

COMMITTEE ON LIMITED JURISDICTION COURTS

Wednesday, February 28, 2018

10:00 a.m. to 11:45 a.m.

Conference Room 119A

1501 West Washington Street

Phoenix, Arizona 85007

Present: Judge Antonio Riojas (Chair), Judge Timothy Dickerson, Julie Dybas, Jeffrey Fine, Judge Elizabeth Finn, Judge Eric Jeffery, Christian Whitney, Sharon S. Yates

Telephonic: Chief Dan Doyle, Judge Maria Felix, Judge James William Hazel, Jr., Judge Russ Jones, Judge Kevin Kane, Judge Glenn Savona, Judge Laine Sklar, Adam R. Walterson

Absent: Christopher Hale, Marla Randall, Judge Keith Russell, Judge J. Matias "Matt" Tafoya

Presenters/Guests: Don Jacobson, Jerry Landau, Mark Meltzer, Marcus Reinkensmeyer, Laura Ritenour

Staff: Sabrina Nash, Susan Pickard Administrative Office of the Courts (AOC)

I. REGULAR BUSINESS

A. Welcome and Opening Remarks - With a quorum present, the February 28, 2018, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:01 a.m. by Judge Antonio Riojas, Chair.

B. Approval of Minutes - The draft minutes from the November 15, 2017, meeting of the LJC were presented for approval.

Susan Pickard asked members to specifically review the motion in paragraph **C. Order of Protection Statewide Assessment Project**. The original motion and amended motion were corrected as follows:

Motion: To support the basic concept subject to two reservations: 1) the change of plaintiff/defendant to petitioner/respondent, and 2) ~~the need for more information regarding the~~ OPPOSITION TO THE short form service proposal.

Moved: Judge Elizabeth Finn. **Second:** Judge Matt Tafoya

Motion: To amend the motion to add "court initiates service at the option of the plaintiff." **Moved:** Judge Maria Felix **Second:** Adam Walterson **Vote:** Passed. 16-1-0

Amended Motion: To support the basic concept subject to three reservations: 1) the change of plaintiff/defendant to petitioner/respondent, 2) ~~the need for more information regarding the~~ OPPOSITION TO THE short form service proposal, and 3) the addition of "court initiates service at the option of the plaintiff." **Vote:** Motion passed unanimously.

Motion: To approve the corrections to the motion and amended motion contained in the draft minutes for November 15, 2017, paragraph C regarding Order of Protection Statewide Assessment Project. **Moved:** Judge Finn. **Seconded:** Judge Jeffery. **Vote:** Motion passed unanimously.

Motion: To approve the November 15, 2017, meeting minutes, as corrected. **Moved:** Judge Dickerson. **Seconded:** Julie Dybas. **Vote:** Motion passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Proposed Amendments to ACJA § 5-205: Collections

Marcus Reinkensmeyer, Director Court Services Division, joined by Laura Ritenour and Don Jacobson, summarized the key provisions of the amendments to ACJA § 5-205.

Proposed Compliance Assistance Program (CAP) Guidelines:

- Presumptive partial payment is \$150.00.
- The 19.5% special collections fee will be assessed on partial payment amount and remainder suspended.
- TTEAP (registration renewal) will be released.
- Driver's license hold may be lifted by local court.
- Collection efforts will be placed on hold.
- Defendant is placed on reasonable payment plan.

Proposed Fee Structure for FARE:

- The Special Collections Fee of 19.5% will not be assessed until 15 days after the second notice is mailed.
- The \$35 FARE Delinquency Fee will increase to \$49.00.
- On average, litigants who enter FARE will save \$52 per case.

Proposed Reductions in Collection Fee Revenues:

- The total annual projected revenue reduction for the vendor and is \$1.5 million (approximately 20%).
- The new contract effective date is July 1, 2018 however, it is possible that parts of the contract will be phased in.

New Projects and Expanded Services:

- Online CAP application and payment capabilities by 2019.
- Email and text message reminders to litigants available to all courts and funded by the program.
- Recurring payments – litigants can choose to have payments automatically withdrawn.
- Correctable violations such as: proof of insurance and/or driver's license would be available online or as a mobile app.

- Offsite cash payment location kiosks (CVS, Walmart), the money would be deposited with the local courts.

Mr. Reinkensmeyer noted a change to the distribution of year-end money to the courts. The distribution will be based on the amount of money collected by each court in the preceding year to ensure fairness to all courts. The proposed amendments will be presented to the Arizona Judicial Council (AJC) in March 2018.

Motion: To fully support the amendments presented. **Moved:** Judge Jeffery. **Seconded:** Julie Dybas. **Vote:** The motion passed unanimously.

B. Legislative Update

Jerry Landau, AOC Government Affairs, telephonically presented LJC with an update on the following bills:

HB2169: Driving Violations; Restricted Licenses; Penalties – a person convicted of driving on a suspended class D or M license prior to January 1, 2011 may apply for a restricted privilege to drive if the person meets specified requirements. A judge is authorized to mitigate a civil traffic penalty required by Title 28 if the person ordered to pay the penalty demonstrates that the payment would be a hardship on the person or their immediate family.

HB2189: Prisoners; Dedicated Discharge Account; Use – increases the maximum amount a prisoner may deposit in their discharge account from wages earned. Prisoners are authorized to use monies in the account before discharge or transfer on items and services that they may require immediately after being released or transferred. Prior to discharge, the Department of Corrections is required to withdraw from the prisoner’s account any applicable fees to pay to have their driver’s license reinstated.

HB2249: Protective Orders; Filing Requirements – would require the court after granting an order of protection to provide the order to a law enforcement agency or constable for service, or to an entity that is authorized to serve process. Establishes which agency or entity can serve the defendant based on which court issued the protection order and requires that agency or entity to provide confirmation of service to the plaintiff as soon as practicable. When an order of protection or an injunction against harassment or workplace harassment is filed the court is required to register the injunction with the National Crime Information Center, and the Supreme Court is required to maintain a central repository for orders of protection and injunctions. **Effective date is January 1, 2020.**

HB2260: Commercial License; Defensive Driving School – would allow an individual who holds a commercial driver license and is issued a citation for a civil traffic violation pursuant to specified statutes or a local civil traffic ordinance to attend defensive driving school only if the individual was driving a vehicle requiring a class D or a class M license and the vehicle was not being used for commercial purposes.

HB2312: Setting Aside Conviction; Requirements – The clerk of the court is prohibited from charging a filing fee for an application to have a judgment of guilt set aside. Establishes a list of factors the court must consider when determining whether to set aside a conviction. A conviction that is set aside may be alleged as an element of an offense or used as a prior conviction. **Effective January 1, 2019.**

HB2313: Sentencing; Monetary Obligations; Fine Mitigation – prohibits the court from mitigating a mandatory criminal fine and decreases the surcharge levied on every fine, penalty, forfeiture and civil penalty imposed to 42 percent. Levies an additional penalty assessment of nine dollars on every fine,

penalty forfeiture and civil penalty imposed with 62.4 percent of the money collected going to Victim's Rights Fund and 37.6 percent going to the Victim Compensation and Assistance Fund. If the court or Board of Executive Clemency find that a defendant has willfully failed to pay fine, surcharge, fee, assessment, restitution or incarceration costs or has not made a good faith effort to obtain the monies the court is authorized to revoke the defendant's probation and sentence the defendant to prison.

HB2314: Misdemeanor Sentence; Authorized Disposition – allows the court to impose a sentence of community restitution, education or treatment. If the court imposes a sentence of community restitution the court is required to determine the number of hours required, and if a sentence of education or treatment is imposed the sentence cannot exceed the term of probation as determined by statute.

HB2522: Traffic Violations; Penalties – changed the criminal classification to a class 1 misdemeanor and modified the penalties for various traffic violations causing serious bodily injury or death. The sentence is required to run consecutively to any sentence for other convictions, restitution is required to be awarded, and the Department of Transportation is required to revoke the person's driver's license for five years for causing serious bodily injury or ten years for causing death.

SB1076: Assault; Public Safety Contractors; Workers – public safety workers or volunteers can petition the court for an order authorizing testing of another person for certain diseases if there is probable cause to believe that the person bit, scratched, spat or transferred blood or other bodily fluid on or through the skin of the employee or volunteer while performing an official duty. This also includes a contractor of the state or local law enforcement agency, correctional facility, or any other person who is authorized to perform official duties or to be present within a correctional facility.

SB1295: Animal Cruelty; Domestic Animals; Classification – prohibits a person from intentionally or knowingly subjecting domestic animal to cruel mistreatment and intentionally or knowingly killing a domestic animal without either legal privilege or consent of the animal's owner or handler.

SB1376: Landlord Tenant Act; Personal Property – after retaking possession of a dwelling and discovering that the tenant's personal property remains in the unit, the landlord is required to hold the tenant's personal property for 14 calendar days, or 21 days if the tenant was evicted. The landlord is not required to store the tenant's perishable items, plants and animals, and is permitted to remove and dispose of any personal property in the unit that is contaminated or poses a health and safety risk, at the landlord's discretion. The tenant's abandoned animals may be immediately removed and released to a shelter or animal control. If after 14 days the tenant makes no reasonable effort to recover their personal property, the landlord is permitted to donate the personal property to a qualifying charitable organization or may sell the personal property. A landlord that complies with statutory requirements for the disposition of the tenant's personal property is not liable for any loss to the tenant or third party the results from moving, storing, or donating any personal property left in the unit.

C. 2018 Rule Petitions

Mark Meltzer, AOC Court Policy Analyst, reviewed open rule petitions of interest to limited jurisdiction courts and stated that the comment filing deadline for most of the petitions is May 20, 2018.

R-18-0001 – The petition requests “a comprehensive approach to victims' rights” and “full integration into the rules in a way that instructs trial courts and attorneys what the Victims' Bill of Rights mandates in each situation.”

R-18-0012 –permits a limited jurisdiction court, if authorized by the superior court presiding judge, to order restoration treatment if a defendant is found incompetent but restorable, delineates what a

limited jurisdiction court may do if a defendant is found incompetent but not restorable, and clarifies timeframes for restoration of competency treatment orders.

R-18-0003 – would conform Arizona’s rule on the “residual exception” to the rule against hearsay that is pending change in the federal rule, and becomes effective on December 1, 2018. There is a written notice requirement in the revised rule.

R-18-0008 – adds the term “electronically stored information” to the criminal and eviction rules.

R-18-0002 - revises the rule on rulemaking to more simply and directly inform the public on how a person can file a rule petition and a comment to a petition. Notable changes include prioritizing electronic filing as the primary means of filing, retaining paper filing in the Clerk’s Office for those without Internet access, amending the date for submitting comments to May 1, allowing the court time during the summer to review petitions and comments, and changing the date of Annual Rules Agenda to August or September of each year to allow scheduling flexibility.

R-18-0004 – would permit a person who is not an active member of the State Bar to represent any entity that is not an issuing public corporation before any court in this state and in any proceeding, including but not limited to any:

- quasi-judicial hearing,
- administrative, agency, hearing officer, or board hearing, rehearing, or appeal,
- small claims procedure or proceeding, and
- fee arbitration proceeding.

It would also allow any presiding officer to assess an appropriate sanction against any party or attorney who has engaged in unreasonable, groundless, abusive, or obstructionist conduct.

R-18-0020 – would require any eviction complaint to specify whether the rental is subsidized housing, the total rent per month, and the rent for which the tenant is responsible. Judgment under Rule 13 could be entered only for the unpaid rent that the tenant is obligated to pay.

R-18-0021 – proposes a concise set of rules to govern procedures in small claims cases. A summons served on a defendant will include a hearing date at which the defendant must appear, but the defendant is not required to file an answer to the summons. The comment period for this rule petition has been modified as follows: Comments to the petition are due March 16, 2018; an amended petition may be filed by April 27, 2018; comments to an amended petition are due June 1, 2018; and the petitioner may file a reply by July 6, 2018.

D. Proposed Amendments to Rule 109(a)

Jeffrey Fine, Maricopa County Justice Courts Administration, provided an update on a request to the LJC from a law firm regarding drafting a proposed amendment to Rule 109(a) of Justice Court Rules of Civil Procedure. The proposed amendment would confirm the Justice Court Rules of Civil Procedure with the Rule 11 of the Arizona Rules of Civil Procedure. The proposed amendment would state *“if the document is a stipulated procedural notion, then a party’s attorney may sign on behalf of any other party with that party’s permission.”* Other proposed language considered is *“if the document does not affect a substantive right, any party’s attorney may sign on behalf of any other party with that party’s permission.”* Mr. Fine stated that he is looking for feedback from the committee on the proposed amendment. He stated that after allowing the committee a chance to review he would bring the proposed amendment back for official action by the committee.

III. Good of the Order/Call to the Public

Call to the Public: None present.

New business:

Judge Elizabeth Finn noted that ACJC is holding several informational sessions around the state regarding implementation of proposed legislation and offered to forward the information to Susan Pickard to share with the committee.

Judge Antonio Riojas mentioned that a video training will be offered in March on the rule change dealing with initial appearances and no bond holds. He suggested that if committee members dealt with initial appearances they may want to sign up for the training.

Jeff Fine informed the committee that the ACLU is requesting court's bond schedules. Judge Elizabeth Finn shared that the request was more expansive and was for calendar year 2017. Specifically, the ACLU requested the following information: everyone who was arrested, whether they were required to post a bond, and how many days they spend in jail. She also stated that she had received a request from the Goldwater Institute asking how many people were cited with ARS § 28-1595(C) which is where you would ask the non-driver for identification.

Adjournment:

<p>Motion: To adjourn. Moved: Judge Felix. Seconded: Judge Finn. Vote: The motion passed unanimously.</p>

Meeting adjourned at 1:28 p.m.

Next Meeting: **Wednesday, May 23, 2018**

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, May 23, 2018

10:00 a.m. to 12:00 p.m.

Conference Room 119A/B

1501 West Washington Street

Phoenix, Arizona 85007

Present: Judge Antonio Riojas (Chair), Julie Dybas, Jeffrey Fine, Judge Elizabeth Finn, Judge Eric Jeffery, Judge Kevin Kane, Judge Keith Russell, Adam R. Walterson, Sharon S. Yates

Telephonic: Judge Maria Felix, Christopher Hale, Judge James William Hazel, Jr., Marla Randall, Judge Glenn Savona, Judge Laine Sklar, Judge J. Matias “Matt” Tafoya, Christian Whitney

Absent: Judge Timothy Dickerson, Chief Dan Doyle, Judge Maria Felix, Judge Russ Jones

Presenters/Guests: Jennifer Carsten, Mirisue Galindo, Don Jacobson, Jodi Jerich, Jerry Landau, Mark Meltzer, Marcus Reinkensmeyer, Laura Ritenour, Patrick Scott, David Svoboda, Cindy Trimble, David Withey

Staff: Sabrina Nash, Susan Pickard, Administrative Office of the Courts (AOC)

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the May 23, 2018, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:01 a.m. by Judge Antonio Riojas, Chair.

B. Approval of Minutes

The draft minutes from the February 28, 2018 meeting of the LJC were presented for approval.

<p>Motion: To approve the February 28, 2018 minutes as presented. Moved: Judge Finn. Second: Mr. Walterson. Vote: Passed unanimously.</p>

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update

Jerry Landau, AOC Government Affairs Officer, presented LJC with an update on the following bills:

HB2169: Driving Violations; Restricted licenses; Penalties – allows the court to restrict or suspend a person’s driver license or permit to drive as a sanction for non-major traffic offenses. The court may employ alternative sanctions to community restitution ordered upon a DUI conviction if the court determines that education, treatment, or other sanctions are more appropriate. *Delayed effective date January 1, 2019.*

HB2314: Misdemeanor sentence; authorized disposition – allows the court to impose either community restitution, education, or treatment for a misdemeanor offense. The court may determine and fix the number of community restitution hours that must be performed and the program of education or treatment. The length of time a person may be sentenced to education or treatment is limited to the term of probation permitted under the law. *General effective date August 3, 2018*

HB2313: Sentencing; Monetary Obligations; Fine Mitigation – allows the court to adjust the period of a probationer’s supervised probation on the recommendation of an adult probation officer for earned time credit if the probationer is current on court ordered restitution and in compliance with all other nonmonetary obligations. A judge could mitigate a non-mandatory fine if the payment would cause a hardship on the person convicted or their immediate family. *Delayed effective date January 1, 2019.*

HB2527: Ticket Surcharge; Public Safety Equipment – creates the Peace Officer Training Equipment Fund and the Peace Officer Training Equipment Fund Advisory Commission and members. It increases the surcharge on court ordered diversion programs for traffic offenses from \$5 to \$9 and allocates four of the nine dollars to the fund. It also creates an additional assessment of \$4 on every civil penalty imposed and collected for a civil traffic violation, and on every fine, penalty, or forfeiture for a criminal violation of the motor vehicle statutes, or local ordinances on stopping, standing or operation of a vehicle. *Delayed effective date January 1, 2019.*

HB2650: Commercial License; Defensive Driving School – allows a commercial license holder to attend Defensive Driving School if the offense was committed in a non-commercial vehicle. The court must forward an abstract record of judgement against a CDL holder to ADOT. ADOT cannot consider the violation when determining whether to revoke or suspend the person’s CDL. *Delayed effective date September 1, 2019.*

HB2249: Protective Orders; Filing Requirements – after granting an order of protection the court is required to provide the order to a law enforcement agency or constable or an authorized entity to serve process for service. The service entity must provide confirmation of service to the plaintiff as soon as practicable. The plaintiff’s contact information must be disclosed to the court for purposes of service and notification and is not subject to disclosure unless ordered by the court. Once the protective order is filed the court is required to register the order or injunction with the National Crime Information Center (NCIC) within twenty-four hours of filing. The Supreme Court must maintain a central repository for order of protection and injunctions. *Delayed effective date January 1, 2020.*

Comments:

1. Clarification was requested regarding HB2527. The new \$9 surcharge on every offense cannot be mitigated or converted to community service. This creates a total of \$11 that cannot be converted to community services. This amount impacts Stand Up and Stand Down programs as well as homeless court.
2. If there is a plea agreement, can the court mitigate the fine?
3. If there is a plea agreement and the agreement states that the court is prohibited from mitigating the fine, can the court ignore the statement and mitigate the fine?

B. Strategic Planning

Cindy Trimble, AOC Executive Office, provided an overview of the judicial branch strategic planning process and requested LJC input by June 4, 2018. Judge Riojas asked the members if they wanted to form a workgroup to develop ideas or provide input during the meeting. The consensus was to provide input during the meeting. Items discussed for inclusion in the strategic agenda are as follows:

1. Continue to follow through with project research, development, and implementation of the recommendations of the Arizona Commission on Access to Justice
 - a. Institute online conflict resolution
 - b. Expand the use of specialty courts

2. Refine Community Courts by:
 - a. Assisting with navigation of services or bringing the services community into the court
 - b. Holding hearings in the court's brick and mortar location as well at various locations where defendants who need services congregate
 - c. Addressing a defendant's singular or combination issues (homelessness, mental illness, domestic violence, drug/alcohol abuse)
 - d. Addressing the lack of tribal resource certification and promoting its use when appropriate.

Ms. Trimble thanked the members for the input and suggested that if members had additional ideas to forward them to her or Susan Pickard by June 4, 2018.

C. Final Disposition Reporting on Refiled DUI Cases

Judge Elizabeth Finn, Glendale City Court, defined an issue that impacts the completeness and accuracy of the Central State Repository and Arizona criminal history records. When a person is arrested for DUI, fingerprints are taken. This action initiates a Final Disposition Report (FDR) and creates an incidence in criminal history. If lab tests are not received timely, the case is dismissed, and the FDR is completed and sent to the Department of Public Safety (DPS). When the lab results are received, the prosecutor can refile. If a warrant is issued due to the refile, the person is arrested, and fingerprinted a second time creating a second FDR and incidence in criminal history. This can give the impression of two DUI arrests.

Action Item: Mirisue Galindo to share contact information regarding how to correct issues with criminal history with Susan Pickard. Ms. Pickard will forward to members.

Motion: To create a workgroup to develop a statewide process to address refiled charges. **Moved:** Judge Finn. **Second:** Judge Jeffery. **Vote:** Passed unanimously.

Judge Riojas appointed Judge Finn as workgroup chair. Volunteers for the workgroup were requested to contact Susan Pickard for inclusion.

D. Judicial Branch Discrimination and Harassment Policy

David Withey, AOC Chief Counsel, explained that the judicial policy regarding sexual harassment in the workplace was first issued in 1992 to provide a consistent policy statement and direction for all the courts in the state. He introduced the codified proposed amendments to the policy that extends sexual harassment to all types of harassment and discrimination in the workplace and would require each local court to review its policy to ensure compliance.

Comment:

ABA Model Code of Judicial Conduct Rule 2.3 has a more extensive definition of bias, discrimination and harassment that should be included in the proposed amendments.

Motion: To support the codified proposed amendments with the ABA Model Code of Judicial Conduct Rule 2.3 definition of bias, discrimination, and harassment. **Moved:** Jeffrey Fine. **Second:** Judge Kane. **Vote:** Passed unanimously.

E. Proposed Amendments to Rule 109(a)

Jeffrey Fine, Maricopa County Justice Courts Administration, provided an update on a request to the LJC from a law firm regarding drafting a proposed amendment to Rule 109(a) of Justice Court Rules of Civil

Procedure. The proposed amendment would conform the Justice Court Rules of Civil Procedure with the Rule 11 of the Arizona Rules of Civil Procedure. The proposed amendment would state *“if the document is a stipulated procedural motion, then a party or party’s attorney may sign on behalf of any other party or party’s attorney with that party’s permission.”* Other proposed language not included in the draft would require an attached signed supporting document regarding the stipulation. Mr. Fine stated that he is looking for feedback from the committee on the proposed amendment. He stated that after allowing for stakeholder review he would bring the proposed amendment back for official action by the committee.

Comment:

Change “stipulated procedural motion” with “motion to continue.”

Motion: To support the proposed amendment with leave to return with additional amendments. **Moved:** Judge Jeffery. **Second:** Sharon Yates. **Vote:** Passed unanimously.

F. Changes to Garnishment Forms

Jodi Jerich, AOC Policy Analyst, presented the proposed change to garnishment forms that would eliminate the need to get notarized signatures on the forms. Instead the garnishee would sign “under oath or affirmation.” She noted that neither state statute or rules require a notarized signature.

Motion: To support the proposed amendment. **Moved:** Judge Tafoya. **Second:** Judge Finn. **Vote:** Passed unanimously.

III. Good of the Order/Call to the Public

David Svoboda, AOC Language Access Coordinator, reminded the committee that although no changes have been made to the statewide Language Access Plan Templates the courts should periodically review their plans to ensure that they are still effective, or if any issues have occurred, that the plans reflect the changes incorporated to resolve them. He also asked courts to review their websites to ensure compliance and suggested that they include a statement in Spanish that states “interpreter services are available free of charge for those who need an interpreter. “

Judge Finn shared with the committee that her court went live with AJACS and ADRS in August of last year, and later discovered that none of their domestic violence convictions were being reported to the Department of Public Safety as domestic violence convictions. The issue has been corrected as of May 11, 2018. She noted that the Supreme Court is working with DPS to correct any other issues that may have occurred.

Call to the Public: None present.

Adjournment: Meeting adjourned at 11:48 a.m.

Next Meeting: **Wednesday, August 29, 2018**
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

Wednesday, August 29, 2018

10:00 a.m. to 12:00 p.m.

Conference Room 119A

1501 West Washington Street

Phoenix, Arizona 85007

Present: Judge Kevin Kane, Judge Keith Russell, Sharon Yates

Telephonic: Judge Antonio Riojas (Chair), Chief Dan Doyle, Julie Dybas, Judge Maria Felix, Judge Elizabeth Finn, Christopher Hale, Judge Eric Jeffery, Judge Russ Jones, Judge Lyle Riggs, Libby Shelton (for John Thomas), Judge Matt Tafoya, Adam Walterson, Christian Whitney

Absent: Jeffrey Fine, Judge James Hazel, Jr., Marla Randall, Judge Glenn Savona, Judge Laine Sklar

Presenters/Guests: Jennifer Albright, Theresa Barrett, Stewart Bruner, Cathy Clarich, Jennifer Greene, Paul Julien, Amy Love, Pat McGrath, Patrick Scott, Libby Shelton, David Svoboda, David Withey

Staff: Sabrina Nash, Susan Pickard, Administrative Office of the Courts (AOC)

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the August 29, 2018, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:03 a.m. telephonically by Judge Antonio Riojas, Chair.

B. Approval of Minutes

The draft minutes from the May 23, 2018 meeting of the LJC were presented for approval.

<p>Motion: To approve the May 23, 2018 minutes as presented. Moved: Christian Whitney. Second: Judge Finn. Vote: Passed unanimously.</p>
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II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update

Amy Love, Deputy Director of Government Affairs, AOC, presented LJC with three legislative proposals that were submitted for consideration from the courts and based on LJC's recommendation the proposals may be advanced to the presiding judges and the Arizona Judicial Council (AJC).

2019-01: Court security officer; powers and duties – permits the presiding judicial officer of each court to appoint and prescribe the duties of court security officers to insure the safe transaction of the business of the court. Court security officers certified by the Supreme Court have the authority of a peace officer in the performance of the officer's duties but are not eligible for new enrollment in CORP or PSPRS.

<p>Motion: To support the proposed legislation as presented. Moved: Christian Whitney. Second: Judge Tafoya. Vote: Passed unanimously.</p>
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2019-02: Satisfaction of judgments – Requires a prevailing party to file a satisfaction of judgment with the court within 30 of the judgment being paid in full. The opposing party may file a motion to compel satisfaction of judgment if a prevailing party fails to satisfy a paid judgment or cannot be located after reasonable diligence to locate the party is shown. A justice of the peace may order the judgment be deemed satisfied upon receipt of the motion or set the matter for hearing and order the party requesting relief to post the amount of the judgment with the justice court. Applicable to all civil judgements and small claims judgments issued by a justice court.

Motion: To support the proposed legislation as presented. **Moved:** Sharon Yates. **Second:** Christian Whitney. **Vote:** Passed unanimously.

2019-04: Moving violations; traffic survival school – Removes the requirement that the court notify the Arizona Department of Transportation when a person fails to complete traffic survival school and instead requires ADOT suspend the driver license or permit of the person until the order to complete TSS is satisfied. **NOTE:** Ms. Love clarified that should the AJC not move this legislation forward as a separate agenda would LJC support it as part of an ADOT cleanup bill.

Motion: To support the proposed legislation as presented, or to support as part of an ADOT cleanup bill that is consistent with the presented legislation.
Moved: Judge Finn. **Second:** Judge Riggs **Vote:** Passed unanimously.

B. Alternative Circuit Network Availability

Stewart Bruner, Committee on Technology (COT) Staff, provided an overview on a new alternate circuit option that enables local applications, data backups, videoconferences, and internet access to move to a secondary link leaving all AJIN production applications on the primary circuit network. He stated that 40-50 percent of bandwidth is being used by internet and data transfers. Courts may purchase bandwidth in increments to maintain performance of the secondary link at a satisfactory level and allow statewide applications to operate at desired levels on the primary network. The cost will vary from court to court based on how much bandwidth is available, who the carrier is and how much bandwidth the local court deems necessary to support their local applications and internet on the secondary link. Interested courts should complete a RemedyForce service request and an individual cost estimate and timeline will be generated by AOC Network. If the court elects to add the additional circuit an annual chargeback of the costs will apply. Mr. Bruner stated that Payson was the test case

Questions:

Q1. Can the ACN service be cancelled if there is no improvement in bandwidth speed?

A1. It is unknown what the minimum service length requirement is, it would vary by location, however the cost estimate produced for the court should have the terms and conditions.

Q2. If there are two courts located in one building do both courts have to agree on the service, or can only one agree at no cost to the other court?

A2. If it is two courts at the same physical address with the same physical network equipment they would both benefit from the split network and would need to determine how to split the cost. However, if it is two different sites such as probation and superior court sites it is two different network orders.

Q3. To get the benefit of AOC fronted-costs for the hardware equipment, do the courts need to sign up

now or can they sign up a year or two down the road?

A3. AOC fronted the cost for the hardware in perpetuity. Courts can join immediately or a few years down the road as budgets permit.

Q4. Is this applicable to only to ACAP courts?

A4. It is available to anyone on AJIN, you must be directly connected to the AOC network.

C. Committee on Probation (COP) Update

Christian Whitney, Maricopa County Public Defender's Office, discussed a project funded by a grant that the Committee on Probation is initiating with AHCCCS to open a total of 12 health care clinics at probation and community supervision sites around the state. Nine sites will open around the state by September 30, 2018. The purpose behind this joint effort is to put healthcare where probationers are located. Probationers could meet with a probation officer, then walk across the hall to get services or meet with a AHCCCS care manager who will assess the needs of the probationer, including mental health counseling. When a beneficiary with AHCCCS benefits goes into custody, there is a suspension of enrollment agreement that governs the situation. If the person is in jail, there is no limit to how long their benefits will be suspended, however if they go into Department of Corrections custody and are in custody for 12 months or more their coverage ends. If they are in DOC custody less than 12 months their coverage is suspended. Another joint project with AHCCCs is an information video for the public about the new care delivery system, it is currently playing in waiting rooms at Maricopa County Adult Probation Offices and elsewhere.

Additionally, he noted a special concern in Maricopa County of the proliferation of probation tails, which is part of a plea agreement. Probation tails pose an increased risk to probation officer safety in part because 45 percent of recent probationers have been to prison and are rated moderate to high risk probationers.

D. LJC FDR/Refile Workgroup

Judge Elizabeth Finn, Glendale City Court, provided an update on the workgroup's July 30, 2018 meeting. Judge Finn reiterated the issue of defendants who are charged with a criminal crime (DUI primarily), the case is dismissed for lack of evidence, and within six months the county attorney refiles the case. The refiled case gives the appearance that the defendant has been charged with two crimes. This adversely affects the defendant when applying for employment and is not a true reflection of their criminal history. She then presented two options the workgroup came up with to remedy the situation. The first would be to reopen the original case when refiled with the original arrest record Process Control Number (PCN), set aside the dismissal and schedule the next hearing. The second is to create a new case and reenter the original arrest record (PCN) into the case management system and set the next applicable hearing. However, for either of these options to succeed ADRS would need to increase the arrest record retention period after completion and dismissal from three months to six months to coincide with the county attorney's six month refile period.

Discussion: after much discussion on the merit of using the PCN when refiled a case that has been dismissed for lack of evidence it was suggested that a better solution might be to somehow clarify the dismissal of the first case. Judge Finn stated that she (workgroup) would go back to AOC, DPS and MVD to see what options they may have on clarifying the dismissal charge to accurately reflect it as a dismissal.

E. Public Access

Christopher Hale, Tucson City Court, discussed public access concerns recently experienced by courts, court staff, and judges, and the different ways the courts handle these concerns. He would like to establish a workgroup to develop uniform standards for handling the following concerns:

- Security of court staff by restricting public access to their personal information. Current statutes do not address redacted personal information for court staff.
- Creating standard guidance for recording in a courthouse under Rule 122.1. First Amendment Auditors have raised issues with video recording in the courthouse and the need for standardized language for court signage stating what type of recording is or isn't allowed and whom to contact for permission to record.
- Code of conduct for the public seeking access to court services.

Discussion: After discussion of the following topics; the public's conduct when dealing with court staff, criminal conduct versus freedom of expression, first amendment rights, local signage in courts on videotaping in courthouse versus courtroom, Mr. Withey asked members to send staff signage language for review and possible standardization.

F. Language Access Issues and Update

David Svoboda, AOC Language Access Coordinator, stated that six (6) cycles of credentialing exams have been held since the credentialing program's inception, and an additional cycle will be held in 2019 prior to the June deadline for court staff. The Arizona Court Interpreter Credentialing Program (ACICP) is announcing an additional testing opportunity for court staff who have not yet successfully completed the Tier 1 exams required to qualify to take the skills-based performance exam for the Tier 3 credential. This special sitting of the Tier 1 exams is scheduled as follows:

- English Written Exam – Friday, September 21, 2018 (9:00 am – 12:00 pm)
- OPI – Friday, September 28, 2018 (times will vary)

These sessions will be open only to court staff. Both tests will be held at the AOC in Phoenix. It is hoped that this additional session of Tier 1 exams will enable more staff to qualify to take the skills-based performance exam for the Tier 3 credential prior to the June 2019 deadline. He informed the committee that 200 interpreters throughout the state have passed the tier 2 oral interpretation exam and an additional 600 profiles have been added to the court interpreter registry. Last year the test preparation workshop was subsidized by the AOC at a cost of \$50 to the participant, however the next workshop will cost the participants approximately \$100 - \$150. Mr. Svoboda stated that the National Center for State Courts is currently developing a third test for interpreters and he stated that ACICP is working on developing a Navajo exam and mentioned that New Mexico has developed a Navajo exam.

Although no changes have been made to the statewide Language Access Plan Templates courts should periodically review their plans to ensure that they are still effective, or if issues have occurred, that the plans reflect the changes incorporated to resolve them.

III. Good of the Order/Call to the Public

Call to the Public: None present.

Adjournment: Meeting adjourned at 12:02 p.m.

Next Meeting: **Wednesday, November 28, 2018**

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

State Courts Building, Room 119 A/B

1501 West Washington Street

Phoenix, Arizona 85007

COMMITTEE ON LIMITED JURISDICTION COURTS MINUTES

Wednesday, November 28, 2018

10:00 a.m. to 12:00 p.m.

Conference Room 119A/B

1501 West Washington Street

Phoenix, Arizona 85007

Present: Judge Maria Felix, Judge Elizabeth Finn, Judge Erick Jeffery, Judge Kevin Kane, Maria Randall, Judge Antonio Riojas, Judge Keith Russell, Judge Laine Sklar, Adam Walterson, Christian Whitney, Sharon Yates

Telephonic: Chief Dan Doyle, Judge Christopher Hale, Judge Lyle Riggs, Judge Glenn Savona

Absent: Julie Dybas, Jeff Fine, Judge James Hazell, Judge Russ Jones, Judge Glenn Savona, Judge Matt Tafoya,

Presenters/Guests: Jennifer Albright, Theresa Barrett, Jennifer Greene, Don Jacobson, Jennifer Jones, Jerry Landau, Mark Meltzer, Terri Munn, Stacy Reinstein, David Svoboda

Staff: Sabrina Nash, Susan Pickard, Administrative Office of the Courts (AOC)

I. REGULAR BUSINESS

- A. **Welcome and Opening Remarks** - With a quorum present, the November 28, 2018, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:15 a.m. by Judge Eric Jeffery, Acting Chair.
- B. **Approval of Minutes** - The draft minutes from the August 29, 2018 meeting of the LJC were presented for approval.

Motion: To approve the August 29, 2018 minutes as presented. **Moved:** Judge Maria Felix. **Second:** Ms. Sharon Yates. **Vote:** Passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update

Jerry Landau, AOC Government Affairs Officer, discussed the Satisfaction of Judgement legislation that would permit the person who has satisfied a judgement to file for satisfaction of judgement. The presiding judges recommended that this process be handled by court rule not by statute, like the court rules for evictions. The presiding judges' recommendation is going to the AJC in October. Jerry noted that it is a topic of interest at the Governor's Office of Highway Safety and the Arizona Department of Transportation (ADOT). ADOT has questions regarding the transmission of cases to and the notification of restricted vs. suspended licenses.

B. Court Security Update

David Svoboda Language Access Coordinator, AOC, provided a quick update on court security grants. He announced that a statewide memo went out announcing that the grant process is currently open, and applications are being accepted until February 28, 2019. The funding priority this cycle is on entryway screening, such as X-ray machine or

wands. Applications from the courts for funds should be routed through the county ??? committee and signed off on by the presiding judge prior to submission. Email submissions are acceptable. He anticipates award announcements will be made prior to the end of the fiscal year (June 2019) with money being dispersed in mid to late July 2019. He asked courts submitting applications work with potential vendors to ensure the quote provided takes into consideration that the money will not be awarded until July 2019. The review of applications takes into consideration need and merit.

Jennifer Albright, Senior Policy Analyst, AOC, reminded limited jurisdiction courts that with entryway screening requirements not every courts is required to have screening all the time. She stated that if the courts had any questions regarding security standards to reach out to her for clarification. Jennifer stated that X-ray machines will be the lowest priority for funding as they are costly, the goal is to help as many courts as possible with needed entryway screening.

Discussion: on training requirements for contract security employees. Don Jacobson, Senior Special Projects Consultant, stated that there is a legislative proposal for certification of security officers that would give them law enforcement powers to make arrests or detain individuals. Don Jacobson, Jeff Schrade with Education Services and Maricopa County courts are working in conjunction to create a certification and training academy and it is anticipated that there will be levels of training and certification. The initial “kick-off” of the academy is planned for February 2019 and will be invitation only.

C. Telephonic Pleas

Mark Meltzer, AOC, Policy Analyst discussed the legal and practical issues that have been raised about Rule 17.1(f)(1) concerning telephonic pleas of guilty and no contest, and the associated Form 28.

- Issue 1: is that although the rule expressly allows a limited jurisdiction court to accept a telephonic plea, there is nothing in the rule that gives authority to telephonically sentence a defendant requiring the defendant to appear personally in court for sentencing.
- Issue 2: ARS § 13-607(A) requires the court, at the time of sentencing for a conviction of misdemeanor theft, shoplifting, a domestic violence offense, or certain traffic violations to either permanently affix a defendant’s fingerprint to the document or order. The recording of a biometric-based identifier is not possible for a telephonic plea, so the fingerprint needs to be affixed to the judgement.
- Issue 3: Form 28 needs restyling to clarify the language (“I” pronoun is currently used to identify the judicial officer and the defendant).

The proposed amendment to Rule 17.1(f)(1) would all the court to telephonically sentence the defendant on the same or subsequent date, modify Form 28 to include the court’s judgement of guilt and sentence. It would also clarify the language and signature lines to distinguish between the judicial officer and the defendant.

Motion: To support proposed rule change. **Moved:** Judge Kevin Kane. **Second:** Judge Felix. **Vote:** Passed unanimously.

D. Implementation of HB 2169 and HB 2313, mitigation of financial sentences

Don Jacobson, Senior Special Projects Consultant explained that the passage of HB 2169 and HB 2313 gave greater authority to judges to mitigate fines, fees, surcharges and assessments effective January 1, 2019. Mr. Jacobson presented a draft table of fines, fees, surcharges and assessments that may be eligible for mitigation or community restitution. He stated that victim restitution, mandatory criminal violations, Dangerous Crimes against Children Sexual Assault Assessment. He also noted that the Clean Election surcharge when tied to an imposed fine or assessment is not eligible for mitigation. However, if the base fine is reduced to zero, Clean Elections is not owed.

E. Fee Waiver and Deferral Forms

Susan Pickard, Court Programs Specialist, AOC, stated that she has been contacted by the Maricopa County Justice Courts (MCJC) Forms Committee for approval to add a mailing certification box to the Fee Waiver and Deferral forms, as currently only the Request and Order for Hearing contains a mailing certification box. Ms. Pickard asked for the LJC's comments on how helpful this would be, should it be added statewide or should Maricopa County Justice Courts Forms Committee receive a variance for their forms. After a short discussion, the consensus was to grant Maricopa County a variance.

F. 2019 Meeting Schedule

Susan Pickard presented the 2019 meeting dates to members for consideration.

Motion: To approve the 2019 LJC meeting schedule as presented. **Moved:** Judge Laine Sklar. **Second:** Judge Felix. **Vote:** Passed unanimously.

III. Good of the Order/Call to Public

Susan Pickard introduced Ms. Stacy Reinstein to the committee and informed them that Stacy will take over the staffing duties for the committee. Judge Antonio Riojas welcomed Ms. Reinstein, and thanked Ms. Pickard for her assistance to the committee.

Judge Riojas stated that a future agenda item may be sent to LJC for consideration from the Post Conviction Actions Task Force (PCATF) dealing with set-asides and current records retention schedules. *"How do you set aside a conviction if the record no longer exists?"* Judge Riojas asked that it be placed on the agenda for discussion at the next meeting.

Judge Riojas also mentioned the potential marijuana legislation changes that may affect Maricopa County, would make possession of marijuana and/or paraphernalia a misdemeanor instead of a felony.

Call to the Public: None present.

Adjournment: Meeting adjourned at 11:48 a.m.

Next Meeting: **Wednesday, February 20, 2019**

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

State Courts Building, Room 119

1501 West Washington Street

Phoenix, Arizona 85007