

**COMMITTEE ON LIMITED JURISDICTION COURTS  
MINUTES**

**Wednesday, January 23, 2013**

10:00 a.m. to 2:30 p.m.

Conference Room 119A/B

1501 West Washington Street

Phoenix, AZ 85007

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**Present:** Carla F. Boatner, C. Daniel Carrion, Cathy Clarich, Janet G. Cornell, Judge Timothy Dickerson, Christopher Hale, Judge James William Hazel, Jr., Judge Eric Jeffery, Judge MaryAnne Majestic, Judge Arthur Markham, Marla Randall, Judge Antonio Riojas, Judge J. Matias “Matt” Tafoya, James “Marty” Vance, Sharon S. Yates.

**Telephonic:** Judge Maria Felix, Judge Dorothy Little.

**Absent/Excused:** Patrick Kotecki.

**Presenters/Guests:** Theresa Barrett (AOC), Stewart Bruner (AOC), Cindy Cook (AOC), Paul Julien (AOC), Jerry Landau (AOC), Scott O’Connell (Legislative), Sheryl Rabin, Esq. (Maricopa County Justice Courts), Marcus Reinkensmeyer (AOC), Maria Rodriguez, Cindy Trimble (Executive Office).

**Staff:** Mark Meltzer (AOC), Kym Lopez (AOC).

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**I. REGULAR BUSINESS**

**A. Welcome and Opening Remarks**

The January 23, 2013 meeting of the Committee on Limited Jurisdiction Courts (“LJC”) was called to order at 10:04 am by Judge Antonio Riojas, Chair. Judge Riojas introduced new members Christopher Hale and Cathy Clarich.

**B. Approval of Minutes**

The draft minutes from the October 31, 2012 meeting of the LJC were presented for approval. A motion and a second to approve the October 31, 2012 meeting minutes as presented was stated and the motion passed unanimously.

**II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS**

**A. Legislative Update**

Jerry Landau, AOC Director of Government Affairs, discussed the following legislative proposals of interest to limited jurisdiction courts in the 2013 legislative session:

HB 2070: community restitution work program credits; Representative Coleman  
Members commented that some people cannot or will not pay a fine and this is an alternative. Members felt that JP courts should have the same discretion.

**Motion:** Judge Felix motioned to approve a recommendation of community service for replacement of mandatory fines at the judge's discretion if the person is truly indigent and to expand it to justice courts as well.

**Second:** Judge Markham.

**Vote:** Passed unanimously.

HB 2035: resign to run; public declaration

SB 1038: parenting time; court-ordered supervisors

HCR 2005: public retirement systems

### **B. Title 22 Legislation**

Judge Steven McMurry and Sheryl Rabin, Maricopa County legislative analyst, gave an update on the features of this HB 2459 and its current status. Judge McMurry suggested that requests for civil jury trials be governed by rule rather than by statute, and he will submit a rule petition to address this. Regarding section 22-320, the waiver of a jury trial in a criminal case, the waiver must be done as required by Rule 18.1 of the Rules of Criminal Procedure; see further *State vs. Becerra*, an opinion issued earlier this month by Division Two.

Ms. Rabin stated that the HB 2459 is not assigned to committees yet. Language has been changed to be consistent with court rule. It appears that section 22-282 is not commonly used and this statute may be deleted from the bill. Additional cleanup is required and feedback is requested.

A member commented that they liked the proposed change to section 22-429, which would give courts discretion on crediting imprisonment against a monetary fine.

### **C. A.C.J.A. § 1-602: Digital Recording of Court Proceedings**

Stewart Bruner, AOC Manager of Strategic Planning, reviewed proposed changes to ACJA section 1-602, "Digital Recording of Court Proceedings". Members are encouraged to submit comments on the Forum prior to the February 4, 2013 comment deadline.

### **D. Planning for the Next Judicial Branch Strategic Agenda**

Marcus Reinkensmeyer, AOC Director of the Court Services Division and Theresa Barrett, AOC Manager of the Court Programs Unit, introduced the topic of planning, and requested that members help develop recommendations for, the next strategic agenda. Input is requested by the May 8, 2013 AJC meeting. A final presentation will be made to AJC in December of 2013.

Member comments included:

- There is room for improvement in communication between the AOC and limited jurisdiction courts
- Certain Supreme Court committees should have additional limited jurisdiction court representatives.
- Educate superior courts on what limited jurisdiction courts do
- Services need to be coordinated for defendants with mental health issues to break the cycle in criminal courts
- Resources for specialty courts are limited in rural areas. Give consideration to establishing regional “centers of excellence” and inter-jurisdictional solutions so individual courts aren’t required to duplicate services
- Enhance the mechanics of post-adjudication criminal dockets so that cases are completed and closed
- Educate prosecutors to be more progressive with diversion/model programs. Establish best practices for rehabilitation rather than conviction

Members agreed to create a workgroup, including members: Judge Majestic, chair; Judge Jeffery; Judge Felix; Judge Little; Mr. Vance, and Mr. Carrion. The workgroup will report to the members at the next scheduled LJC meeting in April.

#### **E. Training Update**

Paul Julien, AOC Judicial Education Officer, discussed past and upcoming training programs that may be of interest to limited jurisdiction courts. Mr. Julien reminded members that bench books are available online.

#### **F. Case Processing Standards**

Judge Riojas, as a member of the Case Processing Standards Steering Committee, and Cindy Cook, AOC staff for that committee, presented proposed time standards for a number of LJ case types, including justice court civil cases, evictions, small claims, civil traffic, misdemeanors, DUIs, and protective orders. A report will be provided to AJC in December. Member input is requested after February 15, 2013.

Member comments included:

- Prejudgment diversion programs may impact timelines.
- Scheduling 90% of protective order pre-issuance hearings within 10 days will be challenging. Currently, it takes about fourteen days.

#### **G. Citation of Lower Court Appeals**

Judge Steven McMurry presented on the development of common law in justice courts through the publication of lower court appeals (“LCA’s”). The members noted Supreme Court Rule 111, and Maricopa County Local Rule 9.11; apparently, the local rule has not been widely used. The members discussed issues concerning these opinions, including the process for designating a LCA for publication, and whether one county’s LCA would serve as binding precedent in any other county. Also,

would the opinions be posted on a webpage, or would they be “published” in a more traditional way? The members took no action on this item.

#### **H. 2013 Rules Update**

Mark Meltzer provided an update on rule petitions filed in the current rules cycle that may be of interest to limited jurisdiction courts. The update included a variety of petitions concerning Supreme Court, criminal, and justice court civil rules.

The members discussed rule petition number R-13-0014. This petition was prompted by new case law concerning ineffective assistance of counsel at the plea bargaining stage of proceedings. This petition would amend criminal rule 17.4 by adding two new sections. One section would require a prosecutor to reduce a plea offer to writing, and file an unaccepted plea offer with the court no later than five days after its expiration or rejection. The clerk would maintain the plea offer as a confidential record. The other section would have the court inquire of the parties whether they engaged in settlement negotiations and, if so, that the prosecutor complied with the preceding section. The members expressed concern that application of this proposed rule in limited jurisdiction courts could be problematic. Would this requirement apply to a defendant unrepresented by counsel? How would the court know that the plea agreement that was filed is the same as the one that was presented? What would be the impact of maintaining these agreements as separate, confidential documents?

The members were generally opposed to the application of this proposed rule change in limited jurisdiction courts. Prior to the LJC filing a formal comment, however, the members suggested that staff contact the petitioner and verify whether he intended that this rule change apply to LJ courts.

### **III. OTHER BUSINESS**

#### **A. Good of the Order/Call to the Public**

None present.

#### **B. Adjournment**

**Motion:** A motion to adjourn was stated, seconded and passed unanimously. Adjourned at 2:28 pm.

#### **C. Next Committee Meeting Date**

Wednesday, April 24, 2013

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 West Washington Street

Phoenix, AZ 85007

**COMMITTEE ON LIMITED JURISDICTION COURTS  
MINUTES**

**Wednesday, April 24, 2013**

10:00 a.m. to 2:30 p.m.

Conference Room 119A/B

1501 West Washington Street

Phoenix, AZ 85007

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**Present:** C. Daniel Carrion, Cathy Clarich, Judge Maria Felix, Christopher Hale, Judge James William Hazel, Jr., Judge Eric Jeffery, Patrick Kotecki, Judge Dorothy Little, Judge MaryAnne Majestic, Judge Arthur Markham, Judge Steven McMurry, Judge Antonio Riojas, James “Marty” Vance, Sharon S. Yates (Jennifer Carter as proxy).

**Telephonic:** Marla Randall, Judge J. Matias “Matt” Tafoya.

**Absent/Excused:** Carla F. Boatner, Judge Timothy Dickerson.

**Presenters/Guests:** Judge Mark Anderson (West Mesa Justice Court), Jennifer Greene (AOC), Paul Julien (AOC), Evan Kesselman (PDQ Legal Services), Jerry Landau (AOC), Sheryl Rabin, Esq. (Maricopa County Justice Courts), Patrick Scott (AOC), Cindy Trimble (AOC), Christi Weigand (AOC).

**Staff:** Mark Meltzer (AOC), Julie Graber (AOC).

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**I. REGULAR BUSINESS**

**A. Welcome and Opening Remarks**

The April 24, 2013, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:02 a.m. by Judge Antonio Riojas, Chair.

**B. Approval of Minutes**

The draft minutes from the January 23, 2013, meeting of the LJC were presented for approval.

**Motion:** To approve the January 23, 2013, meeting minutes, as presented. **Action:** Approve, **Moved by** Judge Arthur Markham, **Seconded by** Judge Steven McMurry. Motion passed unanimously.

**II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS**

**A. Legislative Update**

Jerry Landau, AOC Director of Government Affairs, discussed the following legislative proposals of interest to limited jurisdiction courts in the 2013 legislative session:

HB 2240: small claims division; jurisdiction; limits: Increases the jurisdictional limit for small claims court to \$3,500 (from \$2,500) with a proposed effective date of January 1, 2014.

HB 2310: courts; evaluation; mental health; report: Requires the AOC to evaluate mental health courts and develop standards to be implemented but the bill was passed with a conditional enactment clause requiring funding to be received by the AOC for the evaluation and implementation. There is no funding thus far.

HB 2383: domestic violence; arrest; predominant aggressor: Outlines procedures for a peace officer to determine if one party was the predominant aggressor in a domestic violence dispute, and allows the officer to only arrest the predominant aggressor. The bill is being held in the Senate due to concerns about constitutional issues such as presumption.

HB 2459: justice of the peace courts: Updates several sections of statute in Title 22 related to justice and municipal courts. The bill is pending in the Senate but there is no opposition to it.

HB2477 – photo radar on state highways: Provides procedures and requirements for cities and towns placing photo enforcement systems on state highways. The bill prohibits a city from placing photo enforcement on a state highway unless certain criteria are met such as necessary for public safety and obtained permit issued by Arizona Department of Transportation (ADOT).

#### **B. Title 22 Legislation: HB 2459**

Judge Mark Anderson from West Mesa Justice Court updated members on the status of HB 2459, which seeks to modernize Title 22, and is pending in the current legislative session. Based on the substance of the bill, Judge Anderson did not anticipate any issues from the Legislature. He reviewed some of the bill's provisions, which would be effective January 1, 2014, if approved:

- Renames the title *Justices of the Peace and Other Courts Not of Record* to *Justice and Municipal Courts*.
- Replaces *Justice of the Peace Court* with *Justice Court*; *docket* with *court record*.
- Permits a digital seal to be used as the official court seal.
- Conforms the *oath of jury* to the modern oath used in courts.
- Revises statute related to bail in both civil and criminal proceedings.
- Clarifies the grounds for which a change of venue may be granted.
- Removes language regarding preemptory challenges.

Jerry Landau remarked that this bill is being portrayed as a technical bill. LJC members endorsed the proposed changes and suggested consolidating letters into one to show the wide-ranging support from rural and urban counties, and from justices of the peace at the state, county, and municipal levels.

#### **C. Report from the Strategic Agenda Workgroup**

Judge MaryAnne Majestic presented proposed initiatives from LJC's Strategic Agenda Workgroup, which was established at LJC's January meeting to develop recommendations for the next Strategic Agenda. Judge Majestic sought feedback and

approval from LJC. LJC's final recommendations will be submitted to Cindy Trimble, project coordinator, by the end of April.

The workgroup recommended that greater participation of limited jurisdiction court judges, clerks, and court administrators should be encouraged on Supreme Court committees and in AOC projects by improving communication and providing more information on how to get involved. All LJ clerks and court administrators should also be encouraged to become members of the Limited Jurisdiction Court Administrators Association (LJCAA), as a way to increase networking opportunities. In addition, statewide standards should be developed and established for courthouse facilities as well as for security of courthouses and court personnel as a way for small jurisdictions to obtain funding. An AOC ombudsman was recommended to serve as a single point of contact for LJ courts to communicate problems. The workgroup recommended statewide models for using remote court interpreters; establishing specialty courts (e.g., mental health courts); and developing standardized court forms to strengthen the administration of justice, especially in rural courts. In order to improve operational efficiencies, the workgroup recommended new procedures to resolve arrest warrants in multiple jurisdictions and suggested proactive operational reviews of courts.

**Motion:** To approve the Strategic Agenda Workgroup's recommendations, as presented, and forward to Cindy Trimble, project coordinator. **Action:** Approve. **Moved by** Judge Steven McMurry, **Seconded by** Judge Arthur Markham. Discussion ensued. Members agreed that access to electronic research tools (e.g., Findlaw, West Law) was needed and should be included in Recommendation No. 6 (developing technology for using remote court interpreters). **Amended Motion:** To approve the Strategic Agenda Workgroup's recommendations with the addition of access to electronic research tools in Recommendation No. 6, and forward to Cindy Trimble, project coordinator, as discussed. **Moved by** Judge Steven McMurry, **Seconded by** Judge Arthur Markham. Motion passed unanimously.

**D. Clerk and Research Fees** (*Item taken out of order*)

Patrick Scott, AOC specialist, and Evan Kesselman, President of PDQ Legal Services, discussed issues related to discrepancies among limited jurisdiction courts in charging clerk and research fees.

Mr. Scott provided some background information and history about clerk and research fees, and the application of these fees, according to Arizona statutes (see A.R.S. §§ 22-281 and 22-404). Mr. Kesselman illustrated the challenges and varied statutory interpretations that his background screening company has encountered while conducting professional background searches for employers and searching companies in Arizona (e.g., no charge; \$25 per name; \$25 per case; \$25 per 3 cases; \$24 per name; \$34 per name; \$17 per name; \$51 per case). He explained that he is required by federal regulation to adhere to the maximum possible accuracy standard when obtaining information from the court. In Arizona, contemporaneous notification is not allowed and the information must be verified at the source but the Arizona Public Access to Court Information falls short of this standard. Mr. Kesselman described the repercussions that excessive fees may

have on job applicants, employers, and the courts, especially when shortcuts lead to job applicants being denied employment based on limited or inaccurate information, and the courts then receiving complaints and disputes. As such, he is seeking court information at a cost that is fair and consistent based on a uniform interpretation of the statutes.

Members agreed that uniformity was needed. After considering possible legislative changes and rule changes, some recommended the formation of a workgroup to address the issue. In the end, LJC members recommended that Mr. Kesselman bring his concerns to the LJCAA.

**E. R-13-0014: Proposed Amendments to Criminal Rule 17.4** (*Item taken out of order*)

Judge Joseph Welty, Presiding Criminal Judge from Maricopa County Superior Court, previously filed a rule petition (R-13-0014) requesting an amendment to Rule 17.4 of the Rules of Criminal Procedure to provide a record of ineffective assistance of counsel (IAC) claims in the plea bargaining process. At the January meeting, LJC members expressed concerns about the petition due to challenges it would specifically present in limited jurisdiction (LJ) courts. For example, in LJ courts, unaccepted plea offers may not always be in writing, and many defendants are self-represented so there would be no IAC claims. LJC members had proposed to either remove LJ courts from the proposal, or make the proposal optional rather than mandatory.

Judge Welty provided a revised draft of his proposed rule for consideration by the LJC members that contained an exemption for LJ courts. Members discussed whether the amendment addressed their concerns and whether to file a formal comment to the rule petition. Although the revised draft provided an exemption for LJ courts, several members still opposed it because it would not fix the problem and it would create more issues.

**Motion:** To exclude limited jurisdiction courts from the rule petition, and to authorize Judge Eric Jeffery to work with staff to file a formal comment to the petition, as discussed. **Action:** Approve. **Moved by** Judge Eric Jeffery, **Seconded by** Judge Steven McMurry. Discussion ensued. Members agreed to contact the petitioner to recommend an amendment excluding limited jurisdiction courts from the petition, and only to file a formal comment in the event the amendment was not filed. The agenda item was tabled until the end of the meeting, at which time the amendment was not filed. Motion passed unanimously.

**F. FARE Update** (*Item taken out of order*)

Christi Weigand, manager of the AOC's Consolidated Collections Unit, FARE, and Debt Set-Off ("DSO") Programs, provided an update for fiscal year 2013 to date of both FARE and DSO collections. Ms. Weigand explained how the usual tax season spike was held up this year due to tax law changes and delays processing income tax refunds, and consequently, FARE and DSO revenues surged in March (instead of February), and continue to trickle down in April.

Ms. Weigand reported that a new contract was signed with Xerox (5-year contract with 5-year option), effective July 1, 2013, and new services for the 2013–2018 FARE contract will be reviewed at the next meeting. She will also expand on a shift in concept to address the decrease in case submissions over the last few years, and the impact it will have on courts' business processes.

#### **G. 2013 Rules Update**

Mark Meltzer provided an update on rule petitions pending in the current rules cycle that may be of interest to limited jurisdiction courts, and sought feedback from LJC on whether to file any formal comments. The deadline to submit comments is May 21, 2013, for most of the 2013 rule petitions.

##### **Civil Procedure**

- R-12-0044: JCRCP Amendments
- R-12-0042: Civil 7.1
- R-12-0027: Civil 5.1 and 11
- R-12-0026: Civil 4(d)
- R-13-0026: Civil 42(f)

##### **Evidence**

- R-12-0029: Evidence 412
- R-12-0034: Evidence 803

##### **Protective Order Procedure**

- R-13-0029: ARPOP

##### **Criminal Procedure**

- R-12-0036: Criminal 7.6 (Transfer and disposition of bond)
- R-13-0014: Criminal 17.4
- R-13-0027: Criminal 10.1 and 10.6
- R-13-0028: Criminal 10.2
- R-13-0009: Criminal 32.5
- R-13-0003: Criminal 32.2(b)

##### **Rules of the Supreme Court**

- R-13-0012: Supreme 122
- R-13-0013: Supreme 122.1
- R-13-0023: Supreme 123

Members agreed that no formal comments would be filed by LJC (except for comment to Judge Welty's rule petition discussed in the previous agenda item).

#### **H. Committee on Probation Update** *(Item taken out of order)*

Dan Carrion, LJC Representative to the Committee on Probation ("COP"), reported on COP's activities. Mr. Carrion noted that COP is updating the Arizona Code of Judicial Administration ("ACJA"), Part 6: Probation, to emphasize evidence-based practice in probation sections.

#### **I. Building Evacuation Procedure** *(Item taken out of order)*

Mark Meltzer informed LJC about the procedures to follow when an alarm goes off in the Arizona Supreme Court building:

- If handy, members should take with them their keys, identification, and purses in case they cannot return in the building.
- Members should not exit through the second or first floor lobby (not the quickest way out).
- When exiting the building, go to the Education Department parking lot. Please use the crosswalk when crossing Jefferson Street.

- Security will announce when it is safe to come back into the building. Members must go through security again.

### **III. OTHER BUSINESS**

#### **A. Good of the Order/Call to the Public**

None present.

Paul Julien inquired about limited jurisdiction courts' use of telephonic hearings in traffic cases. Judge Jeffery reported using them at times with traffic cases whereas Judge Riojas allowed them in protective order cases, and Judge Majestic used them rarely in protective order cases. Judge Little preferred using a waiver of appearance instead of a telephonic hearing.

#### **B. Adjournment**

**Motion:** To adjourn. **Action:** Approve, **Moved by** Judge Maria Felix, **Seconded by** Judge Dorothy Little. Motion passed unanimously.

Adjourned at 1:35 p.m.

#### **C. Next Committee Meeting Date**

Wednesday, August 21, 2013

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 West Washington Street

Phoenix, AZ 85007

# COMMITTEE ON LIMITED JURISDICTION COURTS MINUTES

Wednesday, August 21, 2013

10:00 a.m. to 2:00 p.m.

Conference Room 119A/B

1501 West Washington Street

Phoenix, Arizona 85007

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**Present:** Carol Boatner, C. Daniel Carrion, Julie Dybas, Judge Maria Felix, Christopher Hale, Judge James William Hazel, Jr., Judge Eric Jeffery, Patrick Kotecki, Judge Dorothy Little, Deborah Schaeffer, proxy for Judge MaryAnne Majestic, Judge Arthur Markham, Judge Steven McMurry, Marla Randall, Judge Antonio Riojas, Paul Thomas, proxy, Judge J. Matias “Matt” Tafoya, John Reynolds, proxy for James “Marty” Vance, Sharon S. Yates.

**Presenters/Guests:** Theresa Barrett (AOC), Mike Baumstark (AOC), Eric Ciminski (AOC), Cindy Cook (AOC), Judge Elizabeth Finn (Glendale City Court), Kirstin Flores (Attorney General’s Office Victims’ Services), Jennifer Greene (AOC), Paul Julien (AOC), Jerry Landau (AOC), Denise Lundin (AOC), Carol Mitchell (AOC), Kay Radwanski (AOC), Patrick Scott (AOC), Cindy Trimble (AOC), Christi Weigand (AOC), David Withey (AOC).

**Staff:** Mark Meltzer (AOC), Julie Graber (AOC).

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## I. REGULAR BUSINESS

### A. Welcome and Opening Remarks

The August 21, 2013, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:03 a.m. by Judge Antonio Riojas, Chair. Judge Riojas introduced Julie Dybas, Court Administrator for the Scottsdale City Court. He also welcomed Deborah Schaefer, proxy for Judge MaryAnne Majestic, Paul Thomas, proxy for Judge Matt Tafoya, and John Reynolds, proxy for Marty Vance.

### B. Approval of Minutes

The draft minutes from the April 24, 2013, meeting of the LJC were presented for approval.

**Motion:** To approve the April 24, 2013, meeting minutes, as presented. **Action:** Approve, **Moved by** Judge Arthur Markham, **Seconded by** Judge Maria Felix. Motion passed unanimously.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Legislative Update

Jerry Landau, AOC Director of Government Affairs, discussed the following legislative proposals of interest to limited jurisdiction courts.

Veterans’ court; establishment; eligibility: Permits the presiding judge of a superior court to establish a veterans’ court and create eligibility criteria for appropriate referrals.

Allows a justice of the peace or municipal court judge to refer a case to the veterans' court, and any judicial officer in the county where the offense occurred to adjudicate the referred case. The originating court maintains jurisdiction and must notify the prosecutor of the case's referral. This proposed legislation would expand on the recently enacted legislation on homeless courts.

In response to members' inquiries, Mr. Landau clarified that this proposed legislation does not mandate case transfers to the veterans' court but rather allows a referred case to be handled across court jurisdictions.

**Motion:** To recommend that AJC support the proposed legislation to establish a veterans' court, as presented. **Action:** Approve, **Moved by** Judge Arthur Markham, **Seconded by** Daniel Carrion. Motion passed unanimously.

Physician assistants; excused jury service: Authorizes a physician assistant to provide a prospective juror with a medical excuse statement.

Members inquired whether nurses or nurse practitioners were also included. Mr. Landau advised that there is no clear statutory reference and more research would be needed.

**Motion:** To recommend that AJC support the proposed legislation and that more research is needed to see if nurse practitioners are also covered, as discussed. **Action:** Approve, **Moved by** Daniel Carrion, **Seconded by** Judge Maria Felix. Motion passed unanimously.

## **B. Arizona Case Processing Standards**

Judge Riojas, member of the Case Processing Standards Steering Committee (Steering Committee), and Cindy Cook, AOC staff for that committee, updated members on the progress of the Steering Committee, and discussed its revised recommendations for the establishment of case processing standards in Arizona, which incorporate feedback obtained from various stakeholders. The Steering Committee will be presenting its final recommendations to AJC at the October meeting.

Ms. Cook reviewed the committee's charge and the role of these standards in setting achievable goals and expectations for courts, attorneys, and the public. Judge Riojas explained that the time standards themselves presented challenges because a balance had to be struck between realistic and aspirational goals, and concerns were raised about how the standards would be utilized. As a result, a phased approach is proposed to justify funding sources, provide reporting ability, data validation and clean up, and preliminary case management reports would not be released to the public. Judge Riojas discussed the various categories of time standards, which are based on case types, as well as their measurement and excluded time factors. Judge Riojas noted that with a lack of available data, the standards are based on aspirational goals, which could be revisited as more data is obtained with a phased approach, and become realistic. Standards for criminal misdemeanors, for example, are based on the assumption that most cases are resolved

without an attorney but the proportion of cases with attorney involvement is unknown. Judge Riojas requested that LJC recommend the provisional set of standards to AJC. Practicality issues were raised with the proposed standard for civil traffic cases (75% within 30 days) based on existing deadlines. Ms. Cook pointed out that time elapsed for diversion is excluded from the measurement. Judge Riojas noted that implementation of these standards would still require a few years to do the programming and to develop standard reports and best practices.

**Motion:** To recommend that AJC approve the provisional set of standards as aspirational goals, as discussed. **Action:** Approve, **Moved by** Judge Steven McMurry, **Seconded by** Judge Timothy Dickerson. Motion passed unanimously.

### C. Victims' Rights at Initial Appearances and Sentencing

Kirstin Flores, Director of Victims' Services at the Attorney General's Office, provided background information about the role of the Attorney General's Office (AG) with regard to victims' services. Ms. Flores identified a number of issues related to victims' rights in limited jurisdiction courts, which were discovered following a survey conducted by the AG of county attorney's offices. She brought these issues to LJC for the committee's input and to ensure victims' rights are not overlooked.

Ms. Flores explained that victims' rights under statutes are currently being missed when victims are not informed of their rights or are not provided with notice, and specifically when the defendant pleads guilty at an initial appearance, and:

- A judge immediately sentences a defendant - then, the sentence occurs without the presence or knowledge of a prosecutor, who cannot inform the victim of their rights.
- If the hearing is conducted by video conferencing between judge and defendant - then, the victim is not being included and cannot participate.
- Some justices of the peace do not notify the county attorneys of the summons - then, the county attorneys cannot provide notice of the arraignment to the victims.
- Some counties do not schedule initial appearances at a set time - then, it is problematic for law enforcement, who is obligated to notify victims of their rights, to actually provide notice.

Ms. Flores suggested that Rule 26.3, *Date of Sentencing; Extension* be revised so the judge could accept a plea and delay it to give notice to the victim, and recommended following a conversation with Paul Julien (AOC's Judicial Education Services) updated training for judges so victims' rights and responsibilities are included in the curriculum. Ms. Flores encouraged discussion and collaboration between law enforcement, courts, and county attorney's offices, and supported the creation of a judge's bench card to use with victims with a list of their constitutional rights and rights at sentencing.

In response to an inquiry, Ms. Flores clarified that only notice (not contact) is required to be provided by the county attorney. Members considered the proposed suggestions and agreed that any rule change would be problematic but that training would be the best way

to handle this issue. Paul Julien advised that a scenario on pleas during initial appearance would be included at the next judicial conference.

**D. Proposed Amendments to the Procurement Rules for the Judicial Branch:  
A.C.J.A. § 1-402**

David Withey, AOC chief legal counsel, presented proposed amendments to A.C.J.A. § 1-402: Procurement Code for the Judicial Branch, which incorporate recent changes to state law and provide added specificity regarding the competitive bid process. Mr. Withey advised that the proposed amendments have been posted on the ACJA forum and circulated to various stakeholders but as of yet, no public comments have been filed. He sought recommendation from LJC to approve the proposed amendments, which will be presented to AJC for approval at the October meeting.

Mr. Withey noted that this Code is only applicable to the superior or limited jurisdiction courts, in which the county adopted the Code, and most limited jurisdiction courts follow local procurement rules but local courts could follow some of the changes. Although the threshold for formal procurement requiring IFB's, RFP's, and RFQ's increased from \$35,000 to \$100,000, purchases under \$100,000 must still be based on competitiveness and best price for quality of goods and services.

**Motion:** To recommend that AJC approve the proposed amendments to the procurement rules for the judicial branch, as presented. **Action:** Approve, **Moved by** Judge Timothy Dickerson, **Seconded by** Judge Maria Felix. Motion passed unanimously.

**E. eAccess and eBench**

Eric Ciminski, AOC project manager, and Denise Lundin, AOC Court Services Division specialist, updated members on the progress of the eAccess project and the newly started eBench project, and how these projects impact limited jurisdiction courts. Mr. Ciminski reviewed the purpose and goals of eAccess, which provides public access to court documents, bulk subscriptions, and customized queries and reports, and is based on a self-sustaining business model where user and subscription fees are assessed. Several focus groups were conducted with stakeholders and top concerns included the need for certified copies and inconsistency in records availability and costs. Mr. Ciminski reported that this multi-year project was launched this year in general jurisdiction courts with civil and criminal cases, and is still under construction and undergoing testing. The launch for limited jurisdiction courts has yet to be determined.

Members inquired about the types of user fees (eAccess). The search tool is free to ensure the selected document is correct and the fee is \$10 per document. If there is a subscription, the fee per document falls between \$4.50 and \$5.00.

Mr. Ciminski described eBench as a judicial decision support system that would enable judges to get files instantly without the need for paper case files, thereby saving time and improving efficiency. He noted that a contract was signed in May with the vendor, aiSmartBench, and the project recently kicked off in Pima County Superior Court, and

will be implemented with Court of Appeals Div. 1, AJACS superior courts, and then limited jurisdiction courts. In response to an inquiry, Mr. Ciminski clarified that judges can enter personal notes, which can be set to private or sharable, and can be deleted.

#### **F. FARE Update**

Christi Weigand, manager of the AOC's Consolidated Collections Unit, FARE, and Debt Set-Off ("DSO") Programs, provided additional details regarding the new five-year FARE contract with a five-year extension option with Xerox State & Local Solutions, Inc., which became effective on 7/1/13. Ms. Weigand noted that when the FARE program was implemented ten years ago, the focus was on the accumulated backlog in each court. Collections spiked in 2010 when the program was first implemented in Maricopa County Justice Courts and the number of case referrals has since been maintained. Because case referrals (and case filings) have decreased, as seen in the 2012-2013 FARE totals (from \$64.1 million to \$59.3 million), a change in concept was necessary for collections. As a result, the new contract switched its focus to referral management. Ms. Weigand reviewed the new services and enhancements but noted that existing services were continued:

- Online citation payment site for pre-disposition cases, which would allow payments at the case level.
- Implementation of a new competitive collections model so different vendors compete and work the same cases for outbound calling.
- New model for enhanced special collections for high volume courts so the first level of contact would be a call center and a lockbox option would be available.
- Other enhancements include a new look for the FARE website (azcourtpay.com); mobile web payments; and reporting tools.

In response to questions about the status of the online citation payment, Ms. Weigand advised that this project is high on the priority list but specific timelines would be determined within the next two months.

#### **G. R-13-0039: Proposed Amendments to JCRCF Rules 133 and 134** *(Item taken out of order)*

Mark Meltzer, AOC staff, reported that HB 2459 regarding proposed amendments to A.R.S. Title 22 was approved by the Governor, effective January 1, 2014. Subsequently, an informal workgroup was formed to review the impact of the new law. The workgroup filed rule petition, R-13-0039, in July, but the comment period has not been opened yet. Mr. Meltzer reviewed the proposed amendments to JCRCF Rules 133 and 134.

- Rule 133(b): Jury Trial: A party would be required to demand a jury "at least ten days" before the start of trial instead of "at any time."
- Rule 133(c): Change of Venue: The affidavit of change of venue would need to be filed within ten days of filing the answer to eliminate inconsistencies between the statute and the rule.
- Rule 134(a): Trial Procedures: The number of peremptory challenges would be changed to two to bring consistency between criminal and civil cases.

Mr. Meltzer recommended that LJC file a formal comment advising the Court of its position on the proposed changes to the JCRCF, and requested authorization from the committee to draft a comment to be considered at the next meeting.

**Motion:** To authorize staff to draft a comment for consideration by the committee at the October 2, 2013, meeting. **Action:** Approve, **Moved by** Judge Arthur Markham, **Seconded by** Judge Steven McMurry. Motion passed unanimously.

#### **H. New Forms for Protective Orders**

Judge Elizabeth Finn, Presiding Judge from Glendale City Court, reported that new protective order forms were mandated for all Arizona courts by A.D. 2013-03, effective June 3, 2013. Judge Finn discussed the relationship between recent court case decisions regarding the Brady requirements and the new version of the Order of Protection form.

Judge Finn provided background information about the protection order forms, and reviewed the federal requirements for a court order (either a finding of credible threat or an expectation to cause bodily injury) and for the Brady criteria (i.e., intimate partners; defendant received notice, and had an opportunity to participate in the hearing). In *U.S. v. Sanchez*, the 9<sup>th</sup> Circuit Court of Appeals set aside the Brady violation because the no-contact order lacked explicit prohibitions on the use, attempted use, or threatened use of physical force. Judge Finn noted that although the language does not need to be identical to Brady, it must contain explicit terms that are substantially similar to Brady. In *Mahar v. Acuna*, the Arizona Court of Appeals found that the Brady prohibition did not apply because there was no specific finding of credible threat. In order to address concerns raised by these cases, several protective order forms were revised. Judge Finn noted, for example, that the no crimes language was changed in the Order of Protection to mirror Brady, but that the firearms language on pg.2 refers to state statute (ARS § 13-3602(G)), not Brady. Judge Finn recommended that judges' decisions be amended to reflect the new changes if the case took place before 6/3 but the hearing was held after.

#### **I. Strategic Agenda Update**

Mike Baumstark, Deputy Administrative Director of the AOC, and Cindy Trimble, AOC specialist, presented a brief overview of the process involved in planning a strategic agenda, which coincides with the beginning of the five-year term for a newly elected Chief Justice. Mr. Baumstark provided an update on the progress of the draft agenda, which is a work in progress based on an abundant amount of input received to date from various committees, associations, and justice partners, including the AJC strategic agenda subcommittee, chaired by Vice Chief Justice Bales. The draft agenda will be presented to AJC in October for additional input, and the final agenda will be presented to AJC in December with a plan for adoption by AJC in March, effective July 1, 2014.

Mr. Baumstark discussed emerging themes and specific goals of the strategic agenda, which reflect Vice Justice Bales' focus on promoting access to justice for all Arizona and on courts being a part of Arizona communities; on protecting children, families, and communities by incorporating evidence-based practices to solve problems; on improving court processes to better serve the public; on enhancing professionalism and efficiencies

within the judicial system; and on improving communications and community involvement within the community and outside of the community.

### **III. OTHER BUSINESS**

#### **A. Good of the Order/Call to the Public**

None present.

#### **B. Adjournment**

**Motion:** To adjourn. **Action:** Approve, **Moved by** Judge Maria Felix, **Seconded by** Judge Timothy Dickerson. Motion passed unanimously.

Adjourned at 1:33 p.m.

#### **C. Next Committee Meeting Date**

Wednesday, October 2, 2013

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 West Washington Street

Phoenix, Arizona 85007



**COMMITTEE ON LIMITED JURISDICTION COURTS  
MINUTES**

**Wednesday, October 2, 2013**

10:00 a.m. to 2:00 p.m.

Conference Room 119A/B

1501 West Washington Street

Phoenix, Arizona 85007

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**Present:** Carla Boatner, C. Daniel Carrion, Judge Timothy Dickerson, Julie Dybas, Judge Maria Felix, Christopher Hale, Judge James William Hazel, Jr., Judge Eric Jeffery, Judge MaryAnne Majestic, Judge Arthur Markham, Judge Antonio Riojas, Judge Steven Sarkis (Proxy for Judge Steven McMurry), Judge J. Matias “Matt” Tafoya, James “Marty” Vance, Sharon S. Yates

**Telephonic:** Judge Dorothy Little, Marla Randall

**Absent/Excused:** Patrick Kotecki

**Presenters/Guests:** Susan Alameda (AOC), Stewart Bruner (AOC), Melinda Hardman (AOC), Paul Julien (AOC), Jerry Landau (AOC), Gregg Maxon (AOC), Carol Mitchell (AOC), Marcus Reinkensmeyer (AOC), Mark Stodola (AOC), Kathy Waters (AOC)

**Staff:** Mark Meltzer (AOC), Annette Mariani (AOC)

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**I. REGULAR BUSINESS**

**A. Welcome and Opening Remarks**

The October 2, 2013, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:02 a.m. by Judge Antonio Riojas, Chair. Members that were physically present and on the telephone introduced themselves.

**B. Approval of Minutes**

The draft minutes from the August 21, 2013, meeting of the LJC were presented for approval.

**Motion:** To approve the August 21, 2013, meeting minutes, as presented. **Action:** Approve, **Moved by** Judge Maria Felix, **Seconded by** Judge MaryAnne Majestic. Motion passed unanimously.

**II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS**

**A. Legislative Update**

Jerry Landau, AOC Director of Government Affairs, discussed issues of interest to limited jurisdiction courts in the upcoming legislative session.

2014-02 (AOC, Court Services)

Veterans’ court establishment; eligibility for referral: The sections to be amended are §22-601, §22-602. This proposal from Court Services Division (AOC) will add Veterans’ courts into the statute of Homeless Courts allowing the presiding judge of the county to establish a Veterans’ Court where the court will be allowed

to work with the same defendant in different jurisdictions. The establishment of Veterans' Court does not need statutory authority, however, the ability of one judge in a certain jurisdiction to hear a case in another jurisdiction acts as an IGA which in turn does require a statutory authority. This issue was presented at a previous Limited Jurisdiction Committee meeting and had been voted on.

2014-04 (Pima County Jury Commissioner)

Physician assistants; excused jury service

This clarifies the law that authorizes a prospective juror to provide the court a medical excuse statement from a physician's assistant. Nurse practitioners are already in the statute so that are covered. This will be combined with the lengthy jury trail fund proposal.

**Motion:** To approve 2014-04 Physician assistants; excused jury service. Seconded, Approved. Motion passed unanimously.

2014-08 (Supreme Court Government Affairs Group)

Lengthy Jury Trial Fund

This reinstates the filing fee that terminates at the end of 2013. The fee will be shut down on the computer system and additional filing fees cannot be collected for cases that are filed on or after December 31, 2013. The fund itself runs until June 30, 2014. An emergency clause will be requested.

**Motion:** To support 2014-08 Lengthy Trial Fund. Seconded, Approved. Motion passed unanimously.

2014-10 (AOC, Court Services Division)

Court process; conforming changes

This is still in the discussion stage. Rounds criminal surcharges to the nearest whole dollar, currently they are rounded to the quarter. It will also change the term "police court" to "municipal court" wherever it is found in statute. Some courts are presently rounding to the nearest dollar by pulling the money out and adjusting the fine. The statute states that it needs to be rounded to the nearest quarter. This is done for efficiency sense and is deemed revenue neutral. Jerry has asked members to send him an email if their courts are rounding to the dollar.

**Motion:** To support 2014-10 Court process; conforming changes. Seconded, Approved. Motion passed unanimously.

2014-F (Homeowners Association)

Small claims: HOA

This bill was passed last year by stipulation between the state and plaintiffs challenging the constitutionality. It was stripped from the election bill. It would allow Homeowners Association to be represented by a property management group in small claims court. This would allow for recording a lien and subsequently going into court and representing the homeowners association.

Is there an exception for not hiring a lawyer? There are some exceptions in rule and possibly in statute similar to a corporation being represented by an officer in a small claims court. Not certain at this time whether the State Bar has taken a position on this proposal.

**Motion:** To support 2014-F Homeowners Association. Seconded, Approved. Motion passed unanimously.

2014- G (Arizona Association of Counties)

Deferring acceptance of bond

Removes language requiring the sheriff's office to accept bond twenty-four hours a day and directs the jail to refer a person posting bond during normal court operation house to post the bond with the court maintaining jurisdiction over the criminal offense.

Concerns:

- ✓ Personnel issue – Would there not be funds to pay someone to take the bonds? Will this up the courts work product without personnel to cover?
- ✓ Rural courts also have a concern due to the distance of where the jails and the courts are making it difficult to travel all over the county to post bond.
- ✓ This poses a problem with smaller courts that may only be open 1-2 days a week.
- ✓ Would MCSO know which courts are open during 5:00 pm – 8:00 am on Monday – Fridays, weekends, and holidays?

**Motion:** To oppose 2014-G Deferring acceptance of bond. Seconded, Approved. Motion passed unanimously.

2014-I (County Supervisors Association)

Indigent defense

Would require the private counsel in a county case to obtain permission from the administrator before going out and hiring an expert. This could be a separation of power issue or a due process issue. From the county's standpoint they are looking at cost savings. In regards to ethical issues, defense attorneys will go to court and let the judge decide whether a certain expert can be hired or not.

Would LJ Courts be exempt? Municipal courts are not included because it is in Title 11 and would be the Board of Supervisors. Justice courts would depend on their final drafting.

**Motion:** To oppose 2014-I Indigent defense. A hand count was taken; 8 members in the room opposed, 2 members on phone opposed. Seconded, Approved. Motion passed unanimously.

The meeting of the next Arizona Judicial Council is scheduled in the next two weeks. Jerry will be able to provide more information to the committee after that meeting.

**B. Electronic Court Records**

Marcus Reinkensmeyer, Director of Court Services Division presented an update on the Electronic Records Retention & Destruction Advisory Committee which was established in March, 2013 with the charge of examining and making recommendations on the issues surrounding records retention and destruction schedules and access to electronic court records. Mr. Reinkensmeyer serves a chair of this committee.

Marcus thanked the following Limited Jurisdiction Courts Committee members whom are helping as part of this endeavor: Christopher Hale, Judge Eric Jeffrey, Judge Dorothy Little, and James “Marty” Vance. Ms. Melinda Hardman and Mr. Stewart Bruner also serve on the Electronic Courts Committee.

The group is looking at balancing privacy rights of individuals with the courts’ strong commitment to public access and how this plays out in the electronic world where some of the data is provided by the courts and also picked up by private vendors. The success of the electronic access project and the public access site will be driven out of the types of policies that may emerge from this committee.

In their charge, the committee has looked at several questions:

1. When the minimum retention time period has been met under the existing retention schedule is destruction of electronic records and document data mandatory or permissive?

To date it has been more permissive with superior courts holding records for a longer period of time than the limited jurisdiction courts. The committee has not made a final decision, but there is a movement toward a more mandatory destruction with some caveats? Records down and offline?

2. Given that it is easier to systematically destroy electronic records are the current retention schedule time periods adequate?

The committee thought that all the superior court retention schedules were sound. They may suggest some changes with juvenile court records. For the limited jurisdiction courts, the committee is recommending only one change pertaining to DUI cases. At present the schedule reflects seven years from time of adjudication to satisfaction of financial sanctions. The committee is recommending this be changed to 8 years. Retention schedules for traffic and other misdemeanor cases would remain as present.

3. Should the policies regarding the length of time case management data are made available online be consistent with courts across the state?

Feedback from investigators and researchers revealed that there is a concern that the rules are not the same within counties and across the state. The

committee feels that any policies and procedures that are established that they are consistent across the board for all justice courts, superior courts, etc.

4. Once we have the retention deadline should some copy or type of document data be retained for research purposes by the government?

Inquiries are made by the legislature and some of this information is used to compute judiciary productivity credits, etc. The question later becomes “if you hold these do they become publicly available or just released pursuant to court order?” The current thinking is that it is important to hold these public records longer than some of the current schedules.

Some of the retention schedules in limited jurisdiction courts are very brief (i.e. civil traffic, 1 year) – what if this data is needed at a later date? The formation of a small telephonic workgroup to go over some of this information and receive feedback is in the works. Judge Markham, Judge Little, Judge Felix and Judge Tofoya expressed interest in participating. The workgroup would be beneficial in providing more information to be shared at the December, 2013 AJC meeting. A draft report has been developed and can be shared if members are interested. Mr. Reinkensmeyer thanked those that helped with the survey. It provided a lot of incite to the present practices.

Discussion:

- ✓ Retention period of all data in system should reflect the usefulness for the judges.
- ✓ Some of the retention schedules in limited jurisdiction courts are very brief (i.e. civil traffic, 1 year). Is this too short, will this be needed later on?
- ✓ Can this information be tied together with a change in statutory authority to set aside convictions after 10, 15 or 20 years? There may be prohibitions if the victim was a minor.
- ✓ What happens with sex offenders that have to register? Is five years enough? What happens if you have a very young sex offender?
- ✓ Even if files are destroyed, keeping the data will give courts somewhere to start.

**C. HB 2310 and Mental Health Courts**

Mark Stodola and Susan Alameda from the Adult Probation Services Division of the AOC provided an update on the project that addresses HB2310. The AOC will be putting together an evaluation with recommendations that will address the effectiveness, the efficiency and the accountability of mental health courts and specialized probation case loads in Arizona. A contract with the National Center of State Courts (NCSC) is in place to conduct the evaluation. A report with the findings and recommendations to be submitted by December, 2014 are to be presented to the governor, the president of the senate, the speaker of the house representatives and the Chief Justice of the AOC.

Out of the twelve Mental Health Courts in Arizona, eight are limited jurisdiction courts. A meeting took place with these courts earlier in September following a survey of these courts. These courts were established according to the needs of the jurisdiction. Pima, Maricopa and Yavapai have dedicated SMI caseloads which is why Adult Probation is involved in this project. Additional surveys will be forthcoming. The NCSC will be focusing on four courts – two superior and two limited jurisdiction.

**D. Language Access Update**

Carol Mitchell, AOC provided an informational update on language access plans and related topics.

- The first national summit on language access was held in Houston, Texas in October, 2012. Representatives from every state and various territories were in attendance. One of the main focus was addressing how to incorporate technology to improve and move this forward to the forefront nationally. A debut of the remote interpretation program that is being piloted with Yuma County was presented.
- A breakout session addressing Language Access was given at the Court Leadership Conference
- Courts were surveyed addressing their priorities and concerns as well as judicial training issues.
- A workgroup was started to address interpreter ethics
- Working on forms translation
  - What forms are available and in what language?
  - What are the vital forms to address all case types?
  - Conference call took place in July, 2012 to address the forms questions.
  - If forms are translated already, perhaps courts can share
  - Scrubbing the forms so that they are available for all counties
- Spoken language bench card for judges is available.
- Protective Orders have been translated and on website
- Two way video interpretation services are set up here at the AOC (separate room)

**E. Veterans' Courts**

Gregg Maxon, Coordinator of Veteran's Courts, AOC presented a video and a PowerPoint presentation on Veteran's Courts.

- Data from VA regarding mental health conditions was presented
- About 1/3 of veterans have mental or depression issues (PTSD)
- Many of the psychologists and other social service agencies do not have expertise in combat related issues.
- Justification for courts:
  - Opportunity to give something back to them for their service;
  - need for rehabilitative court;
  - cost effectiveness;

- VA treatment (no cost to local jurisdiction);
- mitigates future harm;
- reduced incarceration;
- these courts work
- eligible participants can be identified early so that whatever brought them to the court in the first place does not snowball into something that would put them further into the court system.
- Veteran's courts will look at underlying conditions – treating the whole person rather than just the symptoms.
- Cultivates community partnerships
- Supervision through the courts with these individuals adds value to the program
- Does a person need to have exited the military on an honorable discharge to be eligible for the benefits through a Veteran's Court? The VA makes their determination of eligibility. Various states have their own rules as PTSD is not just for combat actions. Some courts may use other avenues and can refer individuals to those other resources and monitor them and then come back to the court to report. There is no cookie cutter approach. Courts can set up their limitations as they see fit including what offenses they would consider. The challenge may be in competing resources among the courts. There needs to be stipulation from both parties to help with any filter process that needs to take place. There is some court appointed attorneys for these dockets. Pima County is conducting a Veteran's Court seminar on October 25, 2013 for anyone interested in attending.

**F. Interstate Compact for Adult Offender Supervision: the Misdemeanant Rule**

Kathy Waters, Director of the Adult Probation Services Division provided an update on the Interstate Compact of Supervision for Adult Offenders. The new compact was passed in 2004. Many of the limited jurisdiction courts in Arizona and elsewhere do not comply with the requirements of the Interstate compact's formalities. The current law states that misdemeanants charged with certain crimes and set to be supervised over a year must go through the compact. A proposal was presented at the national commission asking that the current rule be changed to state that the most serious offenses and those originally charged as felonies that had been reduced would go through the compact. The proposal was not supported and voted down. It has been suggested that probation could be set for less than one year in order for individuals to comply with the compact. Arizona must comply with AZ Rule 2.105. As long as rule is in place, the liability is still there. Ms. Waters went over the requirements for Arizona. Work will continue to be done to change some of the requirements. What does not trigger the compact is: obey all laws, pay all monies owed including restitution.

**G. Rules Update**

Mark Meltzer, AOC, gave an update on the annual rules agenda which took place at the end of August, 2013. There were over 50 rule petitions up for

consideration. Mr. Meltzer addressed the petitions that were of interest to the LJ courts and the nine petitions that were denied. The rules are effective January 1, 2014.

Rules adopted

R-12-0034, Rule 803(10)	This evidence rule was adopted
R- 12-0012 & R-13-0013	These petitions came out of the Wireless Committee
R-12-0027	Focuses on limited scope representation. Would there be application to LJ courts in civil cases? Courts thought that there may be some merit to this petition and so an ad hoc committee may be formed to review this further.
R-12-0044	This was a clean-up for technical errors in various Justice Court Rules of Civil Procedure.
R-12-0026	Allows constable and constable's deputy to serve civil process.
R-12-0040	Corrects an "unintended consequence" of a prior amendment to a civil rule. Will this require an amendment to justice court rule? This may come back next week for some change in verbiage.
R-13-0022	In the juror's oath the words "comply with the admonition" to be added. No statutory oath in municipal courts, so this may impact justice courts if you follow the rule.
R-12-0036	Major changes on bond forfeiture proceedings.
R-13-0032	The previous language in the plea form presented an ethical dilemma on part of the defense counsel.

The deadline for filing petitions in 2014 is January 10, 2014. The table with summary of the rules update is on the Limited Jurisdiction Court Website.

**H. R-13-0039: LJC comment on proposed amendments to JCRCP Rules 133 and 134**

Mark Meltzer presented an update on this rule petition. This rule petition poses amendments to two justice court rules in response to HB2459. Members had directed staff to prepare a formal comment supporting the petition for consideration at today's meeting. This needs to be filed by October 25, 2014.

**Motion:** To approve the filing of the draft comment as presented. **Action:** Seconded, Approved. Motion passed unanimously.

**I. Confirmation of 2014 meeting dates:**

- Wednesday, January 29, 2014
- Wednesday, April 30, 2014
- Wednesday, August 27, 2014
- Wednesday, October 29, 2014

**Motion:** To approve the meeting dates for 2014 as presented. **Action:** Seconded, Approved. Motion passed unanimously.

### **III. OTHER BUSINESS**

**A. Good of the Order/Call to the Public**

None present.

**B. Adjournment**

**Motion:** To adjourn. **Action:** Approve, Seconded. Motion passed unanimously.

Adjourned at 1:12 p.m.

**C. Next Committee Meeting Date**

Wednesday, January 29, 2013

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 West Washington Street

Phoenix, Arizona 85007



**LJC**  
**Committee on Limited Jurisdiction Courts**  
**MINUTES**

**Monday, November 25, 2013**

1:30 p.m. to 3:00 p.m.

Conference Room 119 A/B

1501 West Washington Street

Phoenix, Arizona 85007

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**Present:** C. Daniel Carrion, Julie Dybas, Judge Steven McMurry, Judge J. Matias “Matt” Tafoya

**Telephonic:** Carla Boatner, Judge Timothy Dickerson, Judge Maria Felix, Christopher Hale, Judge Eric Jeffery, Patrick Kotecki, Judge Dorothy Little, Judge MaryAnn Majestic, Judge Arthur Markham, Judge Antonio Riojas, Sharon Yates

**Absent/Excused:** Judge James Hazel Jr, Marla Randall, Marty Vance

**Administrative Office of the Courts (AOC):** Marcus Reinkensmeyer, Theresa Barrett, Melinda Hardman, Kathy Waters, Stewart Bruner, Nina Preston, Tom O’Connell

**Staff:** Mark Meltzer, Sabrina Nash

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**A. REGULAR BUSINESS**

**Call to Order and Opening Remarks**

The November 25, 2013, special meeting of the Committee on Limited Jurisdiction Courts was called to order at 1:33 p.m. by Judge Riojas, Chair.

**B. Report of the Electronic Records Retention and Destruction Advisory Committee**

Marcus Reinkensmeyer, AOC, presented the Electronic Records Retention and Destruction Advisory Committee’s proposed changes to the Limited Jurisdiction Courts Records Retention and Disposition Schedule.

Discussion: There were comments, questions, and concerns about timelines for the retention of paper versus electronic records, interpretation of “completion of sentence”, criminal felony cases, and the ability to view records that have been removed from public access as needed.

**Action:** Recommend approval of the revisions to ACJA § 3-402 Retention, Destruction and Access to Electronic Court Records with Judge Majestic’s amendment to change to the 18 month period to implement new policies on electronic records management to two years. **Moved by** Judge Dickerson, **Seconded by** Judge Majestic. Motion passed.

**C. Approval of a New Section of the Arizona Code of Judicial Administration Regarding Evidence Based Pretrial Services**

Kathy Waters, AOC, presented a new code section that calls for evidence based pretrial services that will serve as a governing document along with the

administrative order concerning pretrial services. The purpose of pretrial services is to collect, verify and report information to the court pertaining to an individual charged with an offense to assist the judicial officer in making prompt, fair and effective release or detention decisions.

Discussion: There were questions regarding whether or not there would be standardized assessments, and the applicability of this code section on limited jurisdiction judges determining standard conditions of release in an IA or arraignment.

**Action:** Recommend approval of the proposed code with an amendment adding a sentence that stating it does not restrict judicial officers from asking questions of defendants in the process of making pretrial release decisions. **Moved by** Judge Tafoya, **Seconded by** Judge Markham. Motion passed.

#### **D. OTHER BUSINESS**

##### **Good of the Order/Call to the Public**

None present.

Special meeting adjourned at 2:30 p.m.

##### **Next Committee Meeting Date**

*Wednesday, January 29, 2014*

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 West Washington Street

Phoenix, Arizona 85007