel, Riojas, Osterfeld and Traynor volunteered as well as Mr. Paul Thomas and Mr. Ted Jarvi. A July date will be chosen.

12. Strategic Planning Subcommittee

Court Interpreters

Ms. Janet Scheiderer stated that courts have expressed concern regarding the number and quality of interpreters. In addition, the AZ Minority Judges Caucus recommended looking at certification and standardization.

The AJC agreed with the AZ Minority Judges Caucus to appoint a committee to study the issues in depth. Kathy Barrett, Judge Lex Anderson, Ron Beal and Judge Fran Cota represent limited jurisdiction courts.

Tucson Municipal Court has a telephonic interpreter project.

Centralized Ticket Processing

Ms. Scheiderer reported that AJC requested that AOC staff research centralized ticket processing. A presentation was made to AJC in March.

Maricopa County Supervisor Stapley recognized the growth in the county and the potential there is for additional justice courts. New justice courts cost about \$1 million each. He asked the AOC for alternative ways of processing work through the courts.

HB 2345 which became HB 2289 had some funding built in to assist more with adding staff through Judicial Collection Enhancement Funds (JCEF).

Connecticut, Illinois, Maine, Missouri, Vermont and Maryland all have centralized collection programs. Chicago's system is privatized and only on parking violations. Maine, Missouri, Vermont and Maryland use a bank. Connecticut uses a combination of methods.

The thought is that city or county would decide which cases would be sent to the central ticket processing entity. Cases in which a plea of guilty or responsible is entered probably would be sent. Cases where pleas of not responsible is entered, a hearing would be set.

The cost for this program ranges from location to location from \$2.84 per citation in Connecticut to \$9.10 in Vermont.

The advantages to having centralized citation processing:

- * Reduces administrative burden from courts and clerks.
- * Allows clerks to work with more complex matters and with people.
- * Fine schedules would have to be more uniform.
- * Increases collection rate.
- * Saves law enforcement time by sending all citations to one place for processing.
- * Rural courts who do not use a variety of payment methods will benefit because the bureau would be able to take in credit card payments as well as other types.
- * Defendants would have one phone number to call.
- * Improved customer service at the court and at the centralized processing center.

License suspensions would go through the center as would payments. The courts would still receive the money for fines/fees and local costs.

The question was asked regarding cases where there is judicial interface. No determination has been made as yet.

Mr. Karl Heckart stated that some preliminary discussions have taken place with IBM.

Judge Kennedy asked about start-up costs. Ms. Scheiderer said that the decision has not been made if the project will be in-house or privatized. If privatized, then an RFP will be written. Mr. Heckart stated that DPS is talking about a new system, ITRAX, and they are also looking at handheld electronic citation devices which would transfer the data without needing additional data entry.

Ms. Scheiderer stated that initially the project will focus on civil traffic violations.

Ms. Kathy Barrett stated that Mesa is just ending a project in which the police used handheld devices. The officers did not like the handheld. Their concerns were officer safety, the time it takes to generate the ticket and the impact AZ heat has on the equipment. She also expressed concern about some of the complexities, such as proof of insurance, proof of drivers license and proof of registration.

Judge Michael Lester stated that several courts have staff dedicated to opening mail and processing citations. Courts may lose staff. He also expressed concern about having uniform fines. Not all jurisdictions can afford to be as high or as low as others.

Concern was expressed about costs. There is no \$10 fee added. Where will the money to pay for this project coming from? If there is no fee added, then it comes from fine which then reduces it.

Both Judges Traynor and Lester thought that this project was to collect past due monies.

Mr. Heckart stated that standard data elements would have to exist. He also stated that IBM estimates it would cost \$3 per ticket.

Ms. Barrett asked how long it would take to get the citation from centralized entry point to the court for the judge to see?

Mr. Thomas asked what impact this would have on productivity credits. Ms. Scheiderer indicated there would be no impact.

Judge Kennedy asked what the efficiency factor is. He also asked if there has been an analysis about the needs of the rural courts. He wanted to know if there is a list of priorities to help the courts' efficiency, proficiency and service.

Ms Scheiderer stated that 1/3 of defendants pay, 1/3 come to court and the last 1/3 have no action. Questions were asked about what happens to criminal and hybrid cases and if the project addresses the 2nd wave of collections.

Ms. Scheiderer stated that AJC wants this project to move forward. AOC needs to address several of the issues brought up by LJC, do a cost analysis as well as a work flow analysis.

**13. Timetable for Future AZTEC Roll-outs
Implications for Change Deadlines**

Mr. Karl Heckart stated that AZTEC 1.0 is in the final testing stage and will go to pilot in June and rolled out statewide during the summer. There is a meeting the week of May 27th to set the priorities for version 1.5. If changes are needed in this version, the requests must be made immediately. This version is due out during the 1st quarter of FY 2003. AZTEC 2.0 is due out the end of 2003.

The superior court clerks of court standardized their coding system.

Mr. Heckart suggested that there be a session scheduled for him just to talk to LJC members, regardless of whether they are ACAP. This would help him with the flow of information.

14. Public Access to Electronic Records Update

Ms. Jennifer Greene stated that a subcommittee of the Public Access Committee is proposing to restrict access to petitions for orders of protection until the order has been served. The subcommittee, consisting of Judges Dorfman and Lex and Mr. Michael Grant, doesn't want to take a position on public access to the Court Protection Order Repository (CPOR).

The full Committee meets on June 4th. The 2nd final report is due to AJC in October. LJC would like Ms. Greene to report back at the September meeting.

The Committee is also reviewing the issue of Internet access to actual criminal case files which could interfere with law enforcement. Ms. Greene will bring LJC's concerns about the conflict with ARS § 13-2813 and data warehouse information to the Public Access Committee.

15. Procedural Manual

Ms. Debra Hall stated that there is a potential of a procedural manual for AZTEC courts being drafted. She asked for feedback. Consensus was that this is a good idea and should be pursued.

Judge Lester asked that a guide procedural manual be developed as well. Judge Anagnost asked if a self test for court operations was being developed. The manual goes hand-in-hand with this concept.

Judge Kennedy offered his staff's assistance and the use of his manuals.

OTHER BUSINESS

16. Call to the Public

Judge Traynor called to the public. Judge Anagnost thanked Ms. Debby Finkel and Judge Traynor. Judge Traynor thanked Ms. Valerie Tillman for her assistance with this meeting.

17. Adjournment

Motion: Motion was made and seconded to **adjourn the meeting.**
Motion was passed. LJC 02-09.

Meeting was adjourned at 4:30 p.m.

Respectfully submitted,

Ms. Debby Finkel
Staff to the Limited Jurisdiction Courts Committee

**ARIZONA JUDICIAL COUNCIL'S
LIMITED JURISDICTION COURTS COMMITTEE**

**Arizona State Courts Building
Telephonic Meeting (602) 542-9007
Phoenix, AZ 85007**

August 16, 2002

Members Attending:

Honorable R. Michael Traynor, Chair
Honorable George Anagnost
Ms. Kathy Barrett
Honorable Linda Hale

Honorable Michael Lester
Mr. Frank Maiocco
Mr. Paul Thomas

Absent Members:

Ms Faye Coakley
Honorable Judy Ferguson
Honorable Sherry Geisler
Ms. Joan Harphant (excused)
Mr. Theodore Jarvi
Ms. Pam Jones
Honorable John Kennedy (excused)

Honorable John Lamb (excused)
Honorable Ronald O. McDaniel
Honorable G.M. Osterfeld
Mr. Dale Poage (excused)
Honorable Antonio Riojas, Jr. (excused)
Honorable Mary Scott

Guests:

None

Staff:

Ms. Catherine Drezak
Ms. Debby Finkel

Ms. Lori Johnson
Mr. David Withey

REGULAR BUSINESS

1. Call to Order

Judge R. Michael Traynor called the meeting to order at 2:00 p.m. He explained the reason for the special meeting was to determine whether to respond to the petition to amend Rule 17.2 because the September meeting was too late to respond before the end of the comment period.

FORMAL ACTION

2. Petition to Amend Rule 17.2, Arizona Rules of Criminal Procedure

Judge George Anagnost stated that he tried to get the comment period extended through the Staff Attorney's Office and/or voluntarily through the drafter. Judge Anagnost further stated that more time is really needed to study the issue. He suggest that Ms. Eleanor Eisenberg, Executive Director of the Arizona Chapter of the American Civil Liberties Union (ACLU) present to LJC at the September meeting. Judges Hale and Lester concur.

Judge Traynor stated that he spoke to Ms. Patience Huntwork, Chief Staff Attorney for the Supreme Court, and expressed concern that LJC is not hearing about proposed Rule changes in a timely fashion. Ms. Huntwork has agreed to present proposed changes in Rules at future LJC meetings.

Judge Anagnost would like to submit a formal request that the comment period be extended until mid-December. This means that the Rule Agenda would hear the Petition to Amend Rule 17.2 at their January meeting.

Mr. David Withey stated that he believes the Court would be receptive to the extension request since it is for further study. Judge Anagnost concurred with that based on prior conversations with Ms. Huntwork.

Judge Anagnost stated that does not think that prosecutors nor defense attorneys have had an opportunity to review this proposed change.

MOTION: Motion made and seconded to **submit a formal request to extend the comment period on the Petition to Amend Rule 17.2, Arizona Rules of Criminal Procedure to mid-December. Motion passed. LJC 02-10**

Judge Traynor requested that Ms. Eisenberg be invited to present at the September 25th LJC meeting.

OTHER BUSINESS

3. Call to the Public

Judge Traynor called to the public.

4. Adjournment

Motion: Motion was made and seconded to **adjourn the meeting.**
Motion was passed. LJC 02-11.

Meeting was adjourned at 2:10 p.m.

Respectfully submitted,

Ms. Debby Finkel
Staff to the Limited Jurisdiction Courts Committee

**ARIZONA JUDICIAL COUNCIL'S
LIMITED JURISDICTION COURTS COMMITTEE**

**Arizona State Courts Building
Conference Room 345A & B
Phoenix, AZ 85007**

September 25, 2002

Members Attending:

Honorable R. Michael Traynor, Chair
Honorable George Anagnost
Ms. Kathy Barrett
Ms. Faye Coakley
Honorable Judy Ferguson
Honorable Sherry Geisler
Honorable Linda Hale
Ms. Joan Harphant

Honorable John Kennedy
Mr. Theodore Jarvi
Ms. Pam Jones
Honorable John Lamb
Honorable Michael Lester
Mr. Frank Maiocco, Jr.
Honorable Antonio Riojas, Jr.
Mr. Paul Thomas

Absent Members:

Honorable Ronald O. McDaniel
Honorable G.M. Osterfeld (excused)

Mr. Dale Poage (excused)
Honorable Mary Scott

Guests:

Mr. Chris McBride
Mr. Gordon Mulleneaux
Ms. Pamela Najera

Honorable Sheri Newman
Mr. Scott Owens

Staff:

Mr. Tom Adams
Mr. Todd Adkins
Ms. Theresa Barrett
Ms. Ellen Crowley
Mr. George Diaz, Jr.
Mr. Greg Eades
Ms. Debby Finkel
Ms. Jennifer Greene
Ms. Patience Huntwork

Ms. Lori Johnson
Ms. Pam Pucetas
Mr. David Sands
Mr. Bob Schaller
Ms. Janet Scheiderer
Ms. Laura Snyder
Ms. Nancy Swetnam
Ms. Paula Taylor
Mr. David Withey

REGULAR BUSINESS

1. Call to Order

Judge R. Michael Traynor called the meeting to order at 10:06 a.m.

Judge Traynor introduced the three new LJC members, Judge Linda Hale (Bowie JP Court), Ms. Joan Harphant (Tucson Municipal Court) and Mr. Frank Maiocco (Flagstaff JP Court). He then introduced Mr. Tom Adams, new Manager III for Court Services, Court Operations Unit and Ms. Lori Johnson, the new Policy and Procedural Manual specialist and staff to LJC. He further announced that Ms. Julie Dybas is the new Manager II for Court Services, Court Operations Unit.

Judge Traynor announced that this is Ms. Debby Finkel's last meeting as LJC staff and presented her with a certificate of appreciation.

Judge Traynor asked everyone to introduce themselves, by name and court.

2. Approval of Minutes from the May 22, 2002 Meeting and August 16, 2002 Telephonic Meeting

Judge Traynor asked if there were any changes or corrections to the May and August meeting minutes. Ms. Finkel stated that some typographical errors and one misspelled name have been corrected on the system. No additional corrections were made.

MOTION: Motion was made and seconded **to approve the minutes from the May 22 and August 16, 2002 meetings as corrected. Motion was passed unanimously. LJC-02-11**

INFORMATION/POTENTIAL ACTION ITEMS

3. Pending and Proposed Rules Updates

Ms. Patience Huntwork, Chief Staff Attorney for the Supreme Court, acknowledged that current methods of giving public notice for pending Rule changes do not seem to be effective. The Supreme Court holds Rules Agendas three times per year, September, January and May. The Court is not bound to make their agendas public.

Ms. Huntwork updated the members on the following pending Rules actions:

1. Status report on the Rule for rapid transcripts to prepare appeals. It is a superior court project.

2. Discuss if jurors in criminal cases can begin to discuss evidence at their first meeting. Right now, they cannot discuss evidence until the end of the trial.
3. Take final action concerning the change of judge rule changes. There was an experiment to see if some new procedures helped stem some of the abuse in change of judge actions.
4. Hear a local rule change for probate and mental health cases in Pima County.
5. Hear Rule 15.9 which is mostly superior court
6. Take final action on the Superior Criminal Rules of Appeal and Civil Traffic Rules of Appeal.
7. Grant new and extended comment period for Rule 17.2. It was removed from the October 1st Rules agenda and may be on the January one. This Rule was to advise defendants of immigration status with guilty pleas.
8. Hear a provision to open the judicial code of conduct to allow judges to present speeches at fund raiser for indigent defense or scholarships for legal studies.
9. Hear an amendment to Rule 29 for retention and destruction of records in limited jurisdiction courts.
10. Hear changes based on the Ring decision
11. Hear proposal to make changes in relation to the felony centers, Maricopa County local Rule 2.3 and 2.4. Emergency enactment has been requested. R02-0034
12. Hear Rule petition which the Attorney General would require notification of victims. R02-0035
13. Hear about the rights of judges to make statements.
14. Hear about a local Rule in Yavapai County regarding alternative dispute resolution.
15. Hear about new Rule 1.7, initial appearance master. There was a request for an emergency enactment.
16. Hear about automatic change of judge.

Ms. Huntwork stated there are Motions for Reconsideration for Rule 15. A newer version passed while this workgroup was amending Rule 15. As a result some provisions dropped off Rule 15 because the committee was working off the original version. The provisions that dropped off are still in effect.

4. Legislative Update

Mr. George Diaz, Jr., Mr. David Sands and Mr. Todd Adkins presented the proposals received by the AOC for the members' review.

03-02 Protection of Judges' Personal Information

Adds Justices of the Supreme Court, Judges of the Court of Appeals, judges and commissioners of the superior court and municipal courts. They need to request redaction of records through an affidavit. This proposal applies to counties with a population of 500,000 or more.

Question was raised regarding the exclusion of justices of the peace. Mr Diaz responded that this proposal did not include any elected officials.

The redaction would be in effect for the judge's term of office plus three years. Some LJC members expressed concern about abuses of this request to redact. Judge George Anagnost believes that the redaction should be based on privacy and not based on the belief of being in danger as is in the proposal. The personal information is already out for the public to see.

Judge Michael Lester suggests that Option A means to approve the proposal without the affidavit provision. Another action is not include in package and have a different group present this proposal.

Judge John Kennedy asked Mr. Diaz that if this applied to all sitting judges would there be a better chance for success. Mr. Diaz believed that it would.

Vote: 4 Not approve
 11 Option A

03-07 Juror Compensation Task Force

Establishes a task force to review and recommend changes to the juror compensation statutes, rules, procedures and other related issues.

Judge Lester mentioned that the impact statement does not include municipal courts.

Ms. Joan Harphant suggested that Option A includes municipal courts.

Vote: 1 Not approve
 15 Option A

03-12 Domestic Violence Definition

Expands the definition of domestic violence to include dating couples and certain children within the class of persons who may obtain an order of protection against domestic violence. Defines victim as a child of a parent who is related to defendant.

ARS §13-3601 adds new #6 and 7

Judge Traynor and Mr. Ted Jarvi expressed concern that # 6 and # 7 do not define dating relationship. Judge Anagnost said this follows the federal guidelines. He expressed concern that the forms need the definition to assist the counter clerks and to help simplify the process.

Judge Tony Riojas expressed a preference for a different group to take this proposal forward. Judge Kennedy CIDVC should find other groups to run the bill.

Judge John Lamb suggested that Option A, to support, but not include in the package. Judge Lester recommends that dating relationships should be in orders of protection statutes and out of the injunctions against harassment statutes.

Vote: 3 Not approve
13 Option A

03-14 Deferred Retirement Option Plan (DROP)

Allows employees to retire, but to continue to work. The amount from a monthly pension would go into an account and be held there collecting interest for one, two or three years. At the end of the period, the monies would either be paid in a lump sum or go into an IRA account for the retired employee.

Arizona State Retirement System (ASRS) has a DROP plan which, per Mr. Diaz, is more of a loan than a DROP system as proposed. The proposed system would be in addition to what is currently in effect. The Department of Corrections fund administrator and Elected Officials Retirement Program fund administrator are supportive of this proposal.

Vote: 12 Approve
3 Not approve

Mr. Sands reminded the LJC members of the weekly legislative teleconference calls on Fridays at noon once the legislative session begins. They will inform LJC members of the telephone number once it has been identified.

LJC prioritized their two proposals

#1	03-07	8 votes
#2	03-14	5 votes

Working Lunch

5. Executive Committee Update

Judge Traynor discussed the main topics reviewed by the Executive Committee

over the summer.

1. The committee discussed Rules petitions and how best to get the information back to LJC. The Executive Committee does NOT act on behalf of the full committee.
2. Judge Elizabeth Finn brought the issue of the release questionnaire. She requested that a check box specific to domestic violence be added to the form. The Executive Committee recommended that the entire release questionnaire be reviewed and reformatted for ease of use. She agreed to the review. She intends to form a committee.
3. Domestic Violence forms were discussed. The Executive Committee recommended that only the legislative changes be completed by the August 22nd implementation date. They believe that all the forms will be redrafted by the CIDVC forms committee.
4. Court interpreters issues were heard and are on the agenda for discussion.
5. Centralized Citation Processing Bureau is a projected managed by Ms. Kate Bibber and Ms. Pam Pucetas. It has three components; citation data entry, collections efforts and the lock box.

The Executive Committee asked if there have been other studies done in other states. If so, what were the other states' processes and were they effective? No studies had been conducted, so there is no way of knowing if centralized processing was effective.

The Executive Committee expressed concern about how the process would work with photo radar for red light. The red light component of centralized processing would be eliminated from the bureau. The committee also asked if courts would be able to pick and choose participation in parts of the project.

They also asked if this project is good public policy? Will it improve customer service? How will paper and information flow work? They also questioned if this should be limited to collections. They also asked how soon cities would have information to present to their funding authorities for the budget cycles. Several of the centralized processing bureau specifications require funding for changes to automated systems and other processes.

The centralized bureau would have limitations as to the kind of monies can be brought in, for example, show proofs should not be sent to the bureau. If a defendant wants to see a judge, that would not go to the bureau. The lock box approach appears to be problematic with the two-way flow of information. There are similar issues with collections efforts and Debt Setoff.

6. ACJA for Standardized Allocation of Payments in Criminal or Juvenile Cases - Superior Court

Ms. Debby Finkel and Mr. Gordon Mulleneaux presented the ACJA that was designed for superior courts, to standardize the allocation of each payment. Changes made to the ACJA section were based on Committee on Probation and Superior Court Administrators Association. The most substantive was making fines and surcharges a higher priority than attorney fees. COP was concerned that victims who received funds through a portion of the surcharge.

Ms. Kathy Barrett expressed concern that limited jurisdiction courts would end up using the same allocation without having any input. Ms. Finkel explained that given the differences in court levels and issues that limited jurisdiction courts would have their own ACJA standardizing allocation. Superior court payments are vertically paid, each payment being broken down into several categories. Limited jurisdiction court payments are horizontally paid, each payment going to one category until that one is paid in full before paying the next category.

MOTION: Motion was made and seconded that **AJC defer action on the ACJA section to allow for limited jurisdiction and general jurisdiction priorities for allocations to be developed. Motion passed. LJC 02-12**

7. Defensive Driving Subcommittee

Defensive Driving Program Rules - Proposed Changes to Third Party Contracts

Mr. Bob Schaller stated that current rules prohibit third party contracts with non-certified entities in limited circumstances. The Defensive Driving Program would monitor the third party contracts and hold the schools responsible for any non-compliance matters.

The rule changes are out for public comment. One comment has been received to date.

Judge Lester expressed concern about using third party contractors for testing. He suggested that testing be in a different paragraph with tightened verbiage that clarifies the restrictions. Ms. Nancy Swetnam agreed that tightening the verbiage about testing could enhance the rule. She explained that each school's plan is reviewed for meeting the standards that are established.

Ms. Pamela Najera, AZ Chapter of the National Safety Council, views this change as a lessening of standards. Testing needs to be done under certified instructors or the school itself. She does not want to be responsible for third party contractors who violate the rule. All schools should be held to the same standards.

MOTION: Motion was made and seconded to **approve non-certified third party contracts for all contracted services but testing. Motion was passed unanimously. LJC 02-13**

8. ACJA for Emergency Authority

Mr. Greg Eades stated the ACJA for Emergency Authority was removed from the October AJC meeting to allow for more time to study the issue. The only comments he has received regarding this concern giving the judges' more authority to act first and then report.

MOTION: Motion was made and seconded to **approve the ACJA for Emergency Authority as presented. Motion was passed unanimously. LJC 02-14**

9. Committee to Study Jury Practices and Procedures

Honorable Sheri Newman, Clerk of Superior Court in La Paz County, presented the differences from the preliminary report.

1. Refined the jury compensation portion and requested a task force be appointed.
2. One day/one trial is included in the Jury Management Code with a July 1, 2005 implementation date. Exemptions to this requirement could be granted annually as needed.
3. Jury management curriculum should be developed along with jury reference manual development.
4. Public service announcements are being drafted as part of a contest that ASU is promoting for their students.
5. Grand jury processes need to be refined in the future.
6. Interpreter-juror issues need to be addressed in the future.

MOTION: Motion was made and seconded to **approve the report from the Committee to Study Jury Practices and Procedures as presented. Motion was passed unanimously. LJC 02-15.**

10. Proposed Changes to Rule 17.2

Ms. Eleanor Eisenberg, Executive Director of the ACLU in Arizona, was not available for this item. Ms. Eisenberg will be invited to participate in December.

11. Court Interpreter Committee

Mr. Ted Wilson presented a summary of the work the committee did over the summer. The committee will be presenting four recommendations to the AJC at the October 17 meeting.

1. Certification should become a reality for courts in Arizona.
2. Coupled with certification, training should be promoted so that more individuals are able to pass the tests that ensure quality interpreters.
3. Legislative changes will be needed.
4. The commission on court interpreters needs to be established.

There are two nationally recognized experts who provide testing for court interpreters. Mr. Wilson believes the program will cost about \$100,000. Some of the funding will come from the interpreters themselves from fees.

Mr. Wilson stated there are no real deadlines to make certification a requirement in the near future. Education and training need to be in place before certification and testing can occur.

Ms. Barrett stated that the committee focused on quantity and quality of interpreters.

12. Records Retention and Disposition Schedule

Mr. Frank Maiocco stated that the Limited Jurisdiction Court Administrators Association decided to clean up the language in the Records Retention and Disposition schedule in addition to the development of a form that courts must use to provide a record of the destruction of files. This form replaces a similar one that was required by Supreme Court Rule 29.

Added to the list are:

1. Dismissed or diversion cases
2. No complaints filed (scratches)
3. All others
4. Search warrants

In addition changes were made to 1a, b, bi, d and a new i. They changed “and” to “or”.

Ms. Barrett suggested looking at separating the disposition from the records retention schedule.

Judge Traynor asked about Rule 38 diversion cases. Do they fall under the five year retention or “diversion cases” that are kept for one year? A suggestion to 1c was to delete “or diversion” which will take care of Judge Traynor’s issue.

MOTION: Motion was made and seconded to **approve the form only.**
Motion was passed. LJC 02-16

13. Centralized Citation Processing Bureau

Ms. Janet Scheiderer and Ms. Pam Pucetas stated that the AOC is in process of contract negotiations with a consultant to do pre-planning as part of the requirements analysis. The consultant will be looking at processes, cost analysis, other data entry, and best practices. The requirements analysis will become the RFP.

The intent is for the consultant to be under contract and working by October 15th for two and a half months. A survey was sent out to start gathering information on citations and other matters. The deadline for return of the survey is October 11th.

The first phase of this project is being funded by the AOC and is expected to cost about \$60,000.

Judge Lester expressed concern about how this project will go to RFP to get the “soft” money. Ms. Scheiderer stated if “soft” money processing is centralized, it would free up time for court staff to do other court related tasks. Judge Kennedy is concerned that removing some processes from the court may end up with funding sources reducing staffing levels which would make the courts strapped for staff.

Judge Traynor is concerned that court would have to compare the outsourced data entry to current court records to see if the defendant is the same person number and verify it. Ms. Joan Harphant stated that AZTEC does not perform the comparison and verification function well. Judge Lester noted that comparison and verification of data is not being done now. The court would need to have a confidence level that the data is being entered carefully.

Ms. Scheiderer stated that the contracted entity would have performance measures to achieve. This potentially would be one of them. The consultant will develop specification for the RFP after gathering data.

Ms. Scheiderer stated that this project came about as the result of Mr. Don Stapley, a Maricopa County Supervisor, expressing his concerns about court costs in the future, especially with Maricopa County's growth. A number of factors led into the study for the Centralized Citation Bureau, including very high accounts receivable.

Judge Kennedy asked if both collectible and non-collectible debts were looked at? Ms. Scheiderer stated that the accounts receivable study was based on information the AOC had available electronically. Judge Kennedy thinks cases need to be reviewed based on demographics and ability to pay.

Ms. Scheiderer mentioned that AOC staff is looking at the federal tax intercept program. Judge Kennedy asked when AZTEC was going to better interface with DSO? Ms. Scheiderer stated that an effort is underway to have DSO pull information from AZTEC.

The RFP for the contractor is on the website on the Internet under Procurement. Ms. Pucetas was asked to send copies of the RFP to LJC members.

Judge Hale asked if anyone has spoken to the county treasurers yet about this program. Ms. Scheiderer explained what the process is. The monies will go back to the courts who disburse as usual.

Ms. Pam Jones asked if the CCB would be limited to AZTEC courts. Ms. Pucetas stated that she is looking into interfaces with other systems.

LJC members requested that the consultant update them at the December meeting.

14. Public Access to Electronic Court Records

Ms. Jennifer Greene addressed the committee on its earlier request relating to ARS §13-2813 and whether limited jurisdiction courts should be withholding information on criminal charges in the absence of proof of service on the defendant. Ms. Greene stated the Public Access to Electronic Court Records Committee determined this is a legal issue and not a public policy issue. Mr. Greg Eades as AOC staff attorney was assigned to research this issue.

Mr. Eades believes that courts who give out information regarding criminal charges before the defendant is served are in violation of this statute. His recommendation is to keep the information confidential until after the charge is served.

Ms. Greene stated that according to Ms. Kate Bibber, court staff have been trained to seal those cases in question in the system. Sealing a case requires an action on the part of the clerk who must key in a "Y" in the appropriate data field to seal the case in the AZTEC system. Judge Anagnost asked how do you unseal the record and when? What do you do when the defendant is appearing in court? Defense attorneys often wish to accept service of a summons for their clients. Does the court staff deny information about a person's outstanding charges to his or her attorney? Judge Kennedy said that his staff is trained to pull up all of a person's cases and have the defendant take care of all their cases when they appear. What happens if they come in and hear about a case on which they haven't yet been served?

Mr. Eades reiterated that the recommendation is to keep information confidential until after the charge is served. Judge Traynor stated that the court does not know if or when a defendant has been served because service is frequently by certified mail and the green card has not been returned not until after the arraignment. Mr. Eades will look at revising the ARS §13-2813 to update it. The word "complaint" was added in 1978.

Judge Anagnost stated that once a case is entered into the system, it becomes part of the public access site (public domain) which places the court in violation of the statute.

How do you answer a defendant who calls and asks if there are cases against him and he hasn't been served? If you say that he doesn't have a case, he won't appear and then the court issues a warrant. He then fights it because he called the court and was told there was nothing pending. Mr. Ted Jarvi also explained how a defendant calling the court to inquire about any outstanding warrants he or she may get erroneous information and subsequently be arrested.

These issues can be associated with long form complaints or traffic citations.

The members requested that this issue be brought back at the December meeting.

15. New Judge Orientation Update

Honorable John Kennedy stated that the New Judge Orientation committee met on Monday, September 23rd. They divided the subject material into smaller categories to help with the manner and logic of presentation. Their next meeting is October 7th.

16. Initial Appearance Master, Arizona Rules of Criminal Procedure, Proposed Rule 1.7 (New)

Mr. David Withey stated the new Rule 1.7 for the initial appearance master is requested for adoption on an emergency basis. This means, if adopted, the rule goes into effect immediately with a commentary period while the rule is in effect.

The purpose of the rule is to address a gap in services that occurred when implementing the Constitutional prohibition against non-law trained judges pro tempore. The rule is narrow in scope. It is designed to appoint a master (non-lawyer) to hear initial appearances and to not conflict with the Constitution. Adding arraignments to duties that could be conducted by the master. Legally, arraignments can wait. Another option is to give authority to the master for combined initial appearance and arraignment proceedings.

Concern was expressed if this should be expanded to include juveniles. This does not include advisory hearings in felony cases for juveniles. Those hearings are held in Superior Court.

Mr. Jarvi stated that it is a good idea to have these special masters. The defendant should have the right to challenge bonds set by masters.

A special master should not accept changes of plea. Concern was expressed regarding sentencing a defendant.

Judge Traynor addressed a separate issue regarding dually elected or appointed justices of the peace or magistrates handling weekend duty. Justices of the peace and magistrates in some jurisdictions take turns hearing initial appearances for individuals held in custody for their collective jurisdictions. The Rules of Criminal Procedure direct that a defendant be brought before the nearest or most accessible magistrate. The Rule appears to be complied with but some non lawyer justices of the peace or magistrates are being informed they cannot hear the initial appearance because they are not pro tems for the other jurisdictions.

Concern was expressed about section (e) Powers which gives the masters all the powers of a magistrate to perform only those duties authorized by section (a). The members thought it was confusing and unnecessary.

Judge Lester thinks the master should be limited to initial appearances.

Mr. Withey suggested that there be intergovernmental agreements between counties and cities to allow sitting judges to take turns hearing each other's cases. He agreed to review the matter further.

MOTION: Motion was made and seconded to **approve the proposal as amended. Motion as amended was passed. LJC 02-19**

AMENDMENT: Amendment was made and seconded that **judges pro tempore be attorneys and the special masters to hear initial appearances be used as a temporary solution for a duration of one year. Amendment failed to pass. LJC 02-17**

AMENDMENT: Amendment was made and seconded to **approve Rule 1.7 except for Section E. Amendment was passed. LJC 02-18**

**17. Rules and Forms Subcommittee
Rule 7.2b**

Judge Anagnost asked that LJC pass a motion to authorize the filing of a Rule 28 petition to amend Rule 7.2b.

MOTION: Motion was made and seconded to **authorize the filing of a Rule 28 petition to amend Rule 7.2b. Motion was passed. LJC 02-20**

Judge Anagnost reviewed the proposed changes to the Rules of Civil Traffic Appeals. There were no substantive changes made to them, only to conform to the proposed Superior Court Rules of Appeals Procedure - Criminal (SCRAP).

Judge Anagnost distributed a matrix that describes some of the changes to SCRAP Version 3.0.

1. Computation of time is more specific. No enlargement of time for mailing. The general rule is file the original plus one copy with the trial court. The trial court sends on the copy. The response time is from the date of receipt with more time than normal allowed.
2. Record on appeal was reworded. The proposed new rule talks about “hard documents” such as the complaint and judgment as being automatically part of the record. The idea of a “smart record” is still maintained.
3. Motion practice. The key point is to resolve cases without duplicating the record at both trial and superior court when the appeal is without merit. Motions for more time will be heard by a trial court judge, but a different one than the one who heard the issue appealed from. Substantive motions are also heard by a trial court judge, but a different one. The decision will be in writing. Motions to strike, inadequate appellant memos, etc. will be referred to superior court.
4. Bond on appeal was changed to clarify that posting of a bond cannot be a condition of the defendant’s right to appeal.

5. Forms will be clarified to “defendant’s right of appeal” to avoid confusion if the state is the appellant.

Mr. Don Taylor, City of Phoenix Prosecutor’s Office, stated that their biggest concerns are regarding the substantive motions. The question is if there is legal basis for the trial court to rule on any appeals motion.

The second issue is the question of appearance. The prosecutors prefer that substantive motions go to superior court. They understand that the superior court has administrative difficulties getting these heard timely.

Another concern was about the Rule 7.2b, bond on appeal issue. He understands that LJC is proposing amending that rule which make take care of the current issue.

The last concern is about time periods, whether they have control over court events.

Judge Anagnost said that the current rule says an appeal must be filed within 20 days. The time frame was expanded to get over motions asking for more time to file the appeal. The proposed rule took out the requirement for a quick transcript.

Mr. Chris McBride, City of Phoenix Public Defender’s Office, state that once the notice of appeal is filed, the trial court is out of the picture. The superior court was to hear all substantive appeals which they said they cannot do.

Can trial courts here substantive motions? It would have to be a different judge. Also can the posting of a bond be a condition of release?

Judge Sherry Geisler stated that she does not have another judge to hear those cases.

Judge Anagnost stated that a different judge would have to hear the motion.

Judge Kennedy commends Judge Anagnost for all his work.

MOTION: Motion was made and seconded to **move forward with the civil traffic and criminal rules of appeals proposals with changing the phrase “substantive motions” to “procedural motions”**. The motion was passed. LJC 02-21

18. Strategic Planning Subcommittee

Mr. Paul Thomas stated that he has no report.

OTHER BUSINESS

19. Approval of 2003 Meeting Dates

MOTION: Motion was made and seconded to **approve the 2003 meeting dates as presented. Motion was passed. LJC 02-22**

20. Call to the Public

Judge Traynor called to the public.

21. Adjournment

MOTION: Motion was made and seconded to **adjourn the meeting. Motion was passed. LJC 02-23.**

Meeting was adjourned at 4:45 p.m.

Respectfully submitted,

Ms. Lori Johnson
Staff to the Limited Jurisdiction Courts Committee

**ARIZONA JUDICIAL COUNCIL'S
LIMITED JURISDICTION COURTS COMMITTEE**

**Arizona State Courts Building
Telephonic Meeting (602) 542-9012
Phoenix, AZ 85007**

October 29, 2002

Members Attending:

Honorable R. Michael Traynor, Chair
Honorable George Anagnost
Honorable Linda Hale
Honorable Michael Lester

Absent Members:

Ms. Kathy Barrett (excused)	Honorable John Lamb
Ms Faye Coakley	Mr. Frank Maiocco
Honorable Judy Ferguson	Honorable Ronald O. McDaniel
Honorable Sherry Geisler	Honorable G.M. Osterfeld
Ms. Joan Harphant (excused)	Mr. Dale Poage
Mr. Theodore Jarvi	Honorable Antonio Riojas, Jr.
Ms. Pam Jones	Honorable Mary Scott
Honorable John Kennedy (excused)	Mr. Paul Thomas (excused)

Guests:

None

Staff:

Ms. Debby Finkel, substituting for Ms. Lori Johnson

REGULAR BUSINESS

1. Call to Order

Judge R. Michael Traynor called the meeting to order at 12:05 p.m. He explained the reason for the special meeting was to determine whether to respond to the petition to amend Rule 17.2 because the December meeting was too late to respond before the end of the November 4th comment period. Ms. Eleanor Eisenberg presented Rule 17.2 to the Executive Committee at the October 22nd meeting.

A quorum consists of a simple majority which for LJC is 11 members. Only four members called in. A quorum does not exist and no action can be taken.

Judge Michael Lester stated that Ms. Eleanor Eisenberg, author of Rule 17.2, did not seem to be opposed to more general language that would cover a larger population impacted by potential collateral consequences. Judge Traynor has concern about judges having to specifically warn individuals of all potential collateral consequences because those consequences may not be known by the judge. There are four basic responses. One of those responses seems to have been copied by several people.

Judge Lester mentioned the scenario of a teacher charged with shoplifting. Would that person need to know all about potential consequences? That teacher's job could be in jeopardy.

Judge George Anagnost offered that he drafted a response which follows along the lines of the discussion. He is willing to submit it as an individual. Judge Lester stated that he believes this Rule needs more study concerning impact on the courts, procedurally as well as equal protection issues and is willing to file a response on his own.

Since no quorum existed, no formal action was able to take place.

Conference call ended at 12:20 p.m.

Respectfully submitted,

Ms. Debby Finkel for Ms. Lori Johnson
Staff to the Limited Jurisdiction Courts Committee

**ARIZONA JUDICIAL COUNCIL'S
LIMITED JURISDICTION COURTS COMMITTEE**

**Arizona State Courts Building
Conference Room 345A & B
Phoenix, AZ 85007**

December 4, 2002

Members Attending:

Honorable John Kennedy, Vice Chair
Honorable George Anagnost
Ms. Kathy Barrett
Ms. Faye Coakley
Honorable Judy Ferguson
Honorable Linda Hale
Ms. Joan Harphant
Mr. Theodore Jarvi

Ms. Pam Jones
Honorable John Lamb
Honorable Michael Lester
Mr. Frank Maiocco, Jr.
Honorable G.M. Osterfeld
Mr. Dale Poage
Honorable Antonio Riojas, Jr.
Mr. Paul Thomas

Absent Members (all excused):

Honorable R. Michael Traynor
Honorable Sherry Geisler

Honorable Ronald O. McDaniel
Honorable Mary Scott

Guests:

Ms. Patricia Alvarez-Hurley
Mr. Jeff Fine
Mr. Tom McClory

Mr. Dennis Metrick
Ms. Cathy Nemecek
Mr. Rick Rager

Staff:

Mr. Tom Adams
Ms. Kate Bibber
Ms. Ellen Crowley
Mr. George Diaz, Jr.
Mr. Greg Eades
Ms. Jennifer Greene
Ms. Patience Huntwork

Ms. Lori Johnson
Ms. Pam Pucetas
Mr. David Sands
Ms. Janet Scheiderer
Ms. Laura Snyder
Ms. Nancy Swetnam
Ms. Amy Wood

REGULAR BUSINESS

1. Call to Order

Judge John Kennedy called the meeting to order at 10:06 a.m.

Judge Kennedy announced that Judge Traynor is on medical leave and that he (Judge Kennedy) will be presiding over this meeting in Judge Traynor's absence. Judge Kennedy noted several visitors at the meeting and asked everyone to introduce themselves, by name and court.

2. Approval of Minutes from the September 25, 2002 Meeting and October 29, 2002 Telephonic Meeting

Judge Kennedy asked if there were any changes or corrections to the September and October meeting minutes. No corrections were made.

MOTION: Motion was made and seconded to approve the minutes from the September 25 and October 29, 2002 meetings as corrected. Motion passed unanimously. LJC-02-24

INFORMATION/POTENTIAL ACTION ITEMS

3. Pending and Proposed Rules Updates

Patience Huntwork announced that because of budget cuts the clerks office will discontinue distribution of a large number of final rule hard copies to various offices, agencies and courts. The State Bar and AJC will continue to get final copies and requests for comment copies will not be eliminated.

Judge Anagnost asked how the courts and LJC get notice. Ms. Huntwork responded the Rule amendments can be viewed on the Supreme Court website however they are difficult for some to find. She mentioned that she has made suggestions to make it easier to find them on the front page of the website, with no luck. Ms. Huntwork instructed Committee members to go to the Legal Reference link on the front web page and from there they can find the rule changes which usually appear within a week or two of action. Ms. Huntwork explained how e-mailing the final rules or putting them on a list serve would not be feasible.

Janet Scheiderer volunteered that Court Services Division staff could coordinate with Ms. Huntwork to get the information out to LJC. Judge Anagnost suggested the Wendell website as a possible domain for final rules. Kathy Barrett further supplied that as court staff also research the rules we shouldn't limit it to just Wendell.

Janet Scheiderer was asked to pass along a suggestion to the AOC website administrator to consider rewording the Legal Reference link to more descriptive terms to enable users to know from the website front page that is where they need to go to find the rules. Ms. Huntwork also briefed the Committee on the following Rule actions:

- A. The petition regarding a substantial overhaul (modernization) of criminal discovery has been stayed. It will go back on the January agenda.
- B. The court rejected the early juror discussion rule.
- C. The Rule 10.2 (change of judge) experimental periods were for one year each. Statistics gathered by the AOC during that time showed a substantial reduction in change of judge, but the court is not convinced so the experimental rule will continue statewide for one year. Information will be gathered in Maricopa County limited jurisdiction courts.

- D. A petition has been submitted by the Attorney General's Office regarding the posting of victims rights. It is presently out for comments.
- E. There was an emergency adoption of the Initial Appearance Master Rule. A comment period (which was in November) followed.
- F. A petition regarding the unauthorized practice of law will be on the next agenda.

4. Legislative Update

Mr. George Diaz Jr. reviewed the following 2003 AJC proposals:

- A. A bill to protect judge's personal information which extends to Municipal Judges and Justices of the Peace. Mr. Diaz noted this bill would only apply to counties with populations of 500,000 or more.
- B. A bill which would require parental responsibility for juvenile costs such as shelter care or treatment.
- C. A bill regarding a Deferred Retirement Option Plan which may get support from the AOC and elected officials, but associated costs may be problematic.
- D. A proposal from Yuma County which clarifies the timing for payment of the \$25.00 administrative assessment charged to offset the costs for public defender services.

Mr. David Sands discussed:

- E. A proposal to generate additional conciliation services revenue by adding maternity and paternity cases to those which require a \$65.00 filing fee in Superior Court.
- F. A bill which permits courts to charge up to \$40.00 for attendance in a Domestic Relations Education on Children's Issues Program. Completion of this program is required of parents (with minor children) involved in divorce, separation, paternity or annulment. Its purpose is to urge parents not to use children in their court action.
- G. A proposal which repeals a 2002 legislative amendment that reduced the age from 21 to 18 at which a confidential intermediary may contact an adoptee at the request of a birth parent or sibling. The previous amendment created inconsistencies and altered public policy regarding the age at which adopted persons may be involved in the reunification process.
- H. A bill regarding the administration of water adjudication filing fees which applies in Maricopa and Apache counties. The bill clarifies the water rights case fees are

administered by the clerk of the superior court in the county where the adjudication is maintained.

Mr. Sands concluded the 2003 AJC Legislative package by speaking briefly about present State budget issues at the legislature.

5. Limited Jurisdiction Code Standardization

Mr. Gordon Mullenau presented a brief history and overview of the Code Standardization program as it occurred in the Superior Courts and stated a similar project committee is now getting started for the limited jurisdiction courts. The problem they are tackling is that there are a large number of AZTEC event codes being used in the courts for the same processes. There is a great deal of variability in the use of the codes across courts.

This committee hopes to streamline the codes by determining those not necessary which may be eliminated later and by standardizing application of the most commonly used codes. The committee plans to set up a website and to send out updates (internally) to the courts as the project progresses.

Amy Woods mentioned that a second committee, the limited jurisdiction user group will also be reconvened and meetings will be held via teleconference. An e-mail notification will be sent out soon, the recommendation is to have three representatives from each county to participate. The recommendation would be one municipal representative, one justice court and a county field trainer. The limit of three individuals per county will yield a group of 45.

6. Certified Document Preparers

Ms. Nancy Swetnam briefed the Committee on the history of the Unauthorized Practice of Law (UPL) Project. The State Bar filed a rule petition on UPL earlier this year. Chief Justice Jones then appointed an Ad Hoc committee to explore areas of concern.

The committee reached consensus regarding “legal document preparers,” and accordingly the State Bar filed an amendment to the original rule petition to create an additional exception to Supreme Court Rule 31 specifying that services performed by a document preparer does not constitute a violation of unauthorized practice of law.

The committee also developed a new Administrative Code Section to establish a certification program for legal document preparers. The certification program was modeled after existing certification programs. Both the rule and the code section are going to the AJC next week and then to the Court's Rule Agenda in January. The rule and code section have gone out for public comment. If adopted, they will be effective July 1, 2003.

7. Rules Subcommittee Update

Judge Anagnost gave the following Rules update:

- A. A motion to withdraw the Rule 17.2 petition was filed yesterday. The petitioner is likely to revise the petition and resubmit it in May in order to get on the September (2003) Rules agenda. As the LJC Committee members expressed interest in reviewing the petition before it is filed, it was suggested AOC staff contact Ms. Eleanor Eisenberg to ask if a preview copy could be made available to the Committee. Ms. Lori Johnson agreed to contact Ms. Eisenberg.
- B. A Rule 7.2 (regarding conditions of release after conviction) petition was filed and is now in consideration of the court.
- C. The Rules for Civil Traffic Appeals will soon be posted on the internet along with suggested forms and procedures.
- D. The Criminal Appeal Rules are currently in process. Two comments have been received by the clerk's office and these Rules should be on the January calendar.

8. Executive Committee Update

Judge Lester stated the CCB discussion (item #13, which was actually discussed prior to this report) held at this meeting mirrored the Executive Committee meeting and he had nothing further to add.

9. Defensive Driving Subcommittee

Ms. Kathy Barrett had nothing new to report at this time.

10. Strategic Planning Subcommittee

Mr. Paul Thomas distributed a Strategic Planning activity chart and asked the Committee to review it to determine current validity, and to consider eliminating, revising or continuing the specific goals outlined. Mr. Thomas suggested this as a first step before developing a new and updated strategic plan as the LJC considers strategic planning in the future

11. Limited Jurisdiction Courts Round Table Sessions

Mr. Jeff Fine, Court Administrator of the Goodyear Municipal Court, provided an overview of the 2002 Limited Court Judicial Conference. Mr. Fine reported that over 120 limited jurisdiction judicial officers and court administrators attended the conference that took place on June 13th in Goodyear, Arizona.

Mr. Fine also reported that a pre-conference "Round Table Session on Limited Court Issues" was attended by 35 conference attendees. This session was facilitated by a private consultant and the objective was to identify and prioritize the issues that currently face Arizona courts.

The top four issues identified during the first session were: automation, AOC, resources and inter-agency cooperation. During phase two the group met again (along with AOC staff) and talked about their issues, goals and objectives on each of the four priorities.

Mr. Fine concluded the project is unique in that it is the first time in his career that he has seen such a large and diverse group of judicial officers and administrators work together to identify and prioritize the issues that most affect Arizona courts today. Reports from the sessions were distributed to the Committee.

12. Domestic Violence Forms

Judge Anagnost presented the following information for Mr. Robert James, who could not be present. A forms group, a subcommittee of CIDVC will be meeting biweekly to develop domestic violence forms which will fit the AZTEC DV forms module that more closely and will work with the NCIC system. Once the DV forms are drafted they will present them to the Information Technology Division of the AOC.

13. Centralized Citation Processing Bureau

Mr. Michael Baumstark provided a brief history of the Centralized Citation Bureau (CCB) project and listed the project objectives as follows:

- A. To reduce workload in the courts.
- B. To enhance compliance with court orders and to improve court collections.
- C. To improve the quality of the data going into AZTEC.

Mr. Chris Crawford, a consultant with Justice Served joined the discussion via teleconference. Mr. Crawford supplied the Committee with a handout summarizing his initial findings from a sampling of Arizona courts and the resulting recommendations for a future RFP process. The Committee discussed the results with Mr. Crawford.

Mr. Crawford described the three components of the CCB concept as:

- 1. Front end data processing such as entering new citations into the system.
- 2. Middle processes.
- 3. End processes, such as collections.

Additionally, Mr. Crawford addressed the methodology employed in arriving at the conclusions stated in the summary document. Mr. Crawford discussed collection techniques, data exchanges, privatization, a centralized website and a centralized IVR used in other states. Mr. Crawford emphasized the importance of early address verification and early compliance with court orders. Mr. Crawford stated that structuring

the RFP properly is critical to accomplishing the project goals through the selected vendor.

Judge Anagnost asked what LJC could do to help. Mr. Baumstark replied that he wanted to let the members know that the AOC has heard them and the goal is to proceed without causing problems for the courts. Mr. Baumstark explained there are two options. Option one would be total outsourcing and this is not wholly supported. In option two, courts would continue to do the front end processing and collections would be centralized.

Mr. Baumstark mentioned the AOC is looking at possibly providing an incentive for courts to enter citations timely and efficiently, similar to those that would be paid to a vendor if the operation was outsourced.

Ms. Faye Coakley asked why rural courts weren't contacted during the site visits by the consultants? Mr. Crawford responded it was a cost savings issue. Additionally, Mr. Crawford detailed his experience in various court levels in California and stated his belief that rural concerns were adequately represented.

Judge Riojas stated he supports further pursuit of option two but he has additional questions which the AOC may not be able to answer until after the RFP process has progressed.

Mr. Baumstark offered that several courts have asked what will happen to their current fines enforcement programs. Mr. Baumstark assured the Committee the intention is not to substitute, but to complement what some courts already have in the way of collection programs.

Judge Kennedy asked Mr. Baumstark if the AOC is recommending that courts could opt in to the collection process. Mr. Baumstark was not sure a recommendation has been formed on that yet. Mr. Baumstark explained this issue is going to the Arizona Judicial Counsel (AJC) next week for a decision. Discussion ensued as to whether or not the decision of courts opting into the collection program should be decided by the AJC, which is not heavily representative of limited jurisdiction courts.

Judge Lester stated there are still many questions which require refinement before this Committee can lend support. He agreed the AJC should not decide on this yet, not until the level of comfort is there. Judge Anagnost asked about the possibility of configuring AZTEC to generate payment demand letters as an alternative.

Mr. Baumstark proposed that since Mr. Crawford is drafting a shell RFP, this Committee form a delegation to help draft the language that will satisfy the courts. Mr. Baumstark stated the AOC would be recommending option two to the AJC to get their approval to go forward on this project. Judge Lester suggested the AOC make a recommendation to the AJC on this issue, on behalf of the LJC.

Mr. Baumstark asked the Committee to support the AOC in pursuing an RFP for this project. A point of order was raised by the Committee as to whether or not the Committee could alter an agenda item from “information only” to an “action item.” Mr. Greg Eades, AOC legal counsel, stated it would be proper for the Committee to take a vote as the topic was included on the agenda.

Mr. Paul Thomas stated that he doesn't feel the Committee can vote in favor of approving the RFP until reviewing the specific language.

The Committee discussed alternative motions.

MOTION: Motion was made and seconded to give Judge Traynor authority to appoint a committee to work with the AOC in drafting the language for the RFP for option two. Motion passed unanimously. LJC-02-25

14. Public Access to Electronic Court Records

The issue is ARS §13-2813 and whether limited jurisdiction courts should be withholding information on criminal charges in the absence of proof of service on the defendant. Ms. Jennifer Greene started out by reading ARS 13-2813 and stated their (the AOC's) last interpretation caused a lot of controversy, so Mr. Greg Eades contacted Tom McClory of the State Attorney General's office.

Mr. McClory reviewed the legislative history of the revisions to ARS 13-2813. He mentioned the 1978 revision deleted the reference to felony only (as to what could not be disclosed). He noted that disclosure of misdemeanor and criminal traffic matters have been made readily for the past 25 years and no concerns have been raised before now. He stated a first choice could be to interpret this statute not to govern misdemeanors. A second choice would be to go to the legislature and get the statute corrected. A third choice would be to authorize the disclosure through an administrative order of the court.

Ms. Kathy Barrett asked if the statute would apply to photo enforcement complaints. It was agreed the statute probably applies to criminal conduct only and would not apply to civil traffic offenses.

Mr. Baumstark raised the issue of public access to court records and suggested the AOC could provide guidance in this area possibly through a modification of Supreme Court Rule 123. Mr. Greg Eades was asked to follow up on a possible rule change.

OTHER BUSINESS

15. Ms. Janet Scheiderer addressed the Committee on three topics:

- A. The AOC received a citizen complaint regarding a red light violation. This citizen paid his fine through the mail according to the instructions on the courts bond envelope.

The citizen was later notified (by MVD) that he was required to attend traffic survival school as per ARS 28-645 or 28-647. This citizen claimed he was not informed of this mandatory requirement and contended if he had known he would have to attend traffic survival school, he would have opted to attend defensive driving school rather than paying the fine. A memo (distributed) from the Motor Vehicle Department was posted to the AOC website which suggests an advisory be added (regarding red light convictions) to courts bond cards.

Ms. Scheiderer reminded the Committee that drivers under age 18 are subject to the graduated license law which also requires traffic survival school for civil traffic violations. Judge Kennedy asked Ms. Scheiderer and Ms. Nancy Swetnam to address the Committee at the February meeting regarding suggestions for court's bond envelopes.

- B. Judge Ellie Finn is now on the AZTEC system in the Glendale Municipal Court. Judge Finn has brought some issues to the AOC's attention and has made some suggestions for auto-populating certain fields when information is not available.
- C. The AZTEC 1.0 rollout (in 40 courts now) is going smoothly. There are significant processes behind the rollout including training and database administration. Some issues to which fixes apply should be patched in February or March. Judge Kennedy requested Ms. Scheiderer e-mail this information to court staff.

16. Call to the Public

Judge Kennedy called to the public.

17. Adjournment

MOTION: Motion was made and seconded to **adjourn the meeting. Motion was passed. LJC 02-26.**

Meeting was adjourned at 3:14p.m.

Respectfully submitted,

Ms. Lori Johnson
Staff to the Limited Jurisdiction Courts Committee