

**COMMITTEE ON LIMITED JURISDICTION COURTS
MINUTES**

Wednesday, February 18, 2009
10:00 am to 3:00 pm
State Courts Building
Conference Room 119 A/B
1501 W. Washington Street
Phoenix, AZ 85007

MEMBERS PRESENT:

Honorable Antonio Riojas
Honorable Ted W. Armbruster
Honorable Phillip W. Bain
Mr. C. Daniel Carrion
Honorable Thomas L. Chotena
Ms. Faye Coakley
Honorable Timothy Dickerson
Ms. Joy Dillehay
Honorable Maria Felix
Honorable Sam Goodman

Mr. Patrick Kotecki
Honorable Nicole Laurin – telephonic
Honorable Dorothy Little
Honorable Kathy McCoy
Ms. Marla Randall
Ms. Lisa Royal
Mr. Mark Stodola
Honorable J. Matias Tafoya
Honorable R. Michael Traynor - telephonic

MEMBERS ABSENT:

Honorable Jeffrey A. Klotz

PRESENTERS/GUESTS:

Dori Ege
JL Doyle
Brett Watson
Cliff Ford
Michael Jeanes
Patience Huntwork

Karl Heckart
Jim Price
Kay Radwanski
Jerry Landau
Mike DiMarco

STAFF:

Mark Meltzer

Tama Reily

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the February 18, 2009 meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order by Judge Antonio Riojas, Chair, at 10:04 am.

Judge Riojas introduced two new members, Judge Maria Felix and Sergeant Patrick Kotecki and welcomed them to the Committee.

B. Approval of October 1, 2008 Minutes

The minutes for the October 1, 2008 meeting of the LJC were presented for approval.

MOTION: To approve the minutes of the October 1, 2008 LJC meeting as presented. Seconded. Passed unanimously. LJC-09-001

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. Interstate Compact and Probation Supervision of Adult Misdemeanor Offenders

Dori Ege presented an overview of the rules of the Interstate Compact for Adult Offender Supervision, and explained some of the existing challenges to ensuring an effective operation of the process, particularly with respect to offenders out of limited jurisdiction courts. To that end, Ms. Ege requested feedback from this Committee on some of the following points:

- Recommended solutions to provide for the successful transfer of LJC eligible offenders under the interstate compact.
- Should offenders out of LJC's be supervised by superior court probation officers?
- Should a standard condition about the interstate compact for probation be included in LJC probation terms
- Is this solely a training issue for LJC's?

After lengthy discussion, it was suggested that a workgroup be formed with representation from limited jurisdiction courts from around the state to conduct an in-depth exploration of this multi-faceted issue. Several members of this Committee volunteered to participate in such a work group, including Lisa Royal, Marla Randall, and Daniel Carrion.

MOTION: To form a workgroup staffed by the Adult Probation Services Division, to include members of the Committee, as well as representatives from the Maricopa Justice Courts, Chandler Municipal Court, and Tucson City Court. Seconded. Motion passed unanimously. LJC-09-002

Ms. Ege also provided the National Interstate Compact website, which is located at www.interstatecompact.org. This website provides additional information and resources for those interested.

B. ACJA §§ 6-204, 6-204.01, 6-106, 6-202.01, and 6-205

Dori Ege, JL Doyle, and Cliff Ford from the Adult Probation Services Division presented the following proposed code sections:

ACJA § 6-204: Interstate Compact Probation

Ms. Ege presented proposed changes to ACJA § 6-204, which are necessary because of rule amendments that became effective January, 2008. The changes are non-substantive and simply add two new terms in the definitions section, and some minor language changes to provide clarification.

MOTION: To approve ACJA § 6-204: Interstate Compact Probation as presented. Seconded. Motion passed unanimously. LJC-09-003

ACJA § 6-204.01: Evidence-Based Practices, Interstate Compact Probation

Ms. Doyle briefed the committee on proposed changes to code section 6-204.01. The recommended changes are necessary due to the roll-out of the evidence-based practices for probation. The changes would effectively bring together the interstate compact code and the standard probation code, so that incoming interstate compact offenders on probation in Arizona would be supervised under the evidence-based requirements.

MOTION: To approve ACJA § 6-204.01: Evidence-Based Practices Interstate Compact Probation as presented. Seconded. Motion passed unanimously. LJC-09-004

ACJA § 6-106: Personnel Practices

Ms. Doyle presented proposed changes to ACJA § 6-106, that would eliminate the requirement for mandatory testing when an employee is involved in an accident in a state vehicle, if the officer on scene does not have reasonable suspicion that the driver is under the influence of alcohol or other substance. The change does not preclude any chief or director from requiring drug testing on their own reasonable suspicion.

MOTION: To approve ACJA § 6-106: Personnel Practices as presented. Seconded. Motion passed unanimously. LJC-09-005

ACJA § 6-202.01: Evidence-Based Practices, Adult Intensive Probation

Ms. Doyle presented proposed revisions to ACJA § 6-202.01: Evidence-Based Practices Adult Intensive Probation. The proposal was previously approved by this Committee in November 2008. However, due to concerns by various counties that medium risk offenders were excluded from the proposal, it did not go to AJC. The code section presented today would include medium risk offenders under the intensive probation supervision program.

MOTION: To approve ACJA § 6-202.01: Evidence-Based Practices, Adult I Intensive Probation as presented. Seconded. Motion passed unanimously. LJC -09-006

ACJA § 6-205: Drug Treatment and Education Fund

Clifford Ford presented proposed revisions to ACJA § 6-205 which would bring the code in line with evidence-based principles with regard to assessments and evaluations for substance abuse treatment.

MOTION: To approve ACJA § 605: Drug Treatment and Education Fund as presented. Seconded. Motions passed unanimously. LJC-09-007

C. Implementation of Defensive Driving School Program

Joan Harphant, Chair of the LJC Defensive Driving Subcommittee, and Nancy Swetnam, Certification & Licensing Division Director reviewed the 2007 – 2008 legislation regarding the defensive driving program (effective January 2009), and the post-implementation issues. Discussion focused on the following:

- Problems with the seven day deadline for course completion prior to arraignment. Some courts have voiced concern regarding workload issues. Committee members were asked if they had or were aware of problems with this requirement and if an alternative plan should be considered. Committee consensus was that the seven day requirement should remain in place.
- Schools now required to transmit court fees twice weekly (per ACJA § 7-205) have reported this creates a burden for them. Ideas for possible alternative methods were requested.
- Courts that have existing contracts with primary provider schools should have cancelled those contracts. The AOC should be notified if there is an inability to cancel a contract, however, there are still courts that have not fulfilled this requirement.

Ms. Swetnam also noted that a letter was sent out to courts earlier this week on the provision that allows courts to increase their court diversion fee October 1st and April 1st of each year. She requested that courts complete the form enclosed with the letter, and indicate whether their fees will be increased on April 1, 2009. Ms. Swetnam states this information is critical to providing appropriate notice to the schools in advance of that date. Courts can send the form by email or fax.

Ms. Harphant asked members to send any comments or concerns to her regarding the program, at Joan.Harphant@tucsonaz.gov, prior to March 26, 2009 so they can be addressed at the next subcommittee meeting.

D. Report from Advisory Committee on Supreme Court Rule 123 & Data Dissemination

Honorable Michael Jeanes, Clerk of the Maricopa County Superior Court, and Chair of the Rule 123 & Data Dissemination Committee, provided an overview of the committee, which completed its examination of Rule 123 concerning access to judicial records. The committee filed its rule recommendations in January 2009 and will reconvene in April 2009 to review and address comments received on the Rule Petition. The committee is seeking feedback on the proposed changes and requested members provide their formal comments on the Court Rules Forum by April 1, 2009.

E. Rule Changes Update

Patience Huntwork, AOC Legal Services Division, provided an update on existing and pending rule change that would impact limited jurisdiction courts. Members can find the rules and related information at <http://www.supreme.state.az.us/rules/>.

F. Update on the Criminal Rules Video-Conference Advisory Committee

Judge Riojas discussed the establishment of the Criminal Rules Video-Conference Advisory Committee (CRVAC) and its charge to review issues raised by R-06-0016, which concerns the appearance of defendants via video-conferencing in criminal proceedings. The committee expects it will provide its recommendations to the Arizona Judicial Council (AJC) in June 2009.

G. Update on E-Filing Initiative

Jim Price, Information Technology Division, outlined the statewide e-filing initiative. He explained the Administrative Office of the Courts has contracted with a vendor, Intresys, who is providing the product, which will serve all courts and all case types. The infrastructure of the e-filing system will be maintained by the AOC. Initial pilot courts, Maricopa superior and justice courts, are expected to begin accepting filings in the Summer of 2009. Appeals courts should begin implementation in the Fall, followed by all other courts. The long term goal is to have e-filing occur electronically from the user to the court, populating its case management system. Currently, Intresys has provided services to a few large municipalities in California, New York, and Florida, with its TurboCourt e-filing application. Mr. Price gave members a brief online demonstration of the steps to filing a case on the TurboCourt website (<http://www.turbocourt.com/>), and suggested they peruse the site to get an understanding of the features and resources an e-filing application can provide.

H. Protective Orders and Public Access Case Look-up

Kay Radwanski, AOC Court Services Division, addressed the committee on the issue of accessibility of protective order case information on the Public Access case look up site on the Arizona Judicial Branch Webpage. Currently, plaintiff information is not published on the site, however, the Committee on the Impact of

Domestic Violence (CIDVC) recently discussed removing defendant and case history information. Three alternatives emerged to address the matter: 1) remove all protection order case information from the web page; 2) limit access to those cases for which there was a contested hearing and at which the order was affirmed or modified; or 3) leave the information (defendant information and case history) on the web page as currently published. A recommendation for one of the three alternatives was requested.

MOTION: To support removing all protection order case information from the webpage. Seconded. Approved unanimously. LJC-09-008

I. Legislative Update

Jerry Landau, Director of Governmental Affairs, reported on pending legislation that would impact limited jurisdiction courts. The following bills were highlighted:

HB2215: Traffic Citations; Payments; Reinstatement Fees

This is still being worked through with MVD due to concerns voiced by courts regarding the proposed process of allowing an individual to come into court, pay off the violation as a default, and then pay the court for the reinstatement fee to MVD, which the court would forward to MVD, presumably lifting the driving suspension. But, there may be other factors in place for which the suspension is still in place. This places added burden on the courts.

HB2382: Traffic Violations; Fees, Court Retention

This bill was proposed by a lobbyist for some of the defensive driving schools and is different than what it appears to be on the surface. It would provide for the defensive driving school to receive only their portion of the fee, while all other fees, fines, forfeitures, and civil penalty payments go to the court. This would result in a tremendous work load on the courts, cities, and counties. Mr. Landau stated that once official word is received from the AOC, an opposition to the bill would be filed. If it goes to a hearing, some court administrators may be asked to testify as to the difficulties courts would face if the bill passed.

SB1247: Victim's Rights; Hearing; Fees; Status

Members were asked to look at this bill, and if any cost or time implications for the courts are observed, to email Jerry Landau at JLandau@courts.az.gov with that information. The bill would permit a victim to request a special hearing and to be heard at the hearing whenever a motion is filed asking the court to consider the post-arrest release of a juvenile or modification of conditions for release. The proposal directs the court to assess a \$25 fee against the parent of a delinquent for all dismissed or amended charges involving a victim if the juvenile enters into a plea for any criminal offense and is adjudicated delinquent or is diverted to a community based alternative program or a juvenile diversion program.

SB1333: Administrative Orders; Applicability; Judges

This bill would prohibit the Court from issuing an administrative or court order that would limit or restrict a judge's issuance of an:

- order of protection
- injunction against harassment
- arrest warrant
- search warrant
- electronic surveillance order

This bill will be opposed.

Mr. Landau also informed the Committee that at this time, the House is hearing bills, however, the Senate is not. Further, he noted the target date for the 2010 budget is late March.

J. ACJA § 5-205 Collections

Mike DiMarco, Court Services Division, presented the new ACJA § 5-205, concerning collections, which codifies Administrative Orders 97-57, 2003-126, and 2005-129, all of which deal with the FARE program. He stated there are no significant changes in the new section, but implementing the new section will bring the program as it exists currently, into compliance with the establishing Administrative Order.

MOTION: To approve ACJA § 5-205 Collections with discretion given to the FARE program to continue to address language in this section regarding civil filing fee deferrals. Seconded. Passed unanimously. LJC-09-009

III. OTHER BUSINESS

A. NEXT MEETING:

Wednesday, May 20, 2009

State Courts Building

Conference Rooms 345 A/B

10:00 a.m. – 3:00 p.m.

B. Good of the Order/Call to the Public

No public response.

The meeting was adjourned at 2:43 p.m.

**COMMITTEE ON LIMITED JURISDICTION COURTS
MINUTES**

Wednesday, May 20, 2009
10:00 am to 3:00 pm
State Courts Building
Conference Room 345 A/B
1501 W. Washington Street
Phoenix, AZ 85007

MEMBERS PRESENT:

Honorable Antonio Riojas

Honorable Ted W. Armbruster – *telephonic*

Mr. C. Daniel Carrion

Honorable Thomas L. Chotena

Ms. Faye Coakley

Honorable Timothy Dickerson

Ms. Joy Dillehay

Honorable Sam Goodman

Honorable Jeffrey A. Klotz - *telephonic*

Mr. Patrick Kotecki

Honorable Nicole Laurin – *telephonic*

Honorable Kathy McCoy

Mr. Doug Pilcher

Ms. Marla Randall

Ms. Lisa Royal

Mr. Mark Stodola

Honorable J. Matias Tafoya

Honorable R. Michael Traynor - *telephonic*

MEMBERS ABSENT:

Honorable Phillip W. Bain

Honorable Maria Felix

Honorable Dorothy Little

PRESENTERS/GUESTS:

Ms. Janet Scheiderer

Ms. JL Doyle

Ms. Dori Ege

Ms. Joan Harphant

Ms. Cindy Trimble

Mr. Ken Kung

Ms. Patience Huntwork

Honorable Gary Donahoe

Mr. Jeremy Mussman

Mr. Jim Price

Ms. Christi Weigand

Ms. Sharleen Decker

Ms. Jennifer Jones

Ms. Niki O’Keeffe

Mr. Jerry Landau

Ms. Jennifer Greene

STAFF:

Mark Meltzer

Tama Reily

I. REGULAR BUSINESS

Several committee members and the Chair were delayed for the meeting due to a major traffic accident. Judge Kathy McCoy stood in as acting Chair for Judge Riojas.

A. Welcome and Opening Remarks

With a quorum present, the May 20, 2009, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order by Judge Kathy McCoy, acting Chair, at 10:15 am.

New member Doug Pilcher was introduced and welcomed to the committee. Mr. Pilcher is the Court Administrator for the Phoenix Municipal Court. He also serves on the Commission on Victims in the Courts (COVIC) and the Committee on the Impact of Domestic Violence and the Courts (CIDVC).

Judge McCoy informed the committee that this would be her last LJC meeting.

B. Approval of February 18, 2009 Minutes

The minutes for the February 18, 2009, meeting of the LJC were presented for approval.

MOTION: To approve the minutes of the February 18, 2009, LJC meeting as presented. Seconded. Passed unanimously. LJC-09-010

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. Supreme Court's Strategic Agenda

Ms. Janet Scheiderer, Director of the Court Services Division for the AOC addressed the committee on the planning of a new strategic agenda for 2010 – 2015. Ms. Scheiderer explained the planning process and the role that Arizona Judicial Council (AJC) standing committees play in the development of a strategic agenda. She reviewed various statistics on case filing trends along with other information affecting the courts. She discussed some of the Good to Great objectives that remain in place. In addition, she related some of the proposed strategic agenda initiatives discussed at the March 2009 AJC meeting.

Members were given an overview of the new Arizona Judicial Branch Strategic Agenda Planning Collaboration Tools website (www.sp2010.courts.az.gov), which has been set up to allow members to participate in and follow the progress of the new strategic agenda. Members were instructed on the registration process for accessing and using the tools on the site.

Ms. Scheiderer suggested that the members consider using meeting time or establishing a workgroup to discuss potential initiative proposals. Ms. Scheiderer stated that the committee's recommendations are needed by August. At that time, an AJC subcommittee will be formed to review initiative proposals received from other committees and to develop a plan that will be presented at the October 2009 AJC meeting.

Several members volunteered to participate in a strategic agenda workgroup.

Volunteers included the following committee members: Lisa Royal, Patrick Kotecki, Dan Carrion, Mark Stodola, Judge Tafoya, and Judge Goodman who will serve as Chair. Judge Bain was also nominated to participate in the workgroup.

MOTION: To establish a Workgroup on Strategic Planning to assist in developing potential initiatives for the new Strategic Agenda. Motion seconded. Approved unanimously. LJC-09-011

B. ACJA § 6-209

Ms. JL Doyle, Manager in the Adult Probation Services Division of the AOC, presented proposed ACJA Section 6-209: Adult Probation Services to Limited Jurisdiction Courts. The purpose of this section is to codify an existing practice affecting offenders sentenced in limited jurisdiction courts, who are then transferred to a superior court adult probation department for supervision. The code would govern the operations and supervision requirements. Ms. Doyle noted that the code has been passed by the Committee on Probation and the Committee on Superior Court.

MOTION: To approve ACJA § 6-209: Adult Probation Services to Limited Jurisdiction Courts, subject to the striking of references to felonies. Motion seconded. Approved unanimously. LJC-09-012

NOTE: At this time, Judge Riojas arrived and the chair was turned over to him. He thanked Judge McCoy for acting as Chair during his delay.

C. Interstate Compact Workgroup

Ms. Dori Ege, Manager in the Adult Probation Administrative Services Unit, and Mr. Mark Stodola reported that the Interstate Compact Workgroup met in April. The workgroup developed a survey for distribution to LJ courts statewide that would gather information on the courts' experience and manner of dealing with Interstate Compact cases. A draft of the survey was provided to members for input and suggested changes. The workgroup is requesting that the LJC approve the survey for distribution.

MOTION: To approve the Interstate Compact survey as presented. Motion seconded. Approved unanimously. LJC-09-013

D. Juvenile and Defensive Driving Schools

Ms. Joan Harphant, Chair of the LJC Defensive Driving Subcommittee, and Ms. Nancy Swetnam, Director of the Certification and Licensing Division for the AOC, presented on the issue of inconsistent practices in LJ courts related to juvenile traffic cases. In question is whether a juvenile is required to appear in court prior to attending defensive driving school. The courts' inconsistencies pose problems for traffic schools, which are unsure whether the juvenile requires court approval prior to registering for the class. The subcommittee would like to survey all Arizona counties to determine what courts that require prior court appearances and what

courts have declined jurisdiction on civil traffic matters. The results of the survey would then be posted on the DDS website so that traffic schools can accurately advise students if they need to contact the court prior to registering for classes.

MOTION: To recommend that the LJC Defensive Driving Subcommittee complete a survey of LJ courts in the 15 counties to determine which courts have declined jurisdiction in civil traffic matters for juveniles. Motion seconded. Approved unanimously. LJC-09-014

Ms. Harphant raised a second issue regarding an *enhanced class* that is being offered by defensive driving schools. The class is intended to function as a refresher course and is offered to both juveniles and senior citizens. The fee for the class is thirty-five dollars, however, there is no diversion fee being collected. The certificate awarded for the class looks nearly identical to a certificate for completion of defensive driving school for diversion purposes. Defendants are bringing a certificate for an enhanced class to court, however, the certificate does not meet the requirements for a diversion class.. Ms. Harphant and Ms. Swetnam recommended that judges do not accept these certificates, but rather, rely strictly on the electronic transmissions they receive from the AOC database.

E. Financial Advisory Workgroup

Ms Cindy Trimble, Manager, and Mr. Ken Kung, Financial Specialist, in the Court Services Court Operations Unit of the AOC, reported that they are in the process of forming a Financial Advisory Workgroup to review the Minimum Accounting Standards (MAS). Since MAS came into use by the court community in January 2008, the need for clarifications and technical corrections has become apparent. Ms. Trimble stated they are seeking volunteers from LJC to participate in this workgroup. The workgroup would also include members from the Committee on Superior Court. The goal is for the workgroup to have something prepared to go before the AJC in December 2009. They would like to hold the first workgroup meeting around the second week in June. Members interested in participating in the workgroup were asked to contact Cindy Trimble at CTrimble@courts.az.gov or 602-452-3795.

F. Criminal Rules Video-Conference Advisory Committee

Judge Antonio Riojas, Chair of the Criminal Rules Video-Conference Advisory Committee (CRVAC), Judge Sam Goodman, and CRVAC members Judge Gary Donahoe and Mr. Jeremy Mussman, addressed the committee regarding proposed amendments to Rule 1.6, Arizona Rules of Criminal Procedure, which provides for court appearances of defendants via video-conferencing. Judge Riojas noted that a majority of CRVAC supports the proposed amendments; however, a minority of the CRVAC membership opposes the amendments.

Judge Riojas summarized the proposed amendments, explaining they would expand the use of video-conferencing in court proceedings while still upholding the rights of a defendant. He stated that the amendments include provisions to ensure

adequacy of interactive audiovisual systems, availability of interpreter services, and compliance with victims' rights laws. He also reported that much of the dissent from the majority proposal centers on the inclusion of initial appearances as being appropriate for video-conferencing in the discretion of the court. However, he explained that after much consideration, the majority concluded that conducting initial appearances by video-conference would not violate the defendant's constitutional rights, or in any way represent an injustice.

Mr. Mussman related the minority's opposition. He is not opposed to the idea of video-conferencing, however he believes the current proposal is overly broad, premature, lacks sufficient technical standards, and is vulnerable to legal challenge. He also believes the proposal effectively violates the defendant's constitutional rights to appear and to defend (Article II, section 24) because in certain cases it gives sole discretion to the court to determine whether video-conferencing will take place. The minority argues that while video-conferencing is generally a good idea, the ambiguity of the majority proposal, its failure to recognize technical inadequacies, and a disregard for the rights of the defendant, make it unsupportable.

Judge Gary Donahoe countered the minority view, maintaining that the majority proposal was carefully crafted and is consistent with case law. He observed that many of the minority's arguments are based on extraordinary cases which rarely occur, and in such cases, it is up to the judicial officer to consider the circumstances of the case and to make a decision appropriate to those circumstances. Judge Donahoe stated that the majority's view entrusts judicial officers to exercise sound judicial discretion.

Extensive discussion ensued. In response to committee members' comments and questions, the following points were put forth:

- Regarding the rights of the defendant to appear (Article II, Section 24), the rule as written is consistent with case law which considers appearing via video-conferencing as "constitutionally adequate" and "functionally equivalent" to a physical appearance in the courtroom.
- Rather than requiring new and costly technology, the expectation is that the technology currently in place can be adapted to fully ensure the defendants ability to participate in the proceedings and provide confidentiality for communications between the defendant and counsel. Cost savings, while not a driving force, are an expected and significant benefit of video-conferencing.
- The current Rule 1.6 provides that there be a stipulation for all proceedings, however, it is not required to be a written stipulation in the case of initial appearances and not-guilty arraignments. In addition, it also holds that the court shall determine that the defendant knowingly and voluntarily agrees to appear via video-conferencing.

MOTION: To support the Criminal Rules Video-Conference Advisory Committee's majority version of proposed amendments to Rule

1.6, Arizona Rules of Criminal Procedure as presented. Vote: 8-8-0. Motion failed. LJC-09-015

G. E-Filing Implementation

Jim Price, Manager in the Information Technology Division of the AOC, and Christi Weigand, Specialist in the Court Services Caseflow Management Unit, brought members up to date on the status of the E-filing project. Mr. Price discussed the development schedule and target dates for various courts to begin E-filing. He reported they are currently working on small claims and general civil filings.

Ms. Weigand gave an overview of the e-filing site, the various forms that are being developed, and demonstrated how a small claim would be processed. The e-file site will be at azturboCourt.gov. Members can get information about the e-filing project at <http://www.supreme.state.az.us/eCourts/MainMeetings.htm>.

H. Pandemic Planning

Ms. Niki O’Keeffe, Director of the Administrative Services Division of the AOC, addressed the committee on the status of the H1N1 flu. She discussed the challenges faced by the court community during an outbreak of this nature. She also advised members that the Public Health Bench Book is available online on the Wendell website. In addition, she provided the website address for Emergency Preparedness information (<http://supreme8/status/>), which gives information and numerous outside resources regarding public health. Written materials on Pandemic Emergency Preparedness were provided.

I. Legislative Update

Jerry Landau, Director of Government Affairs for the AOC, reported that legislation impacting limited jurisdiction courts is not moving due to the Legislature’s focus on the budget.

Mr. Landau also reminded members that the Friday legislative conference call would not take place the Friday of Memorial Day weekend.

III. OTHER BUSINESS

A. NEXT MEETING:

Wednesday, September 16, 2009

State Courts Building
Conference Rooms 119 A/B
10:00 a.m. – 2:00 p.m.

B. Good of the Order/Call to the Public

No public response.

The meeting was adjourned at 2:00 p.m.

**COMMITTEE ON LIMITED JURISDICTION COURTS
MINUTES**

Wednesday, September 16, 2009
10:00 am to 3:00 pm
State Courts Building
Conference Room 119 A/B
1501 W. Washington Street
Phoenix, AZ 85007

MEMBERS PRESENT:

Honorable Antonio Riojas	Honorable Sam Goodman
Honorable Ted W. Armbruster – <i>telephonic</i>	Mr. Patrick Kotecki
Honorable Phillip W. Bain	Honorable Nicole Laurin – <i>telephonic</i>
Mr. C. Daniel Carrion	Honorable Dorothy Little
Honorable Thomas L. Chotena	Mr. Doug Pilcher
Ms. Faye Coakley	Ms. Lisa Royal
Ms. Joy Dillehay	Mr. Mark Stodola
Honorable Maria Felix	Honorable J. Matias Tafoya

MEMBERS ABSENT:

Honorable Timothy Dickerson	Ms. Marla Randall
Honorable Jeffrey A. Klotz	

PRESENTERS/GUESTS:

Mr. Paul Julien	Ms. Melinda Hardman
Mr. Jim Price	Ms. Patience Huntwork
Ms. Christi Weigand	Mr. David Withey
Ms. Dori Ege	Ms. Niki O’Keefe
Ms. Janet Scheiderer	Mr. Jerry Landau

STAFF:

Mark Meltzer	Tama Reily
--------------	------------

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, Judge Antonio Riojas, Chair, called the September 16, 2009, meeting of the Committee on Limited Jurisdiction Courts (LJC) to order at 10:00 am.

Judge Riojas called members’ attention to the new hand sanitizers that have been installed at the entrance to the conference rooms in the building in the interest of preventing spread of the H1N1 virus.

Mr. Chris Manes, AOC Information Technology Division, explained the new wireless conference system being used in today's meeting.

B. Approval of May 20, 2009 Minutes

The minutes for the May 20, 2009, meeting of the LJC were presented for approval.

MOTION: To approve the minutes of the May 20, 2009, LJC meeting as presented. Motion seconded. Passed unanimously. LJC-09-016

C. Introduction of Director of the Education Services Division

Mr. Paul Julien, AOC Judicial Education Officer, introduced Mr. Jeff Schrade, new director of the Education Services Division. Mr. Schrade was formerly the Senior Director for the Arizona Foundation for Legal Services and Education. Mr. Schrade expressed his intent to get out and about to meet the individuals in the court community. He also encouraged members to feel free to call or email him at any time.

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. E-Filing Implementation

Mr. Jim Price, AOC Project Manager for the Statewide E-Filing Initiative, and Ms. Christi Weigand, AOC Limited Jurisdiction Business Lead, gave an update on Phase I of the E-filing project. Mr. Price stated that small claims intelligent and general civil intelligent forms are now available online in the Maricopa Justice Courts for the „pay and print“ process, and should be available in Pima courts later in the month. Eviction actions forms are due out in the fall. He also provided a brief overview of the AJC approved filing fees for the various filing options, and the administrative orders and rule changes taking place that will allow electronic filing to proceed.

Ms. Weigand shared some of the tools being utilized in the marketing efforts for the product, including the Turbocourt poster and brochures, which are to be displayed in courts around the state. The e-filing slogan "*Fast, Simple, Convenient*" was revealed, as well as the brand name *azturbocourt.gov*, which is being used for the portal and the service. Ms. Weigand also demonstrated a test of the online process for eviction actions.

A question was raised as to whether a party can respond to the eviction action electronically. Ms. Weigand explained that an answer form will be available, however, the party would print the form and file in person or by mail. Once the full electronic filing function is up and running, the party will be able to submit the response electronically. The electronic submissions feature is still several months away.

Judge Riojas requested that Mr. Price and Ms. Weigand provide an e-filing update at a future LJC meeting in order to keep members apprised of the status of the eviction forms.

B. Approval of A.C.J.A. § 6-211

Ms. Dori Ege, AOC Adult Probation Services Division, presented proposed code section 6-211: Inter-County Courtesy Transfers. Ms. Ege explained that this code section was put into place in January 2004, however, it recently underwent review and revision aimed at clarifying the language and improving the process by which courtesy transfers of probationers are made from county to county. This code section is being presented to the LJC due to the fact that some cases generated out of the lower courts will require superior court probation supervision. Ms. Ege directed members' attention to section F(5) of the code, where language changes have been made to the code since the meeting materials were prepared. The new language reads as follows:

“A judge from the sending county may assess the probationer who requests a transfer additional amounts monthly, as part of the probation service fees, charged pursuant to A.R.S. 13-901(A) following due consideration of the probationers ability to pay the increased fee.”

Ms. Ege explained the changes were made per the recommendations of legal advisors, to ensure consistency with the statute that allows the authority to assess any kind of additional probation service fees. The code section was approved by the Committee on Probation (COP) in early September with the exception of striking the first five words “In accordance with caseload capacities...” in sections E(1) and E(2). Ms. Ege stated it is expected that the code section will be presented at the Arizona Judicial Council (AJC) in October.

MOTION: To recommend A.C.J.A. §6-211: Inter-County Courtesy Transfers proceed to AJC with the changes made to sections F(5), E(1) and E(2) as discussed. Motion seconded. Approved unanimously.
LJC-09-017

C. Survey by the Interstate Compact Workgroup

Committee member, Mr. Mark Stodola, and Ms. Dori Ege reported on the results from the workgroup's survey, which was administered to the state's limited jurisdiction courts. Ms. Ege recounted that the survey responses indicate there are interstate compact eligible offenders living in other states, but without supervision under the interstate compact.

Mr. Stodola noted the workgroup has explored various ways the level of awareness of the compact can be raised, some of which included 1) providing additional education for judges, or 2) adoption of an administrative order that would indicate the need to be in compliance with interstate compact.

The committee discussed what might be an effective way to communicate the needed information to all of the limited jurisdiction courts. One suggestion was to develop a supreme court mandated guideline listing the steps that every judge should take in these situations.

Mr. Jeff Schrade offered that with the cancellation of the 2010 Judicial Conference, the Education Division may be looking for opportunities to provide relevant, targeted training at events scheduled to take place. A few such events could include the justice of the peace and magistrate conferences, as well as the limited jurisdiction new judge orientations. Ms. Ege offered to be on hand, and/or present on the issue at any of the events discussed.

Some members contended that certain factors may contribute to noncompliance with the Compact. It was pointed out that the language in the Compact, in the definition of „supervision“, is somewhat vague and that some basic language revisions could provide clarity for limited jurisdiction judges, thereby improving compliance. As well, the fact that judges and/or courts don't necessarily receive notification when someone moves out of state makes it difficult to notify the other states.

Judge Riojas stated that at this time there is no action to be taken on this item. Mr. Stodola noted that the workgroup will follow up with the organizers of some of the events discussed in order to get the issue on their agendas.

D. Update on the Supreme Court's Strategic Agenda

Ms. Janet Scheiderer, Director of the AOC Court Services Division, provided an update on the development of the new strategic agenda. Ms. Scheiderer thanked the members of the workgroup that developed potential initiatives for the new strategic agenda. She reported that the suggestions have been compiled along with those received from various associations and AJC committees and are currently being reviewed. She indicated that as the agenda is being developed, limited resources will play into the decision-making process.

Ms. Scheiderer added that a title for the agenda has not yet been chosen and she encouraged members to continue bringing forth suggestions for the title. The goal is to have a draft of the agenda ready to present at the October AJC meeting, and possibly, the new strategic agenda can be introduced by the end of 2009 or the beginning of 2010.

E. Rules Update

Ms. Patience Huntwork, AOC Legal Services Division discussed the new rules that impact limited jurisdiction courts.

R-06-0016

Amends Rule 1.6, Rules of Criminal Procedure. Among other things, it provides for appearances by defendants via videoconferencing, at the sole discretion of the court and without the consent of the defendant, under specified conditions.

R-08-0017

Amends Rules 6(c) and 6(e), Rules of Protective Order Procedures to conform with amendments to A.R.S. 13-3602(E) and A.R.S. 12-1809(E) and to make technical changes to Rules 1, 2, 4, and 7 of the Rules of Protective Order Procedure.

R-08-0019

Allows for court orders that juveniles or adults charged with specified offenses submit biological samples for DNA testing.

R-08-0021

Adopts on a permanent basis various amendments to Rule 1, 2, and 22 Rules of procedure in Civil Traffic Cases, affecting the photo enforcement system.

R-08-0026

Adopts on a permanent basis amendments to Rule 28.2, Arizona Rules of Criminal Procedure, which grants prosecutors and/or law enforcement agencies discretion to dispose of evidence, specifically, court ordered fingerprints.

R-08-0027

Amends and adopts on a permanent basis Rules 57.1 and 57.2, Arizona Rules of Civil Procedure related to procedures for victims of identity theft. Petitions filed under these rules are filed in superior court.

R-08-0039

Amends Rule 123, Rules of the Supreme Court, Rule 2.3 Rules of Criminal Procedure, and adds Rule 5(f), Rules of Civil Procedure, to provide greater access to case records.

R-09-0002

Amends Rule 10.1, Rules of Procedure in Civil Traffic and Civil Boating Violation Cases, and allows parties to appear via audio visual means.

R-09-0026

Amends Rule 6(C), Arizona Rules of Protective Order Procedure, which adds relationships of a romantic or sexual nature to the definition of statutory relationships. Comments are due by May 20, 2010.

R-09-0029

Amends Rules 3.2, 4.2, 7.5, 14.3, 26.10, and Form 3(a), Rules of Criminal Procedure, and the Arizona Traffic Ticket and Complaint Form, which provides

procedures for obtaining fingerprints in criminal proceedings. Comments are due by May 20, 2010.

F. Approval of A.C.J.A. §§ 1-604 and 1-605

Ms. Melinda Hardman, Specialist in the Court Programs Unit of the AOC, presented two new proposed code sections. Ms. Hardman reported that the code sections came about as a result of the passage of the Rule Petition amending Supreme Court Rule 123 and granting access to records maintained in the judiciary, including bulk data, database access, and case look-up websites. The new code sections deal with the standards and procedures for courts to release records.

MOTION: To approve A.C.J.A. § 1-604: Remote Electronic Access to Case Records as presented. Motion seconded. Approved unanimously. LJC-09-018

MOTION: To approve A.C.J.A. § 1-605: Requests for Bulk or Compiled Data as presented. Motion seconded. Approved unanimously. LJC-09-019

G. Approval of A.C.J.A. § 1-303

Mr. David Withey, AOC Chief Legal Counsel, presented new ACJA § 1-303: Code of Conduct for Judicial Employees. This code section was previously presented to LJC in March 2008, however, members had concerns about amendments addressing employees seeking judicial department elective office. The new code rectifies those concerns, and was developed so that it corresponds with the new Code of Judicial Conduct, where the same principles apply to both judges and employees. Mr. Withey described the amendments, additional language, and new provisions in the code section. The code section is expected to be presented at the October or December AJC meeting.

MOTION: To recommend adoption of ACJA § 1-303: Code of Conduct for Judicial Employees as presented. Motion seconded. Approved unanimously. LJC-09-020

H. H1N1 Update

Ms. Niki O’Keeffe, Director of the Administrative Services Division for the AOC, updated the committee about the current recommendations from the Arizona Department of Health Services for the 2009 – 2010 influenza seasons. Due to the effects of the first wave of H1N1 in 2009, employers are being encouraged to take recommendations seriously. Informational handouts were provided in the meeting materials.

I. Legislative Update

Mr. Jerry Landau, Director of Government Affairs for the AOC, and Sarah Ella Spears, Legislative Extern, provided the legislative update. Mr. Landau noted there are no proposals to present at this time. He reminded members that any proposals

submitted this year should be limited to those that would directly enhance court efficiency or have an effect on the budget. He disclosed that the budget would be the dominate issue again this year, as expectations are that it will be worse in fiscal year 2011 than it was in 2010. The legislature will come back into special session at least once, to deal with the 2010 budget and any shortfalls that may result due to the lack of revenue coming into the state.

Mr. Landau also informed the committee there will be a DUI and Traffic Conference in Tempe on October 28th, 29th, and 30th, hosted by the Governor's Office of Highway Safety.

III. OTHER BUSINESS

A. NEXT MEETING:

Wednesday, October 28, 2009

State Courts Building

Conference Rooms 119 A/B

10:00 a.m. – 2:00 p.m.

The time period for this meeting may be shortened to a morning session only to permit members to attend the Governor's Conference, as set out above.

B. Good of the Order/Call to the Public

No public response.

The meeting was adjourned at 2:00 p.m.

**COMMITTEE ON LIMITED JURISDICTION COURTS
MINUTES**

Wednesday, October 28, 2009
10:00 am to 12:00 pm
State Courts Building
Conference Room 119 A/B
1501 W. Washington Street
Phoenix, AZ 85007

MEMBERS PRESENT:

Honorable Antonio Riojas	Mr. Patrick Kotecki
Honorable Ted W. Armbruster - <i>telephonic</i>	Honorable Nicole Laurin - <i>telephonic</i>
Mr. C. Daniel Carrion	Honorable Dorothy Little - <i>telephonic</i>
Honorable Thomas L. Chotena	Mr. Doug Pilcher
Ms. Faye Coakley	Ms. Marla Randall
Honorable Timothy Dickerson	Ms. Lisa Royal
Ms. Joy Dillehay	Mr. Mark Stodola
Honorable Maria Felix	Honorable J. Matias Tafoya
Honorable Sam Goodman	
Honorable Jeffrey A. Klotz	

MEMBERS ABSENT:

Honorable Phillip W. Bain

PRESENTERS/GUESTS:

Mr. Jerry Landau	Ms. Joan Harphant
Mr. Gordon Mulleneaux	Ms. Carol Mitchell
Ms. Melinda Hardman	Ms. Theresa Barrett
Mr. Stewart Bruner	Mr. Patrick Scott
Ms. Nancy Swetnam	Ms. Patience Huntwork
Ms. Kandace French	Ms. Stephanie Meade - <i>telephonic</i>
Mr. Jeff Schrade	

STAFF:

Mark Meltzer	Tama Reily
--------------	------------

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, Judge Antonio Riojas, Chair, called the October 28, 2009, meeting of the Committee on Limited Jurisdiction Courts (LJC) to order at 10:00 am.

B. Approval of September 16, 2009 Minutes

The minutes for the September 16, 2009, meeting of the LJC were presented for approval.

MOTION: To approve the minutes of the September 16, 2009, LJC meeting as presented. Motion seconded. Passed unanimously. LJC-09-021

II. CONSENT AGENDA

A. ACJA § 1-303; Code of Conduct for Judicial Employees

This version of ACJA § 1-303 has been revised since its approval by LJC at the September 16, 2009 meeting. The changes stemmed from concerns that came to light during the comment period regarding Rules 2.6, Assistance to Litigants, and 4.3, Elected Judicial Department Office. The revised draft is presented today for approval by the LJC.

MOTION: To approve the revised draft of ACJA § 1-303; Code of Conduct for Judicial Employees as presented. Motion seconded. Approved unanimously. LJC-09-022

III. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. Legislative Update

Mr. Jerry Landau, Director of Government Affairs for the Administrative Office of the Courts (AOC), briefed members on expectations for the upcoming legislative session. Currently there are no proposals planned, and he expects that the budget will be the predominant issue. He noted the possibility that a special legislative session could take place in November, and would involve looking at funding for the Department of Revenue and the Corporation Commission. Mr. Landau will provide updated legislative information as it becomes available.

B. ACJA § 5-204: Administration of Victims' Rights

Mr. Gordon Mulleneaux, associate clerk of Maricopa County Superior Court, presented proposed amendments to ACJA § 5-204, section (K), regarding the processing of restitution payments. The changes would 1) Clarify that the payment processing timeline refers to business days, and 2) Increase the threshold for mailing out restitution payment from ten to thirty dollars. Mr. Mulleneaux added that the threshold increase is on a voluntary basis, rather than mandatory. The cost savings per month for Maricopa Superior Court is estimated to be approximately \$1500.00.

MOTION: To approve ACJA § 5-204: Administration of Victims' Rights, section (K) as presented. Motion seconded. Approved unanimously. LJC-09-023

C. ACJA §§ 1-604: Remote Electronic Access to Case Records; 1-605: Requests for Bulk or Compiled Data; 1-606: Providing Case Records to Public Agencies and Public Purpose Organizations

Ms. Melinda Hardman, AOC court analyst in the Court Services Division, presented proposed amendments to ACJA §§ 1-604 and 1-605, and new ACJA § 1-606, all of which result from recent amendments to Supreme Court Rule 123. Ms. Hardman reminded members that the code sections 1-604 and 1-605 were previously approved by LJC, but noted they have since been modified to provide clarity and consistency with the statute. The new section, ACJA § 1-606 sets forth procedures for releasing case records to government agencies and other public purpose organizations. Ms. Hardman also reported that the three code sections will be available for comment on the new ACJA Web Forum and encouraged members to provide their feedback on the proposals. The link to the forum will be provided to members via email after today's meeting.

MOTION: To approve revised ACJA § 1-604: Remote Electronic Access to Case Records as presented. Motion seconded. Approved unanimously. LJC-09-024

MOTION: To approve revised ACJA § 1-605: Requests for Bulk or Compiled Data as presented. Motion seconded. Approved unanimously. LJC-09-025

MOTION: To approve ACJA § 1-606: Providing Case Record Access to Public Agencies and Public Purpose Organizations as presented. Motion seconded. Approved unanimously. LJC-09-026

D. ACJA § 5-208: Operational Standards for Interactive Audiovisual Proceedings in Criminal Cases

Mr. Mark Meltzer, AOC Court Analyst in the Court Services Division, and Mr. Stewart Bruner, AOC Manager of Strategic Planning for the Information Technology Division, presented proposed ACJA § 5-208, which lays out the operational standards and technical requirements for interactive audiovisual proceedings, as required by amended Rule 1.6, effective January 1, 2010. Mr. Meltzer provided an overview of the basis for *operational* and *technical* standards, and explained the minimum technical requirement that "all participants be able to clearly see and hear proceedings in the courtroom." Mr. Bruner detailed some of the technical issues and considerations involved in achieving the minimum requirement.

The following comments and concerns were raised and discussed:

- Previously there was an issue with Rule 1.6 requiring the court interpreter to be onsite with the defendant; does that stipulation remain?

- What is the view for the defendant from the remote site – does the camera pan the room to focus on the individual speaking at a given moment?
- There was concern voiced from the Defense Bar that the defendant may be disadvantaged if unable to see nonverbal communications such as facial expression when conducting an appearance via videoconference.
- Are there any video records kept of audiovideo proceedings?

MOTION: To approve ACJA § 5-208: Operational Standards for Interactive Audiovisual Proceedings in Criminal Cases as presented. Motion seconded. Approved unanimously. LJC-09-027

E. Homeless Courts

Mr. Daniel Carrion presented a video on the Maricopa County Regional Homeless Court (RHC), a program established to help homeless people resolve outstanding misdemeanor charges while participating in an approved program aimed at making positive life changes towards a stable lifestyle. Information regarding the Homeless Court programs can be found at <http://www.phoenix.gov/COURT/homeless.html>.

F. ACJA § 7-205: Defensive Driving Schools

Ms. Nancy Swetnam, Director of the Certification and Licensing Division for the AOC, and staff member Kandace French, presented proposed amendments to ACJA § 7-205: Defensive Driving. The amendments will redress and streamline processes and requirements of defensive driving schools and the courts.

MOTION: To approve amended ACJA § 7-205: Defensive Driving as presented today. Motion seconded. Approved unanimously. LJC-09-028

G. LJC 2010 Meeting Schedule

Judge Riojas announced the proposed 2010 LJC meeting dates as follows:

- Wednesday, February 17, 2010
- Wednesday, May 5, 2010
- Wednesday, September 1, 2010
- Wednesday, October 27, 2010

MOTION: To approved the proposed 2010 LJC meeting dates as discussed. Motion seconded. Approved unanimously. LJC-09-029

III. OTHER BUSINESS

Judge Riojas announced that today's meeting would be Joy Dillehay's last LJC meeting. He thanked her for her service to the committee.

Judge Riojas identified an issue he would like on the next LJC meeting agenda, which pertains to the committee's recommended strategic agenda initiative to allow

for entry of guilty pleas in class III misdemeanor cases via mail. Judge Riojas noted there was concern raised at the recent Arizona Judicial Council meeting that domestic violence cases might be inappropriately included in this process. Accordingly, AJC did not include the proposed initiative in the new strategic agenda. The LJC may want to consider this issue at its February 2010 meeting.

A. NEXT MEETING:

Wednesday, February 17, 2010

State Courts Building
Conference Rooms 345 A/B
10:00 a.m. – 3:00 p.m.

B. Good of the Order/Call to the Public

No public response.

The meeting was adjourned at 12:00 p.m.