

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

Arizona State Courts Building
Conference Room 119A & B

Phoenix, AZ 85007

March 2, 2005

Members Attending:

Honorable R. Michael Traynor, Chair
Honorable James P. Angiulo
Honorable Ted W. Armbruster
Mr. Daniel Carrion
Ms. Faye Coakley
Honorable Thomas L. Chotena
Mr. Richard Fincher
Ms. Debra Hall
Ms. Joan Harphant

Ms. Charlotte Holmes
Mr. Don Jacobson
Honorable R. Wayne Johnson
Honorable Nicole Laurin
Honorable Marie Lorona
Honorable Kathy McCoy
Honorable Antonio Riojas, Jr.
Mr. James Scorza
Honorable Jose Tafoya

Absent Members: (excused)

Honorable Linda Hale

Staff:

Ms. Susan Pickard

Presenters/Guests:

Ms. Janet Cornell
Mr. Stewart Bruner
Ms. Linda Grau

Ms. Allen Merrill
Mr. Rick Rager
Mr. Ted Wilson

REGULAR BUSINESS

1. CALL TO ORDER

With a quorum present Judge Traynor called the meeting to order at 10:12 a.m.

2. APPROVAL OF NOVEMBER 17, 2005 MEETING MINUTES

Judge Traynor asked if there were any changes or corrections to the November 17, 2005 LJC meeting minutes. No corrections were made.

MOTION: Ms. Harphant made the motion to approve the minutes for November 17, 2004 as submitted. Judge Riojas seconded the motion. Passed unanimously. **LJC-05-001**

Note: Judge Johnson requested that all limited jurisdiction court judges receive an e-mail notice with a link to the LJC web site when the draft minutes are published to that Internet site. Ms. Pickard will add that task to the minute process.

BUSINESS ITEMS/POTENTIAL ACTION ITEMS

3. RULES COMMITTEE UPDATE

Ms. Patience Huntwork – no update.

4. Fines/Fees and Restitution Enforcement (FARE) PROGRAM UPDATE

Mr. Mike DiMarco updated the committee on the progress of the FARE Program.

- In February 2005 \$952,000 were collected.
- \$3.9 million have been collected (\$2.3 million for courts participating in Interim FARE and \$1.3 million for Maricopa County justice courts)
- Web payments for FY05 are at \$418,000 and \$130,000 for February 2005. Twenty-five percent of these payments continue to come in from out-of-state with some coming from as far away as France and Germany.
- Through the TTEAP Program 19,000 holds have been placed on vehicle registrations with 1,000 of those being released.
- Full FARE Phoenix – pre-disposition testing is complete – post-disposition testing completion is anticipated April 20, 2005.
- Full FARE Chandler – functioning with real-time transactions.
- Interim FARE – Pima and Cochise Counties coming on-line in April.

5. COMMISSION ON TECHNOLOGY

Mr. Karl Heckart briefed the committee on the progress of developing a replacement for AZTEC.

- Due to the many differences between limited and general jurisdiction courts, two separate systems are anticipated.
- AZTEC updates are continuing to address bugs, MVD functionality, FARE functionality and electronic disposition reporting.

6. COURT OPERATIONS UNIT

Ms. Julie Dybas and Mr. Patrick Scott gave an overview of the Court Services Division's Court Operations Unit highlighting:

- Court Operational Reviews
 - 22 per year in limited jurisdiction courts
 - Each review lasts 4-5 months from the initial notice to the exit conference.
 - 2004 Common Operational Review Findings can be found on the Intranet at <http://ajin/ctserv/counit/2004CommonFind.htm>.
- Court Answer Line
- Limited Jurisdiction Legal Issues Workgroup

7. LEGISLATIVE UPDATE

Mr. David Benton and Mr. Jerry Landau updated the committee on the progress of the legislative session.

HB2058 JP QUALIFICATIONS (Rep. Rios) 1/10 - Referred to House jud, gov ref.

HB2144 HOA PENALTIES AND EXPEDITED HEARING (Rep. Gray) Hearing: House Rules (3/3 3:30pm, House Rm. 4)

HB2305 JURIES; EXCUSE FROM SERVICE (Rep. Nelson) Hearing: Senate jud (Mon 3/7 at 4pm, Senate Rm. 1)

HB2564 DRUG TESTING; URINE SAMPLES (Rep. Barnes) Hearing: Senate jud (Mon 3/7 at 4pm, Senate Rm. 1)

HB2566 DRUG OFFENSES; DRIVER LICENSE; MINORS (Rep. Barnes) 2/3 - referred to House trans, jud.

HB2667 DRIVER LICENSES; DUI (Rep. Smith) 2/14 - referred to House trans.

SB1003 JURY REFORM (Sen. Harper) 2/16 - referred to House jud.

SB1047 COMMUNITY RESTITUTION (Sen. Johnson) 3/3 - House jud amended; report awaited.

SB1086 RECORDS REDACTION; VICTIMS OF VIOLENCE (Sen. Waring) 2/23 - referred to House gov ref.

SB1114 (PEACE OFFICER; IMPERSONATING; TECHNICAL CORRECTION) RELATING TO DESTRUCTION OF RECORDS (Sen. Huppenthal) 2/16 - from Senate jud with strike everything amendment.

SB1160 DUI ASSESSMENTS; DPS EQUIPMENT; BONUSES (Sen. Waring) 2/24 - from Senate appro with amendment.

SB1215 JUSTICE OF THE PEACE; DUTIES (Sen. Jarrett) Calendar: 3/3 Senate COW #2

SB1216 PRESIDING JP; DUTIES (Sen. Jarrett) 3/1 - referred to House jud.

SB1240 DUI; IGNITION INTERLOCK LICENSES (Sen. Gray) Calendar: 3/3 Senate COW #6

SB1243 DUI VIOLATIONS; IGNITION INTERLOCK (Sen. Gray) 2/8 From Senate rules okay.

Photo Radar/Traffic

HB2119 SPEEDING; PHOTO RADAR (Rep. Biggs) Calendar: 3/3 House COW #1

HB2260 TRAFFIC PHOTO ENFORCEMENT (Rep. Gray) Calendar: 3/3 House COW #10

HB2567 TRAFFIC VIOLATIONS; SERVICE (Rep. Rios) 2/3 - referred to House trans.

HB2668 DEFENSIVE DRIVING SCHOOLS; ELIGIBILITY (Rep. Smith) 2/17 - referred to House trans.

SB1038 DEFENSIVE DRIVING SCHOOL; ELIGIBILITY (Sen. Huppenthal) 3/3 - House trans held.

SB1164 PHOTO RADAR; FREEWAYS (Sen. Verschoor) 3/2 - Senate voted to reconsider 3/2 failure to pass bill. Date of second vote will be set by president.

SB1187 (INCOME TAX; WITHHOLDING RATES) STRIKER: FINES; DISTRIBUTION (Sen. Martin) 3/2 - from Senate appro with amendment.

SB1321 SPEEDING VIOLATIONS; DRIVER POINT SYSTEM (Sen. Verschoor) 2/24 - from Senate trans with amendment.

SB1326 PHOTO RADAR CONTRACTS (Sen. Verschoor) 2/15 - Senate trans held.

SB1328 PHOTO RADAR; DMV NOTIFICATION (Sen. Verschoor) 3/1 - from Senate rules okay.

SB1494 MOTOR VEHICLES; DEFENSIVE DRIVING SCHOOL (Sen. Gould) 2/3 – referred to Senate trans.

SB1503 MOTOR VEHICLES; SPEED LIMIT ENFORCEMENT (Sen. Verschoor) 3/2 - Senate voted to reconsider 3/1 failure to pass bill. Date for second vote will be set by president.

Victims' Rights

HB2109 VICTIMS' RIGHTS; LEGAL STANDING (Rep. Tully) 1/12 - Referred to House jud.

HB2234 RESTITUTION; ECONOMIC LOSS (Rep. Farnsworth) 2/16 - referred to Senate jud.

HB2337 VICTIM'S RIGHTS (Rep. Smith) 2/28 - Senate jud held.

SB1149 VICTIMS' RIGHTS; CRIMINAL OFFENSE DEFINITION (Sen. Brotherton) 1/20 - Referred to Senate rules only.

SB1150 VICTIMS' RIGHTS; POSTCONVICTION NOTICE (Sen. Brotherton) 2/7 - Senate jud held.

SB1151 CRIMINAL RESTITUTION ORDERS (Sen. Brotherton) 2/7 - Senate jud held.

SB1152 RESTITUTION ORDERS; JUVENILES (Sen. Brotherton) Calendar: 3/3 Senate COW #3

SB1175 VICTIMS' RIGHTS; SENTENCING (Sen. Brotherton) 2/7 - Senate jud held.

SB1267 JUVENILE VICTIMS' RIGHTS; STATEMENT (Sen. Brotherton) Calendar: 3/3 Senate COW #3

SB1421 RESTITUTION; ECONOMIC LOSS DEFINITION (Sen. Huppenthal) 2/21 - Senate jud held.
SB1430 VICTIMS' RIGHTS; STANDING TO INVOKE (Sen. Huppenthal) 2/21 - Senate jud held.
SB1431 VICTIMS' RIGHTS; STATEMENT OF RIGHTS (Sen. Huppenthal) 2/21 - Senate jud held.
SB1432 VICTIMS' RIGHTS; APPELLATE PROCEEDINGS (Sen. Huppenthal) 2/21 - Senate jud held.
SB1433 VICTIMS' RIGHTS OMNIBUS (Sen. Huppenthal) Calendar: 3/3 Senate COW #6

Judiciary Issues

HB2257 JP COURT JURISDICTIONAL LIMIT (Rep. Gray) 2/3 - House jud held.
HB2396 CLEAN ELECTIONS: JUDICIAL OFFICES (Rep. Pearce) 2/17 - referred to House jud.
HB2411 RETIREMENT; ELECTED OFFICIALS (Rep. Pearce) 2/7 - House pub-ret failed 0-8.
HB2457 RETIREMENT: EORP: SURVIVING SPOUSE (Rep. Burns) 1/31 - Hearing House pub-ret do pass.
HB2458 RETIREMENT: EORP: BUYBACKS (Rep. Burns) 2/15 - from House pub-ret do pass.
HB2505 ELECTED OFFICIALS; OFFICEHOLDER EXPENSES (Rep. Cajero Bedford) 3/2 - from House rules with a technical amendment.
HB2676 ELECTION OF JUDGES; BALLOT ORDER (Rep. Paton) Calendar: House Consent (objection deadline: 3/4 12:15pm)
HCR2005 JP COURTS JURISDICTIONAL LIMITS (Rep. Gray) 2/3 - Hearing: House jud 2/3 –Held
HCR2015 JP COURT JURISDICTION (Rep. Gray) 1/24 - Referred to House jud.
HCR2026 SUPREME COURT ADMINISTRATIVE AUTHORITY (Rep. Gray) 2/3 - House jud – Withdrawn from Hearing during testimony
HCR2031 JUDICIAL LAWMAKING (Rep. Pearce) 2/3 – from House jud do pass.
HCR2035 JUDICIAL CONDUCT: OPEN RECORDS (Rep. Paton) 1/24 - Referred to House jud.
SCR1013 JUSTICES & JUDGES RETIREMENT AGE (Sen. Brotherton) 1/20 - Referred to Senate jud.
SCR1023 JUDICIAL RETIREMENT AGE (Sen. Gray) 1/25 - Referred to Senate jud.
SCR1025 COURT JUDGMENTS; LEGISLATIVE APPROVAL (Sen. Blendu) Am2/21 - Senate jud failed 4-4.

8. **LIMITED JURISDICTION COURT RECORDS RETENTION SCHEDULE**

Ms. Faye Coakley and Mr. Brian Karth presented the outcome of a discussion from the January meeting of the Limited Jurisdiction Court Administrator Association (LJCAA) regarding the Limited Jurisdiction Court Records Retention Schedule.

LJCAA has surveyed its membership regarding issues and needed updates to the Schedule. The results of the survey indicate there are 20 issues that need to be addressed including standardized business practices and electronic versus hardcopy retention.

Ms. Coakley asked that this committee establish a subcommittee to work with the LJCAA subcommittee to revise the Schedule.

MOTION: Mr. Jacobson moved that a subcommittee be established to work in coordination with the LJCAA subcommittee to revise the Limited Jurisdiction Court Records Retention Schedule. Judge Kennedy seconded the motion. Passed unanimously. **LJC-05-002**

Judge Traynor requested that volunteers for this important task contact him after the meeting.

9. PROPOSED AMENDMENTS TO A.C.J.A. ' 7-208

Ms. Linda Grau, Legal Document Preparer (LDP) Program Coordinator, presented an overview of a pending proposal and public comments regarding revision of Arizona Code of Judicial Administration ("ACJA") § 7-208 related to the certification examination requirement and the scheduled transition to "Standard" certification.

ACJA § 7-208 allows the program to be administered under "Initial" certification for the first two years. This phase of the program enables individuals and business entities to seek and maintain certification based on minimum eligibility requirements, completion of approved continuing education and compliance with the incorporated Code of Conduct. "Initial" certification is currently scheduled to end on June 30, 2005. ACJA § 7-208 also prescribes the onset of "Standard" certification effective July 1, 2005. In addition to meeting minimum eligibility and continuing education requirements, all applicants for "Standard" certification are required to successfully complete an examination. The Board's proposed revision to ACJA § 7-208 seeks to modify the stated content of the examination to include basic, core competency knowledge, skill, and ability assessment, to extend the time period for an applicant to successfully complete the exam, and to enable active certificate holders to maintain their existing certificates while completing the examination process by delaying the implementation of "Standard" certification to July 1, 2006.

To derive the examination, the LDP Program contracted with HZ Assessments; a nationally recognized professional test vendor firm. The recommendations of HZ Assessments, input from active certificate holders (via an occupational analysis survey and a series of focus groups), program staff, members of the public, and the Board of Legal Document Preparers have resulted in the proposed revisions of ACJA § 7-208.

HZ Assessment has recommended the Board and the Supreme Court consider redefining the content of the exam from the rules of the supreme court relating to legal document preparers to include basic competencies; knowledge, skills, and abilities. HZ Assessments reports that an examination based solely on ACJA § 7-208 and Supreme Court Rule 31 will not accurately measure an applicant's basic core competencies. The Board has forwarded recommended examination content specifications to the Supreme Court which include content areas intended to demonstrate basic core competencies and would support the stated consumer protection purpose of the Legal Document Preparer Program.

Public comments:

- Task specific test questions will challenge the applicant's ability to be successful on the exam
- Applicants will need to substantially expand their level of familiarity with various court rules and laws
- Under the recommended content specifications, a high percentage of certificate holders and applicants will fail.
- Timeline for administration of the exam is too short and may potentially create a scenario where an existing certificate holder would be unable to maintain their active status in the event multiple attempts to pass the exam become necessary.
- Development of service specific exams (i.e. different exams for different service areas – domestic relations, estate planning, bankruptcy, liens, trusts, wills, etc.).
- Active certificate holders are confused by the proposal and are uncertain if the revision would still require them to take an exam.
- There will be no "grandfathering" of any LDP.

Ms. Grau advised the committee a very small percentage of the content of the proposed exam contains task-specific knowledge sets; adding there are no test proposed questions involving substantive law or technical competencies. Ms. Grau stated there is no evidence to support or

anticipate a high failure rate. Further, in presenting this proposal, the board has incorporated current certificate holder concerns regarding the time line for completing the examination process.

Mr. Alan Merrill, Arizona Association of Independent Paralegals (Association), stated the Association opposes these amendments on the basis of denial of economic rights.

Association concerns:

- Job analysis and survey processes were flawed
- The testing of core competencies, which is a generalist approach, is not a proper fit considering most LDPs are specialized.
- Assumes if data were available, competency-based complaints would be very low and that most complaints stem from non-compliance with Arizona Rules of Supreme Court Rule 31 and A.C.J.A. § 7-208.

Mr. Merrill, on behalf of the Association, is asking that the Board consider removing the limit to the number of times an LDP can re-take the exam. The Association would suggest that 70% of the questions on the test be ethics/code-based.

A motion to recommend the AJC forward the proposal to the Supreme Court for adoption of this revision to A.C.J.A. § 7-208 was requested; however, no motion was made. Judge Traynor suggested that members wishing to comment on the proposed amendment to Code 7-208 forward them to the AJC.

10. MENTAL HEALTH COURT AND LIMITED JURISTITION

Mr. Rick Rager, Tempe Municipal Court, and Ms. Mary Robson, Superior Court in Maricopa County, presented an overview of the Tempe Mental Health Court which has been in operation as a pilot project for just over one year. The Mental Health Court is a problem-solving court that includes the judge, prosecutor, defense counsel and mental health professionals who collaborate to ensure that mentally ill offenders receive equal access to the justice system, while also addressing those needs unique to this population.

Goals

- Effectively provide mentally ill offenders access to treatment
- More effectively coordinate services between the courts, criminal justice system and treatment providers
- Reduce the level of recidivism of mentally ill offenders
- Provide more cost effective/efficient use of resources than traditional courts
- Provide more expeditious case resolution than traditional courts
- Provide more effective community reintegration services than traditional courts

From the program's inception through February 15, 2005, 58 people have been placed in the Mental Health Court and 20 people have successfully completed the program. There are currently 17 people participating in the program; four are homeless and seven have co-occurring disorders. The Mental Health Court has offered a diversion option for the seriously mentally ill and also aided them in accessing various services in an effort to provide greater stability and lessen the likelihood of the committing new criminal offenses.

With the Mental Health Court having just completed its first year, the court is about to undergo a required efficacy study. The study will be conducted by University of Arizona faculty.

Members were invited to view the court in action on any Tuesday.

11. SUBCOMMITTEE REPORTS
Forms/Rules – No update
Defensive Driving – No update
Legislative – No update
Strategic Planning – No update

OTHER BUSINESS

12. NEXT MEETING
Wednesday, May 25, 2005
State Courts Building
1501 W. Washington St.
Conference Rooms 119 A&B

13. GOOD OF THE ORDER/CALL TO THE PUBLIC
A call for public comment was made. No comments were made.

ADJOURNMENT

MOTION: The motion was made to adjourn the meeting at 2:14. Seconded. Passed unanimously. LJC-05-003

Respectfully submitted,
Ms. Susan Pickard
Staff to the Committee on Limited Jurisdiction Courts

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

Arizona State Courts Building
Conference Room 119A & B
Phoenix, AZ 85007
May 25, 2005

Members Attending:

Honorable R. Michael Traynor, Chair
Mr. C. Daniel Carrion
Honorable Thomas L. Chotena
Ms. Faye Coakley
Mr. Richard Fincher
Ms. Debra Hall
Ms. Joan Harphant
Mr. Donald Jacobson

Honorable R. Wayne Johnson
Honorable John Kennedy
Honorable Nicole Laurin
Honorable Kathy McCoy
Honorable Antonio Riojas, Jr.
Mr. James Scorza
Honorable J. Matias Tafoya

Absent Members:

Honorable James P. Angiulo
Honorable Ted. W. Armbruster

Honorable Linda Hale
Honorable Marie "Toni" Lorona

Staff:

Ms. Susan Pickard

Ms. Annette Mariani

Presenters/Guests:

Ms. Janet Cornell
Mr. Mark DiMarco
Ms. Thelma Faulkner

Honorable Elizabeth Finn
Mr. Bob James
Ms. Konnie Neal

REGULAR BUSINESS

1. CALL TO ORDER

With a quorum present Judge Traynor called the meeting to order at 10:12 a.m.

2. APPROVAL OF MINUTES FROM MARCH 2, 2005 MEETING

Judge Traynor asked if there were any changes or corrections to the March 2, 2005 LJC meeting minutes. No corrections were made.

MOTION: To approve the minutes for March 2, 2005 as submitted. Seconded. Passed unanimously. **LJC-005-004**

3. LEGISLATIVE UPDATE

Mr. Jerry Landau updated the committee on the end of session legislation. Highlights of some of the bills:

- Money was obtained for the drug court appropriation
- Photo Radar/Traffic bills were killed (no policy position was taken)
- SB1089 Vehicle Impoundment Storage – was vetoed.
- SB1160 DUI Assessments; DPS Equipment; GITEM – was passed and adds additional assessments.
- SB1240 DUI Ignition Interlock Licenses – This bill has been narrowed from where it started. A number of re-writes were made and the bill is limited to imply consent for a first offense.
- SB1254 DUI: Vehicle Immobilization and SB1420 Motor Vehicles: Uninsured Drivers Both are written a little different. The "shall" language is not included in SB1420, but included in SB1254. Effective date of fines is August 12, 2005.

Clarification: It takes all three steps (an accident, no insurance and driving on a suspended license) for a vehicle to be impounded

- SB1433 Victims' Rights Omnibus – This bill is not intended to convey or to confer a right that is not otherwise conferred.
- Superior Court judicial salaries increase 12.5% effective January, 2007.
- State employees received a 1.7% increase to cover retirement effective July 2, 2005. The state is picking up medical cost for employees.
- HB1113 requires search warrants to be executed within five calendar days of issuance and returned to the magistrate within three court business days. Bill also voids the warrant if it is not executed within the five day period unless it is extended by a magistrate. This bill also provides that documents and records relating to the warrant need not be open to the public until it is returned or the warrant is deemed void, unless a magistrate orders time to be shortened or lengthened for good cause.

Judge Traynor thanked Mr. Landau and his staff for all their work during this session period and bringing that information to the Committee.

4. RULES AGENDA UPDATE

Ms. Patience Huntwork

On behalf of Ms. Huntwork, Judge Traynor stating that the Rules Agenda had not yet been held. He reminded the members that:

- Two rules petitions, submitted by LJC, are still before the court
- Responses, including comments from the State Bar and County Attorney, have been filed;
- Hopefully this will be the last round of public comments

5. COMMISSION ON TECHNOLOGY UPDATE

No update will be presented today; members are at a technology conference. Expect update at September meeting.

6. FINES/FEES AND RESTITUTION ENFORCEMENT (FARE) PROGRAM UPDATE

Michael DiMarco presented update from the FARE program.

- Fiscal Year 2005:
 - < 24 Courts
 - < 607,000 Cases
 - < 45,000 Cases in skip tracing
 - < \$8.7M Collected
 - o 4.6M - Interim Courts)
 - o 2.3M - Tucson
 - o 1.8M - Maricopa Justice Court
 - < \$1.7M - Monthly Average
 - < Collection Rate: 12% (on target!!)
 - < 22.7% of Web/IVR payments continue to be from out of state or out of county
- Tax Intercept Program (TIP/DSO) record year - \$4.7M which includes \$200,000 on FARE cases not included above.
- TTEAP
 - < 80,000 Registration holds.
 - < 11,000 releases
- Outbound calling (contacts by phone) will officially start soon
- Recent addition – Fountain Hills
- 8 courts bringing in backlog within next two (2) months.
- Discussion with Mesa in the works – primarily for TTEAP
- Flagstaff to add 4,100 cases
- Full FARE: Phoenix will be going live July 4.
- Collections are fantastic!!
- State Banking Department complaint:
 - < Has been resolved
 - < Insufficient evidence was found
 - < Case is closed.

Mr. DiMarco indicated that while individual courts may have data comparing their collections before and after FARE, he does not have access to that data.

7. TRIALS BY WRITTEN DECLARATION

California drivers passing through Arizona are familiar with their state's procedure of trial by written declaration and have been requesting this procedure in Arizona courts. Trial by declaration is not designated in the Arizona Rules of Procedure for Civil Traffic Cases or any other rule. In the interest of providing a uniform process that is authorized by statewide rules, AOC legal counsel is bringing this issue to the committee noting concerns regarding necessary warnings and the waiving of rights to cross-examine or rebut evidence. AOC legal counsel recommends that the committee assign this issue to the Rules Subcommittee for review.

Concerns:

- Uniformity
- Due process and proper waiver procedure
- Flexibility for courts not encountering this issue
- Set distances or circumstances (hospitalization, officer deployment) for invoking the procedure

MOTION: Judge Kennedy moved to refer the issue of Trials by Written Declaration to the Rules Subcommittee for investigation and consideration, keeping in mind the need for uniformity and flexibility, and development of a summary draft for review. Judge Laurin seconded the motion. Passed unanimously **LJC-005-005**

8. SUBCOMMITTEE REPORTS

The subcommittee reports were taken out of agenda order

Forms/Rules - No update.

Defensive Driving - No update.

Legislative - No update except what was presented by today.

Strategic Planning - No update

Limited Jurisdiction Records Retention and Disposition Schedule - This Subcommittee met on April 20. Ted Wilson provided background on the development and maintenance of the schedule, assisted the subcommittee in selecting a chair (Judge Tafoya) and led the discussion regarding approach. The subcommittee will be gathering lists of documents from the limited jurisdiction courts and condensing them into one list to ensure the schedule addresses all of the document types, if not all documents. They will then compare, categorize and define the documents before moving onto the redesign of the schedule. To assist in gathering the lists, a letter from Judge Tafoya with a sample document list will be sent to all limited jurisdiction presiding judges, court administrators and clerks of court.

FYI – An announcement was made that the City of Tucson and Pima County have selected an architect for the initial design of a joint court facility. This will be the largest building in downtown Tucson.

While not on the agenda, Judge Riojas, member of the Keeping the Record Committee presented an update on this committee for informational purposes only.

9. ORDER OF PROTECTION AND ANCILLARY FORMS BASED ON PROJECT PASSPORT MODEL TEMPLATE

Presenters - Judge Elizabeth Finn, Mr. Bob James, and Ms. Konnie Neal

Ms. Neal provided background information on Project Passport, the Model Template and the project goals.

- To enhance enforcement of Protective Orders across the nation and tribal courts.
- To create a first page template that is recognizable across all jurisdictions.

Judge Finn reviewed the forms which were based upon the Project Passport Model Template and modified to conform to Rule 10(d) and Arizona law. The Committee on the Impact of Domestic Violence and the Court (CIDVC) made the following changes to the forms this morning:

- The bars at the bottom of first page and top of next page have been eliminated
- The word "Expiration" next to the fill in box is changed to "Validity". This section was moved up to before "The Court Herby Finds", so it is no longer part of the orders.

These changes apply to all four protective orders.

Judge Finn clarified that the Validity box is where each county's Holder of Record telephone number will be inserted.

Additionally, this morning CIDVC approved:

- Margins being adjusted by courts.
- Dynamically produced forms that only print the applicable provisions

Concerns:

- Pima County currently produces an English/Spanish version of the protective orders with the Spanish translation appearing next to the English. Can Pima County continue to produce the orders in that fashion? Ms. Neal reminded the committee that certain warnings and orders needed to remain on the first page and that this type of translation may not work. Ms. Neal will get direction from NCSC regarding this issue.
- Social Security Numbers and identity theft. This field, as well as the driver's license field, is not a mandatory fill field; it is an identifier to assist law enforcement in ensuring they have the correct defendant. Ms. Neal will get direction from NCSC regarding this issue.

MOTION: Judge Kennedy **moved to approve the DV Forms as presented with modifications from CIDVC.** Judge McCoy seconded. Passed unanimously **LJC-005-006**

MOTION: Judge Kennedy **moved to approve the ability to adjust the margins to fit local need.** Judge Chotena seconded. Passed unanimously **LJC-005-007**

MOTION: Judge Kennedy **moved to approve the ability for the courts to produce dynamic documents and only print the provisions that apply.** Mr. Scorza seconded. Passed unanimously **LJC-005-008**

MOTION: Judge Kennedy **moved to support the flexibility of a court to alter the font size.** Judge Riojas seconded. Passed, not unanimously (3 no votes – yes votes not by hand count but more than 3) **LJC-005-009**

OTHER BUSINESS

11. NEXT MEETINGS

Legislative Subcommittee
Tuesday, September 27, 2005
State Courts Building
Conference Rooms, 119 A&B
All members welcome

Full Committee
Wednesday, September 28, 2005
State Courts Building
Conference Rooms 119 A&B

12. GOOD OF THE ORDER/CALL TO THE PUBLIC
A call for public comment was made. No comments were made.

ADJOURNMENT

MOTION: The motion was made to adjourn the meeting at 1:45. Seconded. Passed LJC-005-010

Respectfully submitted,
Ms. Susan Pickard
Staff to the Committee on Limited Jurisdiction Courts

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

**Arizona State Courts Building
Conference Room 119A & B
Phoenix, AZ 85007**

September 28, 2005

Members Attending:

Honorable R. Michael Traynor, Chair
Honorable James P. Angiulo
Honorable Ted W. Armbruster
Mr. C. Daniel Carrion
Honorable Thomas L. Chotena
Ms. Faye Coakley
Honorable Timothy Dickerson
Honorable Anna Mary Glaab

Ms. Debra A. Hall
Ms. Joan Harphant
Mr. Donald E. Jacobson
Honorable Jeffrey A. Klotz
Honorable Marie A. Lorona
Honorable Kathy McCoy
Mr. James Scorza
Honorable J. Matias Tafoya

Absent Members:

Mr. Richard D. Fincher
Ms. Charlotte Holmes

Honorable R. Wayne Johnson
Honorable Nicole Laurin

Guests:

Janet Cornell, Scottsdale City Court

Mr. David Benton

Staff:

Ms. Susan Pickard

Ms. A. Teaunee Duran

REGULAR BUSINESS

Call to Order

With a quorum present, Judge R. Michael Traynor called the meeting to order at 10:12 a.m. Judge Traynor welcomed Honorable Anna Mary Glaab, Honorable Jeffrey A. Klotz and Honorable Timothy Dickerson as new LJC members. He recognized and thanked Honorable John Kennedy and Honorable Antonio Riojas, former members of the LJC committee, for their dedication and service. Judge Traynor welcomed back Ms. Joan Harphant and Mr. Donald E. Jacobson, members who were re-appointed to the LJC committee.

Approval of Minutes from the May 25, 2005 Meeting

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

MOTION: Motion was made and seconded **to approve the minutes from the May 25, 2005 meeting as presented.** The motion was passed unanimously. **LJC-05-11**

INFORMATION/POTENTIAL ACTION ITEMS

Rule Petition Update

Ms. Patience Huntwork informed the committee of issues, relevant to the committee, which were addressed during the September Rules Agenda.

Rule 123

The implementation of Rule 123, which applies to sensitive data, has been put on hold. Issues that need to be addressed:

- The extent to which courts and counsel must delete sensitive data from websites, filing cover sheets, etc.
- Sensitive data (social security number) contained on the Arizona Traffic Ticket and Complaint (ATTC) form.

Professional Liability Insurance

As of January 1, 2007, all attorneys will be required to disclose whether they have professional liability insurance.

Updated Records Requirements, Superior Court

A Rule petition to update Superior Court records requirements was adopted as modified, effective December 1, 2005; the current records retention schedule shall remain in effect until further ordered.

Arizona Rules of Family Law Procedure

The Arizona Rules of Family Law Procedure were adopted, effective January 1, 2006, and applicable to all pending cases.

Re-tooled Rule-making Process

Currently, there are three Rules Agendas per year (September, January and May). This proposal would limit the Rules Agenda to once a year in September. All Rule changes would need to be filed by December 1st. The changes would circulate for public comment and then be considered by the court the following September. Any petition that would need to be re-circulated would wait an additional year for consideration. The proposed procedure includes a provision for filing Emergency Rule Petitions.

The court considered Judge Traynor's request for a comment period extension in order for the committee to meet and file a comment. The request was granted. The committee has a deadline of October 5, 2005 to file comment.

The committee took no action.

Arizona Judicial Council Proposed Legislative Package

Mr. David Benton presented the following:

Fingerprinting Court Contractors, Licensees, and Volunteers

Comments/Concerns

- Fingerprint vs. ACJIS or NCIC search
- Fingerprinting is more expensive.
- Fingerprint checks can take upwards of two weeks.
- Court permissiveness
- Committee's amended language would give courts the ability to use fingerprints, ACJIS or NCIC for background checks.

MOTION: Motion was made and seconded **to include the proposal in the AJC package with "or at the discretion of the agency for an ACJIS or NCIC search"**. The motion was passed unanimously.

LJC-05-12

VOTE: Option 1: Recommend the proposal for inclusion
Option 2: Do not recommend the proposal for inclusion
Option 3: **Recommend the amended proposal for inclusion**

RESULT: Option 1: 7%
Option 2: 0%
Option 3: **93%**

The amended proposal is recommended to AJC for inclusion in their legislative package.

Criminal History Check for Orders of Protection

Comments/Concerns

- Deterrent effects, a petitioner may not seek protection due to fear of criminal history check and possible arrest/deportation.
- Delayed issuance.
- Facts other than those directly related to the petition-at-hand should not be considered.
- Additional work for every entity/agency involved.
- The court assumes an investigative role.
- Cost.

VOTE: Option 1: **Recommend the proposal for inclusion**
Option 2: Do not recommend the proposal for inclusion

RESULT: Option 1: 0%
Option 2: **100%**

This proposal is not recommended to AJC for inclusion in their legislative package.

Orders of Protection; Services of Process

Comments/Concerns

- If there are two law enforcement agencies (Sheriff and city) having jurisdiction in which the defendant is presently located, which agency will be required to serve?

MOTION: Motion was made and seconded **to include the proposal in the AJC package with an amendment to in paragraph 2 changing “the law enforcement agency” to “any law enforcement agency”**. The motion was passed unanimously. **LJC-05-13**

VOTE: Option 1: Recommend the proposal for inclusion
Option 2: Do not recommend the proposal for inclusion
Option 3: **Recommend the amended proposal for inclusion**

RESULT: Option 1: 0%
Option 2: 0%
Option 3: **100%**

The amended proposal is recommended to AJC for inclusion in their legislative package.

Parental Payments for Juvenile Justice Diversion, Education and Treatment Services

At this time, the proposal does not seem to apply to Limited Jurisdiction courts. The committee chose not to take a position.

Traffic Ticket Enforcement Assistance Program (TTEAP) Vehicle Registration Hold Expansion

Comments/Concerns

- How will the department which is required to track this information handle it, specifically, what will the process be?
 - Currently the court does not report parking violations to MVD. If this proposal is passed, the court will begin to collect on violations which are not reported.
- Committee's amended language: clarify that this proposal will be restricted to Title 28 traffic offenses (criminal and civil) and parking.

MOTION: Motion was made and seconded **to include the proposal in the AJC package restricting the proposal to Title 28 traffic offenses (criminal and civil) and parking**. The motion was passed unanimously. **LJC-05-14**

VOTE: Option 1: **Recommend the proposal for inclusion but restrict it to Title 28 offenses and parking.**
Option 2: Do not recommend the proposal for inclusion
Option 3: **Recommend the proposal for inclusion but restrict it to Title 28 offenses only.**

RESULT: Option 1: **47%**
Option 2: 7%
Option 3: **47%**

The committee would like to include the proposal; however, the committee would like to restrict the proposal to only Title 28 traffic offenses (criminal and civil). There is a split among the committee members as to whether parking violations should be included.

Case Management System Funding

Comments/Concerns

- The automation that courts currently have needs to be enhanced.

VOTE: Option 1: **Recommend the proposal for inclusion**
Option 2: Do not recommend the proposal for inclusion

RESULT: Option 1: **99%**
Option 2: 1%

This proposal is recommended to AJC for inclusion in their legislative package.

Disclosure of Mental Health Reports

Comments/Concerns

- If a defendant confesses to other crimes, will it be redacted from a report?
- Will information that is not related to mental health be redacted from a report?
- When would a report be disclosed to probation? If a defendant is found competent to stand trial and they are placed on probation, the report will be helpful for treatment. If the defendant is found incompetent, probation would not need the report.
- There needs to be a procedure in place with regard to educated and/or informed consent.

VOTE: Option 1: **Recommend the proposal for inclusion**
Option 2: Do not recommend the proposal for inclusion

RESULT: Option 1: **62%**
Option 2: 38%

This proposal is recommended to AJC for inclusion in their legislative package.

R-03-0027 – Misdemeanors: Appointment of Counsel

R-03-0028 – Warrants and Summonses

Honorable R. Michael Traynor

These recently adopted petitions go into effect on December 1, 2005. The committee will need to establish an ad hoc committee to develop a court impact report as well as a guidance sheet for implementation. Judge Traynor asked the committee for volunteers to participate on an ad hoc workgroup to address this issue.

Civil Penalty Offenses

Honorable R. Michael Traynor

In the last legislative session, a statute was enacted to address boating violations (similar to A.R.S. § 28-1321). If there is a refusal to consent to a breath test, driving privileges can be suspended. There is not a similar action with regard to boating violations. If one refuses to take a breath test when boating, a civil penalty may be imposed. Currently, neither the criminal nor civil rules of procedure address how such violations should be processed. Judge Traynor suggests that the Rules subcommittee take on this project.

MOTION: Motion was made and seconded **to refer the civil penalty offense issue, as it applies to boating violations and other civil penalties that may arise to the rules subcommittee.**
The motion was passed unanimously. **LJC-05-15**

Mental Health Court Update

Honorable Michael Lex

Judge Michael Lex from Tucson City Court presented process and statistical information regarding the successes of Tucson's Mental Health Division.

There are four main programs in the division. Each division has contributed toward more efficient and swift justice:

- Mental Health Diversion
 - 3,107 of 12,900 charges were resolved by diversion.
 - Total number of criminal charges following diversion has dramatically reduced. Charges stemming from violent crimes have reduced by approximately 73% compared to charges filed before a diversion program existed.
- Video Review Hearings
 - Total amount of jail savings from conducting Video Review Hearings (from April 2000 to date) equals \$1,994,270.00.
- Monitored Probation Programs
 - This is coordinated either directly through the court, through Tucson City Court Probation, the Adult Probation Office or local treatment providers.
- Coordination with other Court Divisions and other legal proceedings including Drug Court, Rule 11 Competency and Title 36 Commitment Proceedings.

FARE Update

Mr. Mike DiMarco informed the committee of the upcoming events with regard to FARE:

Fiscal Recap

- 34 courts (total) in the FARE program
- over 900,000 cases (total)
- \$375 million dollars collected (total)
- Approximately \$3.7 million dollars per month
- Approximately 75% of payments are via the Internet and approximately 25% are via telephone transaction.
- Cross-court matching (defendants who have obligations to more than one court) is working very well.

Other Projects

- Chandler Municipal and Maricopa County Justice Courts to join the “full” FARE program
- Pilot program to include Superior Courts into the FARE program
- Enhancements to the FARE program will be implemented
- The FARE and Debt Set Off programs will be moved into the Court Services Division (as the Consolidated Collections unit) of the AOC.

Subcommittee Updates

Executive

No update.

Defensive Driving

No update.

Forms/Rules

Judge Tafoya informed the committee that the subcommittee met and discussed the trial by declaration issue. The pros and cons were considered and it was decided that it would be beneficial to have a consistent Rule throughout the state. Judge Tafoya will distribute a proposed statute to the committee via e-mail.

LJ Records Retention and Disposition Schedule

Judge Tafoya informed the committee that November 3, 2005 is the next subcommittee meeting date. The meeting will take place from 10:00 am to 3:00 pm at the Scottsdale City Court (370 N. 75th Street).

Strategic Planning

No update.

OTHER BUSINESS

Next Meeting

Wednesday, November 16, 2005
Arizona State Courts Building
Conference Room 119 A&B

Call to the Public

Judge Traynor called to the public.

Adjournment

Respectfully submitted,
Susan Pickard
LJC Staff

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

**Arizona State Courts Building
Conference Room 119A & B
Phoenix, AZ 85007**

November 16, 2005

Members Attending:

Honorable R. Michael Traynor, Chair
Honorable James P. Angiulo
Honorable Ted. W. Armbruster
Mr. C. Daniel Carrion
Honorable Thomas L. Chotena
Ms. Faye Coakley
Honorable Timothy Dickerson
Mr. Richard D. Fincher

Ms. Joan Harphant
Ms. Charlotte Holmes
Mr. Donald E. Jacobson
Honorable R. Wayne Johnson
Honorable Nicole Laurin
Mr. James Scorza
Honorable J. Matias Tafoya

Absent Members:

Honorable Anna Mary Glaab
Ms. Debra A. Hall
Honorable Jeffrey A. Klotz
Honorable Marie A. Lorona
Honorable Kathy McCoy

Guests:

Lt. Stella Bay, Tucson Police Department
Stewart Bruner, Information Technology Division, AOC
Jennifer Greene, Court Services Division, AOC
Melinda Hardman, Court Services Division, AOC
Brian Heady, Tucson City Court
Paul Julien, Education Services Division, AOC
Barry Kudera, Bullhead City Municipal Court
Jerry Landau, Director of Government Affairs, AOC
Sgt. Steve Wheeler, Tucson Police Department
Becky A. Williams, Tucson City Court

Staff:

Ms. Susan Pickard
Ms. A. Teaunee Duran

REGULAR BUSINESS

1. Call to Order

Judge R. Michael Traynor called the meeting to order at 10:12 a.m.

Judge Traynor passed along a "thank you" from Judge Margarita Bernal who appreciates the e-mail announcements when the minutes have been posted on the website. She enjoys the updates and keeping up on the committee's work.

2. Approval of Minutes from the September 28, 2005 Meeting

Judge Traynor asked if there were any changes or corrections to the September meeting minutes.

Judge Timothy Dickerson noted that on page 3 of the minutes, the percentages were incorrectly placed. The minutes should be changed to reflect that the committee voted 100% to **not recommend** (Option 2) the Criminal History Check for Orders of Protection proposal to AJC.

MOTION: Motion was made and seconded to **approve the minutes from the September 28, 2005 meeting as amended. The motion was passed unanimously. LJC-05-16.**

INFORMATION/POTENTIAL ACTION ITEMS

3. Meeting Schedule

Ms. Susan Pickard presented the proposed meeting schedule for 2006, describing the process used to set standing committee meeting dates to function efficiently with the AJC meeting schedule. She noted that a few committee members had already indicated they would not be able to attend the February 15, 2006 meeting and offered February 22, 2005 as an alternative for that date.

MOTION: Motion was made and seconded to **approve 2006 meeting schedule as presented. The motion was passed unanimously. LJC-05-17.**

4. Subcommittee Updates

Defensive Driving

No update.

Forms/Rules

No update.

LJ Records Retention and Disposition Schedule

Judge Tafoya informed the committee that the subcommittee has met twice and is moving along productively. He hopes to have the schedule ready to review at this

committee's February meeting. While re-organizing the schedule, the group is giving extensive thought to end-users of court records and what the different users may expect to be kept in the record and how that balances with the actual responsibilities of the court.

Strategic Planning

No update.

5. FARE/TTEAP Update

Mr. Mike DiMarco, Consolidated Collections Unit Manager, informed the committee that since September, 11 courts have been added to FARE (backlog processing), 45 courts are now in the backlog process. FARE collected over \$10.9m in backlog collections in FY2005, to date, FARE has collected \$5.4m. The program is averaging approximately \$1.3m per month in backlog collections. \$5.2m have been collected via web payments.

There are 7 courts that are scheduled to join FARE through spring 2006. That number is expected to grow to 9 courts by the end of January 2006. Glendale Municipal Court was the programs most recent addition. A number of other courts, as well as Superior Courts are preparing to be brought into the program.

At the end of October, approximately 150,000 Traffic Ticket Enforcement Assistance Program (TTEAP) vehicle registration holds for failure to pay traffic tickets were placed and 17% of those or 25,600 were released.

The Auditor General's Office has been auditing the Consolidated Collections Unit, which includes FARE and the Debt Setoff Program. The preliminary audit is close to wrapping up and Mr. DiMarco is confident that the audit will conclude with positive feedback.

6. Legislative Update

Mr. Jerry Landau, Director of Government Affairs for the AOC, informed the committee of the status of current proposed legislation. Senator Huppenthal is introducing most of the courts legislation and would like to hear all of the bills early in the session.

Senator Huppenthal has mentioned that he would like to amend the proposed legislation by reducing the TTEAP minimum fee amount from \$200 to \$100, including parking tickets and making the law effective on September 1, 2006.

The Service of Process; Orders of Protection proposal is already gaining opposition from the law enforcement community. Future meetings are set to discuss this proposal.

Comments/Concerns

- What is the history behind the proposal to authorize a Justice of the Peace and Correction Officers to serve orders of protection? There is concern that a Justice of the Peace will issue an Order and then serve it, this creates a conflict of interest.

The first legislative teleconference (Friday Conference Call) will be held on January 13, 2006. A meeting notice will be sent out. Those who wishing to participate just need to call into the teleconference line.

7. Rule Petition Update

Judge Traynor informed the committee that there will not be a formal comment filed on behalf of LJC regarding the rule change petition to re-tool the remaking process. The new procedure requires that rule petitions be considered once a year with a provision for emergency petitions.

8. COT Update

Stewart Bruner, Staff to COT and Strategic Planning Manager for ITD of the AOC, discussed COT's strategic plan. The COT would like to receive one county-wide court plan, rather than several different court plans, as the charge of the COT is to review and approve county-wide court plans.

The ITD is in the process of conducting training on "Crystal Reports for All." It is a library approach to the most commonly used court reports. Also, work has begun on a new domestic violence module which will be compatible with future case management systems.

Later on this agenda, Joan Harphant will conduct a presentation on e-Citation, if any court is interested in participating in the e-citation program, contact Tim Lawler at TLawler@courts.az.gov.

9. Proposed Amendments to Rule 123

Jennifer Greene, Policy Analyst with the AOC, informed the committee of the status of Rule 123 with regard to electronic access to court records and court information. Many of the documents that a court would display on the Internet contain sensitive data, which should not be accessible to the general public via the internet. The task of identifying specific documents and information, which should not be posted to the Internet, and redacting such information is daunting. The new policy will include a sensitive data form, which will serve as the form in which all sensitive data will be stored eliminating the need to have sensitive data on various other court documents.

Jennifer is compiling a list of documents, contained in case files, which contain

sensitive data; please contact her at JGreene@courts.az.gov with suggestions of documents to include on the list.

10. Handheld Citation Demonstration

Becky A. Williams and Brian Heady of Tucson City Court, and Lt. Stella Bay and Sgt. Steve Wheeler of the Tucson Police Department presented an overview of the Tucson E-Citation Project.

Tucson City Court and the Tucson Police Department began working in conjunction with Advanced Public Safety (APS) to develop an Electronic Citation Management System, which would eliminate the need for Tucson Police Officers to hand-write citations. In addition, the system would also allow the Courts to electronically receive the issued citations and download them into their current Case Management System (AZTEC), ultimately eliminating the need for court personnel to hand-enter citations.

The project has been very successful and officers have accepted the new technology, recognizing its advantages. For more information or for a copy of the E-Citation PowerPoint presentation, please email Joan Harphant at Joan.Harphant@tucsonaz.gov.

11. R-03-0027 and R-03-0028 Implementation

Judge Traynor informed the committee that both rules were adopted and in the last meeting, a subcommittee was established in order to address the implementation of the two rules; specifically, implementation of the warrant rules. The subcommittee has met twice and has another meeting scheduled for Monday, November 21.

OTHER BUSINESS

12. Next Meeting

Wednesday, February 15, 2006
Arizona State Courts Building
Conference Room 119 A&B.

13. Call to the Public

Judge Traynor called to the public.

14. Adjournment