

## COMMITTEE ON LIMITED JURISDICTION COURTS MINUTES

**Wednesday, February 20, 2019**

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

Conference Room 119A/B

1501 West Washington Street

Phoenix, Arizona 85007

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**Present:** Judge Antonio Riojas (Chair), Judge Maria Felix, Judge Elizabeth Finn, Christopher Hale, Judge Eric Jeffery, Judge Kevin Kane, Judge Keith Russell, Judge Laine Sklar, Adam Walterson, Sharon Yates, Christian Whitney

**Telephonic:** Chief Dan Doyle, Judge James Hazel, Jr., Judge Eric Jeffrey, Judge Russ Jones, Maria Randall

**Absent:** Jeff Fine, Judge Russ Jones, Judge Lyle Riggs, Judge Glenn Savona, Judge Matt Tafoya,

**Presenters/Guests:** Jerry Landau, Don Jacobson, Mark Meltzer, Judge Marianne Bayardi

**AOC Staff:** Stacy Reinstein, Theresa Barrett

### I. REGULAR BUSINESS

A. **Welcome and Opening Remarks** - With a quorum present, the February 20, 2019, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:03 a.m. by Judge Antonio Riojas, Chair.

B. **Approval of Minutes** - The draft minutes from the November 28, 2018 meeting of the LJC were presented for approval.

**Motion:** To approve the November 28, 2018 minutes as presented.

**Moved:** Judge Elizabeth Finn moved the minutes be approved as amended.

**Second:** **Vote:** Passed unanimously as amended.

### II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

#### A. Misdemeanor Pre-IA Release

Judge Kevin Kane, Tempe Municipal Court, proposed a discussion to consider unsecured bonds for defendants who are arrested that would permit them to be released before their initial court appearance in instances where the offense is a misdemeanor, there is no victim, and no prior failure to appear is on record.

**Discussion:**

Forming a subcommittee to study the issue and prepare a proposal for approval and implementation. Sample of forms already being used for unsecured bonds. Creating a list of cases and criteria approved by the Presiding Judge that are eligible for an unsecured bond? Local law enforcement's arrest and booking policies not consistent statewide. Sharing information on how different courts are handling unsecured bonds.

**PLAN:** The AOC Court Programs Unit will survey courts to gather information on how judges and courts are dealing with secured and unsecured bond schedules. Theresa Barrett, Manager, Court Programs Unit asked for volunteers to assist her staff with survey questions and reviewing survey results. Judges Riggs, Finn, Kane, Whitney and Riojas volunteered to assist with the survey. It was determined that the survey workgroup would report to the full committee at the November 20, 2019 meeting.

#### **Enhanced FARE and FARE/CAP Update**

Candice Atkinson, Manager – FARE Program, stated that FARE’s program focus has changed to assisting litigants in re-engaging with the courts and lifting restrictions that were in place due to delinquent fines and fees to increase the probability that litigants could successfully pay off their fines and fees. Litigants can participate in FARE CAP by paying a presumptive down payment of \$150 and entering into a payment contract with the court. All collection efforts then stop, and TTEAP as well as TIP holds are released. The 19.5% special collection fee is not assessed until 15 days after the second notice is mailed. She stated that it is up to the courts which cases are eligible for FARE CAP, and how many times a litigant may reenter the program if they are unsuccessful. It is also up to the court to determine if holds on driver’s licenses are lifted. FARE allows the litigant to make online payments without paying a convenience fee until their case is paid in full.

#### **B. Remote Petition Process for Ex-Parte Orders of Protection (taken out of order)**

Judge Carol Scott Berry (retired) Phoenix Municipal Court, explained that a workgroup of the Committee on the Impact of Domestic Violence in the Courts (CIDVIC) developed a process for conducting ex parte Order of Protection hearings by video increasing access to the courts for domestic violence victims. The *Remote Petition Process for Order of Protection Ex Parte Hearing* bench card establishes the order and responsibilities of the victim, victim advocates and the courts. The *Safe Communications for Remote Ex Parte Protective Order Hearings* bench card establishes safe communication guidelines for the courts using ARPOP Rule 7, and Supreme Court Rule 123 (d)(3). The courts, victim advocates and law enforcement agencies are encouraged to work with their IT departments, to use a propriety network or virtual private network to conduct video hearings, and to encrypt or password protect documents being transmitted electronically.

#### **C. Rule 32 (taken out of order)**

Judge Joseph Welty, Maricopa County Superior Court, stated that in January 2018 the Rule 32 Task Force was created to identify possible substantive changes to Rule 32 that would improve upon the post-conviction relief process. The most significant proposal was the addition of a new Rule 33 that contains all the provisions concerning post-conviction relief for defendants who entered a guilty or no-contest plea, who admitted to a probation violation, or who had an automatic probation violation because of a plea to a new offense. The new Rule 33 allows “pleading” defendants to have a single, self-contained rule, customized to their procedural circumstances to guide them through the

post-conviction process. Judge Welty noted the rule petition, R-19-0012, is available for review on the Court Rules Forum and that the deadline for first round comments is February 22, 2019.

**Motion:** To support proposed rule change. **Moved:** **Second:**  
**Vote:** Motion passed unanimously.

#### **D. R-19-0007: Model Veterans Treatment Court Rules**

Judge Sam Thumma, Arizona Court of Appeals, Division 1, disclosed that he volunteers at the Uniform Law Commission (ULC). The ULC has proposed Rule Petition R-19-0007: Model Veterans Treatment Court Rules. He noted that the ULC proposal is designed to provide guidance to courts that may wish to consider creating a veteran's treatment court and to expand awareness of veteran's courts programs already in existence. He acknowledged that the ULC didn't do very much pre-petition vetting with stakeholders and stated that the plan is to meet with stakeholders in the future.

##### **Discussion:**

Bring all Veteran's Courts stakeholders to the table for discussion. Grant availability may prohibit courts funding a veteran's court. Veteran's courts operate differently based on the population served, resources available within the court and community, one size will not fit all. Create a clearinghouse to share best practices with other courts.

Judge Thumma asked if he could get back to petitioners with concerns expressed to determine if they want to persist with or withdraw the petition.

**Motion:** Draft a comment stating that LJC strongly supports Veteran's Courts, however is opposed to this rule petition. **Moved:** **Second:**  
**Vote:** Passed unanimously.

#### **E. 2019 Rule Petitions**

Mark Meltzer, AOC Court Services, reviewed rule petitions of interest to limited jurisdiction courts.

**R-19-0008** – would permit the court to enter an order allowing contact with a juror who has refused contact on a showing of good cause. The order must specify the good cause and define the scope of permissible contact.

**R-19-0014** – ensures that courts receive a report and recommendations from the probation department when a change in conditions or early termination is proposed by someone other than the probation department, particularly in bail eligibility hearings.

**R-19-0020** – aligns the limits on discovery in Justice Court with the Tier 1 limits in the Arizona Rules of Civil Procedure thereby eliminating the disparity in discovery for those seeking less than \$10,000 as opposed to those seeking \$50,000 in Superior Court.

**R-19-0015** – amendments to Rule 5(d) of the Rules of Procedure for Eviction Actions would require the following documents with the complaint:

- Eviction actions: would require a copy of the lease and any addendum.

- Non-payment of rent: preceding six months accounting of charges and payments.
- Other actions not related to rent: would require the documents and exhibits the plaintiff plans to present at trial.

Mr. Meltzer also noted that for most of the proposed rule changes the comment deadline is May 1, 2019. The exception is Rule 32, which is February 22, 2019.

#### **F. Proposed Code Section for Submission and Management of Digital Evidence**

Stewart Bruner, Commission on Technology and Jennifer Albright, AOC Court Services, provided a brief background on what is considered digital evidence and the issue of how to properly store digital evidence in a manner that is accessible to all parties involved in a case. Arizona is considering a statewide cloud-based portal that would allow exhibits from party to court in digital form and will continue to evolve as technology and practices mature. Implementation priorities for this process are:

- Adopt formal, technical requirements for digital evidence management and storage.
- Develop a way for courts to properly accept and use digital evidence in the courtroom.
- Provide input on the technical resources that are needed to effectively and consistently receive, use, manage, store, preserve, retain and make accessible to the public.

#### **G. Rule 109: Draft Proposed Amendment**

Jeff Fine, Clerk of the Court, Maricopa County, noted Justice Court Rule 109(a) of Civil Procedure created a barrier to stipulated procedural motions by requiring two signatures on stipulated motions. The proposed amendment would provide the same flexibility to justice court litigants that Superior Court litigants receive with respect to stipulation motions.

**Motion:** To support proposed amendment. **Moved:** **Second:**  
**Vote:** Motion passed unanimously.

#### **H. Rule Petition on Telephonic Pleas: Follow-up**

Mark Meltzer, AOC, Policy Analyst identified 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.

- 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.
- 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, fingerprinting will need to be affixed to the judgement. The proposed amendment would allow courts to telephonically sentence the defendant on the same or subsequent date and modify Form 28 to include the court's judgement of guilt and sentence.

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

**I. Setting Aside of Misdemeanor Convictions (taken out of order)**

Cathy Clarich, Manager – Case Flow Management, discussed the concern that limited jurisdiction courts had regarding setting aside misdemeanor convictions when courts are currently and actively purging case files. Ms. Clarich asked members how they are handling the request for set aside if the case record no longer exists. Committee members shared their procedures, and in response to questions asked by Ms. Clarich select members will provide her with additional information on their specific processes.

**J. Legislative Update (taken out of order)**

Jerry Landau, AOC Government Affairs Officer, discussed the following bills of interest:  
**HB2043: Municipal judges; terms; retention election** – Limits municipal court judges to a four-year term and requires municipal court judges to announce their intention for reelection. Municipal court judges are to be retained or rejected at a general election in the same manner as superior court, appellate court and supreme court judges.  
**HB2053: Competency evaluations; reports** – If a mental health examiner determines that a defendant is competent to stand trial due to ongoing treatment with psychotropic medication, the court is authorized, in its discretion to appoint a mental health expert to address the necessity of continuing that treatment and a description of limitations that the medication may have on competency.  
**SB1064: Court security officers; certification; powers** – Authorizes each court to use certified court security officers who are endowed with the same law enforcement powers as a police officer in the performance of their duties. The Supreme Court is required to certify court security officers. Certified security officers are not eligible for enrollment in public retirement.

**K. Update on Supreme Court Rule 122 and 122.1**

David Withey, AOC Legal Services, and Jennifer Albright, Senior Policy Analyst, AOC, provided a brief history on whether Rule 122 and 122.1 violates First Amendment rights to record matters of public concern in public places? Rule 122.1 doesn't violate First Amendment rights to film matters of public concern in public places. The courts are permitted to limit or restrict activity on government owned non-public property that is disruptive to court operations or that compromises courthouse security. Ms. Albright stated that a pop-up workgroup consisting of law enforcement officers, judges, county prosecutors, and court staff to provide best practices, and training for the courts and law enforcement agencies

### III. Good of the Order/Call to Public

Call to the Public: None present.

Adjournment: Meeting adjourned at 2:51 p.m.

Next Meeting: **Wednesday, May 15, 2019**

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 15, 2019**

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:** Judge Antonio Riojas, Chair, Alexis Allen, Judge Marianne Bayardi (proxy for Judge Eric Jeffery), Judge Elizabeth Finn, Judge Kevin Kane, Judge Lyle Riggs, Judge Keith Russell, Judge Laine Sklar, Adam Walterson, Christian Whitney, Sharon Yates

**Telephonic:** Chief Dan Doyle, Marla Randall, Judge Matt Tafoya, Judge Adam Westley Watters

**Absent:** Judge James Hazel Jr., Judge Russ Jones, Judge Glen Savona

**Presenters/Guests:** Jennifer Albright, Candace Atkinson, Theresa Barrett, Michele Gillich, Jennifer Greene, Amy Love, Robert Roll, Judge Sam Thumma, David Withey

**Staff:** Sabrina Nash, Stacy Reinstein, Administrative Office of the Courts (AOC)

### I. REGULAR BUSINESS

A. **Welcome and Opening Remarks** - With a quorum present, May 15, 2019, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:04 a.m. by Judge Antonio Riojas, Chair.

B. **Approval of Minutes** - The draft minutes from the February 20, 2019 meeting of the LJC were presented for approval.

**Motion:** To approve the February 20, 2019 minutes as presented. **Moved:**

**Second: Vote:** Passed unanimously.

### II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

#### A. Legislative Update

Jerry Landau, AOC Government Affairs, stated that the budget for next fiscal year is in process and it is anticipated that the legislature will sine die next week. If the budget hasn't been passed the legislature will hold a budget meeting in June. He indicated that the following House Bills were signed by the Governor: HB2053: Competency Evaluations; Reports, HB2151: Satisfaction of Judgment, and HB2230: Writ of Garnishment; Certified Mail. He next highlighted bills of interest:

- **HB2318: Driving; Wireless Communication Device; Prohibition** – Prohibits a person from operating a motor vehicle on a street or highway if the person physically holds or supports with any part of their body a portable wireless communication device, while texting or talking on the phone. Law enforcement officers may issue a warning. Effective January 1, 2021. Signed by the Governor.

- **HB2358: Landlord Tenant; Partial Payment; Assistance** – A landlord’s acceptance of a “housing assistance payment” does not constitute an acceptance of a partial rent payment or a waiver of the landlord’s right to terminate the rental agreement for any breach by the tenant.
- **HB2366: Motor Vehicle Accidents; Restricted License** – The court is required to either suspend or restrict a person’s driving privilege for a moving violation that causes serious physical injury or death. Signed by the Governor.
- **HB2421: Animal Cruelty; Working Animal; Harassment** – adds to the list of acts constituting cruelty to animals the harassment of a law enforcement animal. Signed by the Governor.
- **SB1250: Injunction Against Harassment; Sexual Violence** – The definition of harassment is expanded to include one or more acts of sexual violence. Effective January 1, 2020. Signed by the Governor.
- **SB1312: Bad Checks; Restitution Payments** – The requirement for restitution payments for bad checks to be made through the prosecutor’s office only applies before a conviction. Signed by the Governor.

#### **B. Protective Orders Pilot (taken out of order)**

Michele Gillich, Project Manager, AOC-ITD and Robert Roll, Data Warehouse/Integration Manager, AOC-ITD provided an outline of the protective order portal. She noted that due to recent legislation HB2249 which goes into effect January 1, 2020:

- AOC will become the official holder of record for protective orders and injunctions against harassment.
- AOC will electronically submit all issued Orders of Protection and Injunctions to servicing agencies for service within 72 hours (previously had 7 days).
- There is no limit to the number of attempts to serve the order within a year of issuance.
- AOC will electronically submit all served orders to NCIC.

#### **C. Discussion: Model Veterans Treatment Court (taken out of order)**

Judge Sam Thumma Court of Appeals, Division I, updated LJC regarding his conversation with the Uniform Law Commission (ULC) on their Rule Petition R-19-007 regarding the concerns mentioned during the February 2, 2019 LJC meeting. The ULC has decided to withdraw their petition and has asked the Supreme Court to take under advisement appointing a taskforce to establish best practices for Model Veterans Treatment Courts.

#### **D. Updates to ACJA § 5-205 (collections) and AO 2017-80**

Candace Atkinson, AOC-CSD Manager, Consolidated Collections, discussed changes to the FARE program that will allow the program to be more accessible to litigants and help bring them into compliance with the courts. The proposed changes are outlined below:

- Mandate a \$9 fee assessment for all cases referred by non-FARE entities to assist with the cost of administering the FARE and Debt Set-Off programs.
- Substitute the FARE Advisory Committee for a FARE Advisory Workgroup to meet as needed.
- Require all AJACS courts to employ the Auto-Tip function to ensure case balances are correct and updated weekly.
- Amend Administrative Order 2017-80 to expand payment options for court-ordered financial obligation to include: cash, credit or debit card, money orders, off-site cash payment vendor and web payment website [www.azcourtpay.com](http://www.azcourtpay.com).

**Motion:** To support the adoption of the proposed changes. **Moved:** Judge Lyle Riggs  
**Second:** Adam Walterson **Vote:** Unanimous.

#### E. Status Update: Committee on Mental Health and the Justice System (taken out of order)

Stacy Reinstein, AOC Court Program Unit, provided a status update on the committee's activities to COSC and outlined the following three legislative proposal recommendations:

- **Definition of Mental Disorder** – a disorder that substantially impairs a person's emotional processes, thought, cognition, memory or behavior. The mental disorder may be related to, caused by or associated with a psychiatric or neurologic condition, injury or disease, and may co-occur with a substance use disorder.
- **Enhances Services Proposal** – would permit the courts to order enhanced services for a defendant/patient who has been taken to a hospital emergency room, psychiatric hospital or crisis center for evaluation, stabilization or treatment, who is arrested, charged with a crime or detained in jail, or is a threat to themselves or others at least twice without their approval or consent.
- **Amendments to Persistent or Acute Disability Disorder (PADS) definition** - would identify the probability of causing harm to others, because of not being treated and would allow screeners and evaluators to immediately hospitalize a person under ARS § 36-524 and 36-526 regardless of the category presented if the emergency standard is met.

#### F. Glendale Postcard Pilot Update

Judge Elizabeth Finn, Glendale City Court, presented on the pilot project for notifying court users via postcard of essential reminders related to court business. From a data standpoint, between August 2018 and January 2019, 345 postcards were sent. Of those, 185 (53.62%) cases made payments after the date the postcard was sent out.

#### G. Cameras in the Courthouse Status Update (taken out of order)

David Withey, AOC, Legal Services, updated LJC on the recommendations from the Cameras in the Courthouse workgroup regarding “First Amendment Auditors” and taking video recording devices into various state government buildings. The recommendations presented are:

- A draft administrative order for the presiding judge of each court to establish, by administrative order, a policy that will apply to the court in a manner that is consistent statewide but also allows the ability to customize for each court based on their needs.
- Model “*Consent to be Photographed or Video Recorded*” and “*Notice of Recording Violation*” forms for the courts to use as needed to enforce their administrative orders.
- Proposed Rule 122.1 amendment
- Model language for signage to be used in courts with a local administrative order, and without a local administrative order.

Discussion was held regarding the administrative order and the proposed Rule 122.1 amendment and situations experienced by courts who’ve had encounters with “First Amendment Auditors.”

#### **H. Survey Results: Secured & Unsecured Bond Use**

Judge Riojas, Chair, reviewed the survey results from the Unsecured and Secured Bond Use survey that was sent out under his signature to LJC judges in April, 2019. Eighty-seven percent of respondents use cash bonds and would consider having an unsecured bond schedule for early release pre-initial appearance court for certain non-victim misdemeanor offenses.

#### **I. Discussion: MCSO Booking Process (taken out of order)**

Judge Kevin Kane, Tempe Municipal Court, discussed the letter from Maricopa County Sheriff’s Office regarding changes in the Maricopa County Sheriff’s Office’s booking process that takes effect immediately. The MCSO will no longer accept bond payments from offenders without the offender first seeing a judge in person prior to release from custody. Judge Finn has requested that this be addressed at the next Presiding Judge meeting for discussion.

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

Judge Riojas introduced Alex Allen as a new member of LJC and stated that Judge Adam Watters also recently appointed to LJC will join the next meeting. Judge Riojas stated that this was Sharon Yates last LJC meeting and thanked her for her time.

Paul Julien shared that there are 45 new limited jurisdiction court judges.

**Call to the Public:** None present.

**Adjournment:** Meeting adjourned at 2:16 p.m.

**Next Meeting: [Wednesday, September 18, 2019](#)**

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, September 18, 2019**

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:** Judge Antonio Riojas, Chair, Alexis Allen, Judge Marianne Bayardi, Judge Elizabeth Finn, Judge James Hazel Jr., Marla Randall, Judge Lyle Riggs, Lisa Royal, Judge Laine Sklar, Judge Adam Westley Watters, Christian Whitney

**Telephonic:** Adam Walterson

**Absent:** Chief Dan Doyle, Judge Kevin Kane, Judge Keith Russell, Judge Glenn Savona, Judge Matt Tafoya

**Presenters/Guests:** Vice Chief Justice Ann Timmer, Paul Julien, Amy Love, Mark Meltzer, Kay Radwanski, Stacy Reinstein, Laura Ritenour, Jeff Schrade, Craig Washburn

**Administrative Office of the Courts (AOC):** Theresa Barrett, Julie Graber, Sabrina Nash, Angela Pennington

### I. REGULAR BUSINESS

- A. **Welcome and Opening Remarks** – The September 18, 2019, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:10 a.m. by Judge Antonio Riojas, Chair.
- B. **Approval of Minutes** (*taken out of order*) – The draft minutes from the February 20, 2019 meeting of the LJC were presented for approval.

**Motion:** Christian Whitney moved to approve the February 20, 2019 minutes as presented. **Second:** Judge James Hazel, Jr. **Vote:** Unanimous.

### II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

#### A. **Legislative Update** (*taken out of order*)

Amy Love, deputy director, AOC Government Affairs, presented the following legislation:

- **2020-02: set aside; restoration of rights** – Removes civil traffic, speeding, driving with a suspended license and reckless driving from the list of offenses that cannot be set aside; clarifies that all victim restitution must be paid in full before a person's rights can be automatically restored on final discharge; and the Clerk of Court is no longer required to notify DPS if a person's civil rights are automatically restored.
- **2020-05: competency; records; appointment** – Parties to a criminal case are required to provide all available medical and criminal history records to the examining mental health experts within three days of the expert's appointment by the court. Current law requires these records be provided to the court within three working days of a motion being filed for a competency evaluation.
- **2020-14: confidential information; prohibited access** – Adds judicial hearing officers, defined as a hearing officer of a Superior, Justice or Municipal Court, to the list of persons

who can petition the Superior Court to prohibit access by the public to the person's County Recorder, County Assessor, County Treasurer, State Department of Transportation and Voter Registration records.

#### **B. Committee on Mental Health and the Justice System Interim Report and Recommendations**

Stacy Reinstein, AOC senior court policy analyst, presented the interim report of the Committee on Mental Health and the Justice System (MHJS), which is available on the [committee's website](#). Key findings highlighted and discussed with members included:

- Identify mental health conditions as early as possible.
- Expand the availability of diversion options.
- Enhance and increase the number of treatment options available, including post-incarceration (jail or prison).
- Improve the array of services available for individuals and families in their community.
- Address the unique needs and challenges of rural Arizona.

In addition to the legislative proposals that were discussed with LJC and supported at its last meeting, MHJS is also working on areas of interest to LJC courts:

- Continue to seek improvements to the changes made in 2018 to A.R.S. § 13-4503(E) and Rule 11.2, which allow the presiding judge of each county to authorize a justice or municipal court to exercise jurisdiction over a competency hearing in a misdemeanor case.
- Changes to A.R.S. § 13-4505 permitting one doctor (or more) for misdemeanor Rule 11 cases within the discretion of the court.
- Analyze and make recommendations for improving communication and coordination among the courts handling Title 13, Title 36 and Title 14 proceedings.
- Change language in A.R.S. § 13-4503 to conform with the 2018 revisions to Rule 11.2(b).
- Explore with AOC IT a mechanism for judges and attorneys involved in Rule 11, Title 36 or Title 14 proceedings to access remotely the basic information on a defendant's involvement in other mental health proceedings, including current location, findings, or pending proceedings in another court.
- Review mental health court standards as well as develop a continuum approach to addressing mental health in the court through structural options for jurisdictions that lack sufficient resources to "qualify" under current standards.

Following its report to the Presiding Judges and AJC in October, MHJS will continue to seek partnership with LJC and LJCAA as it continues its second year of work.

**Motion:** Judge Elizabeth Finn moved to support the interim report and recommendations. **Second:** Judge Hazel, Jr. **Vote:** Unanimous.

#### **C. Recommendations of the Arrest Warrant Workgroup**

Mark Meltzer, AOC senior court policy analyst, updated members on the ongoing efforts of the Arrest Warrant Workgroup and provided an overview of proposed recommendations for their further input:

- **Issue:** A defendant is arrested pursuant to a warrant with a predetermined bond amount, can the defendant be released once bond is paid without an initial appearance?

**Recommendation:** Rule change that states that if the offense for which the bond warrant was issued is a misdemeanor, the defendant may be released once the bond is paid. On a felony warrant, the defendant must see a judge on an initial appearance and determine if bond is warranted.

- **Issue:** A defendant is arrested in a county other than the one where a warrant is issued, should the arresting officer transport the defendant to the county where the warrant was issued or where the defendant was arrested?

**Recommendation:** Statutory change that requires a person to appear before a judge in the county where the warrant was issued, or to a local judge, within 24 hours after arrest; if not, the defendant must be released from custody.

- **Issue:** Can a monetary bond be forfeited if the defendant fails to meet conditions of release other than failure to appear?

**Recommendation Pending:** AOC Legal is currently reviewing laws and rules on this issue.

- **Issue:** Justices of the peace are not receiving notification of non-supervening indictments; therefore, the preliminary hearing is still on the court calendar.

**Recommendation:** Have the superior court administrator or clerk provide notice to the justice court.

#### D. 2019 Rules Agenda

Mark Meltzer, AOC senior court policy analyst, provided an overview of rules approved at the August Rules Agenda. A statewide memo regarding the 2019 Rules Summary will be sent out to court leadership in October. Unless otherwise noted, rule changes become effective January 1, 2020:

- **Criminal Rule 33** – is a new rule that contains all the provisions regarding post-conviction relief for defendants who have entered a guilty or no-contest plea, admitted a probation violation or violated probation because of a new offense.
- **Criminal Rule 32** – contains the necessary provisions for defendants who seek post-conviction relief after a trial, contested probation violation hearing, or who have been sentenced to death.
- **Criminal Rule 41** – Forms 23, 24(b), 25, 25(b) and 26 were replaced with the following forms:
  - Form 23(a): Notice of Rights After Sentencing in the Superior Court (Non-Capital)
  - Form 23(b): Notice of Rights After Sentencing in a Capital Case
  - Form 24(b): Notice Requesting Post-Conviction Relief
  - Form 25: Petition for Post-Conviction Relief
  - Form 25(b): Checklist for No Colorable Claims (Rule 33)
  - Form 26: Request for the Court Record
- **R-19-0020** – proposes to align the limits on discovery in justice court with the limits in Tier 1 cases in the Arizona Rules of Civil Procedure to eliminate an anomaly that allows significantly more discovery in justice court (with cases \$10,000 or less at issue) than in superior court (with cases \$10,000 or more at issue). The Arizona Supreme Court continued the petition to hear from the rural counties regarding this issue.

An LJC workgroup was formed to formulate recommendations and will report back at the November meeting. Workgroup members include Judge Lyle Riggs, Marla Randall, Lisa Royal, and Paul Julien.

**E. Proposed Code Changes to ACJA §§ 1-108 and 1-302**

Jeff Schrade, AOC education services division director, provided an update on proposed code changes, which were posted on the Rules Forum for a month for review, and no comments were received. Revisions to ACJA § 1-108 would add a judicial assistant or training coordinator from an urban court and a court reporter or training coordinator from a rural court to the membership of the Committee on Judicial Education and Training. The changes to ACJA § 1-302 would correct a grammatical issue in definition, establish a start time for new judge orientation for limited jurisdiction judges, and extend the mandatory training completion date to six months. Additionally, court security was added to the list of topics to be covered in judicial employee orientation and the one-hour requirement for officer safety training was removed for all probation and surveillance officers.

**Motion:** Judge Lyle Riggs moved to support the proposed changes. **Second:** Alexis Allen.  
**Vote:** Unanimous.

**F. AZPoint.gov; Glendale City Court as Pilot**

Kay Radwanski, AOC senior court policy analyst, presented a brief background on the Arizona Protective Order Initiation and Notification Tool, or “AZPoint,” which is a partnership between the Arizona Criminal Justice Commission (ACJC) and the AOC. Ms. Radwanski highlighted the changes, which go into effect January 1, 2020, regarding how Orders of Protection, Injunctions Against Harassment, and Injunctions Against Workplace Harassment will be handled in the new system:

- Petitioners will no longer be given the protective order and have a year to get it served. Courts will submit the protective order petition directly to law enforcement for service on the same day the court enters the order. The court may delay transmission to law enforcement for 72 hours.
- County sheriffs are no longer the recordholder for Orders of Protection, Injunctions Against Harassment, and Injunctions Against Workplace Harassment. The Arizona Supreme Court is now the central repository for these three types of protective orders and assumes the responsibility of sending the orders to the National Crime Information Center (NCIC).
- The law enforcement agency that serves the order has 72 hours to report service and must continue to attempt service for the year that the order is in effect until served.

She then highlighted the safety features built into the petition portal to protect the individual filing the petition as well as links to victim and legal advocate organizations available to assist the petitioner with safety planning. Additional resources are under development to educate the public and assist courts with implementation.

**G. Report on Draft Recommendations of the Task Force on Delivery of Legal Services**

Vice Chief Justice Ann Timmer, Arizona Supreme Court, updated LJC on the draft recommendations from the task force related to new tiers of limited scope legal services providers; changes to Arizona’s ethical rules related to alternative business structures; and changes to the Arizona Certified Legal Document Preparer program. The task force will present its report and recommendations to the Arizona Judicial Council in October 2019 and draft necessary rule petitions prior to December 31, 2019.

**Discussion:** Members raised concerns about the cost and potential harm to clients by expanding the role of legal document preparers and disbarred attorneys preparing legal documents. Members also discussed non-attorneys owning law firms who might have their focus on financial gain.

**Motion:** Judge Brett Eisele moved to support the draft report recommendations.

**Second:** Marla Randall. **Vote:** Unanimous.

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

**Call to the Public:** None present.

**Adjournment:** Meeting adjourned at 2:17 p.m.

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

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, November 20, 2019**

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

Conference Room 119A/B

1501 West Washington Street

Phoenix, Arizona 85007

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**Present:** Alexis Allen, Judge Marianne Bayardi, Judge Brett Eisele, Judge Kevin Kane, Judge Lyle Riggs, Judge Keith Russell, Judge Matt Tafoya, Adam Walterson, Christian Whitney, Sharon Yates

**Telephonic:** Judge Antonio Riojas, Chair, Chief Dan Doyle, Judge Elizabeth Finn, Marla Randall, Lisa Royal, Judge Glenn Savona, Judge Laine Sklar, Judge Adam Westley Watters

**Absent:** Judge Maria Felix, Jeff Fine, Judge James Hazel Jr.

**Presenters/Guests:** Candace Atkinson, Theresa Barrett, Judge John Burkholder, Cathy Clarich, Liana Garcia, Michele Gillich, Jennifer Greene, Jennifer Jones, Amy Love, Pat McGrath, Teri Munn, Brittany Pelly, Kay Radwanski, Marcus Reinkensmeyer, Stacy Reinstein, Laura Ritenour, Jeff Schrade, Paul Thomas, Judge Gerald Williams

**Administrative Office of the Courts (AOC) Staff:** Julie Graber, Sabrina Nash

### I. REGULAR BUSINESS

**A. Welcome and Opening Remarks** - With a quorum present, the November 20, 2019 meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:00 a.m. by Judge Keith Russell (in-house proxy for Judge Antonio Riojas).

**B. Approval of Minutes** - The draft minutes from the September 18, 2019 meeting of the LJC were presented for approval.

**Motion:** To approve the September 18, 2019 minutes as amended to include members not included in attendance. **Moved:** Judge Lyle Riggs. **Second:** Judge Matt Tafoya. **Vote:** Unanimous.

### II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

#### A. Offsite Case Payment Project

Candace Atkinson, AOC Consolidated Collections Unit manager, explained that the offsite cash payment project is tied to the Fair Justice for All initiative and the Strategic Agenda by providing access to justice. Offsite cash payments allow cash preferred customers a secure and convenient way of paying their court financial obligations without having to visit the court. The FARE Program vendor, Conduent, has partnered with PayNearMe© to offer offsite cash payment services locally and nationally. Cash payments are currently accepted at these participating retailers: 7-11, CVS, Ace Cash

Express and Family Dollar. This new payment option is covered under Administrative Order 2019-78, which updated the forms of payment for a court-ordered financial obligation. Participation in FARE is required for this payment service and is available in AJACS, AZTEC and non-ACAP courts participating in FARE.

Ms. Atkinson described the process for individuals and for courts. To make a cash payment, an individual will use the PayNearMe© barcode that is included in their FARE notice; or go to [azcourtpay.com](http://azcourtpay.com) and use their case information to create a barcode. The barcode is sent to the individual via email, text message, or it can be printed. The individual then finds the nearest PayNearMe© location, scans the barcode, pays, and they are done in a couple of minutes. Once a payment is made, it is receipted to the individual's case within 15-20 minutes and will be ACH deposited directly into the court's designated bank account within three days. Deposit reports are emailed automatically to the court's FARE email inbox and will include all transactions included in the day's deposit. Four courts are participating in the pilot: Flagstaff, Glendale, and Scottsdale Municipal Courts and Yuma Superior Court. It is anticipated that statewide implementation will begin in March 2020.

**Discussion:** Members agreed that the individual should be able to see their balance on the receipt after payment. It will be necessary to educate the public on the importance of the barcode and knowing the balance they owe the court.

#### **B. 2020 Session Legislative Proposals**

Amy Love introduced Liana Garcia, the newest member of the AOC Government Affairs group. Ms. Garcia presented the following legislation of interest to limited jurisdiction courts:

- **2020-02 – set aside; restoration of rights** – Would remove traffic and vehicle violations, civil traffic offenses and any local ordinance related to stopping, standing or operating a vehicle from the list of offenses that cannot be set aside; and clarify that all victim restitution must be paid in full before a person's rights can be automatically restored on final discharge.
- **2020-05 – competency; records; appointment requests** – Would repeal the requirement that all available medical and criminal history records be provided to the court within three working days of a motion being filed for a competency evaluation.
- **2020-13 – confidential information; prohibited access** – Would add judicial officers to the list of persons who can petition to superior court to prohibit the public from accessing the person's county recorder, county assessor, county treasurer, department of transportation and voter registration records.

**Motion:** To support the legislative proposals, as presented. **Moved:** Lisa Royal. **Second:** Judge Tafoya. **Vote:** Unanimous.

- **2020-17 – appointment of experts; misdemeanors** – Would change the statute on Rule 11 hearings when a defendant is only charged with a misdemeanor and permit the court, at its discretion, to appoint “one or more” expert to examine the defendant and report on defendant’s competency.

**Motion:** To support the legislative proposal, as presented. **Moved:** Judge Kevin Kane. **Second:** Judge Tafoya. **Vote:** Unanimous.

#### **C. Proposed Amendments to ACJA § 1-401: Minimum Accounting Standards**

Teri Munn, AOC court financial specialist, reported that a workgroup was created focusing on the minimum accounting standards to bring language uniformity, identify sections that were hard to understand, effectively account for the needs and flexibility of courts with limited staffing, and allow for current and future electronic practices. Ms. Munn stated that the proposed amendments to ACJA § 1-401 were posted to the ACJA forum on September 17. No comments have been added to the forum to date. When circulating the proposed changes to the Committee on Probation (COP), members requested postponement of their vote until the next COP meeting after the comment period is closed.

**Discussion:** Members discussed delaying their votes because the new requirements will require changes to existing practices for probation departments that collect monies and for the clerks of the court.

**Motion:** To support the proposed amendments to ACJA § 1-401, as amended. **Moved:** Alexis Allen. **Second:** Christian Whitney. **Vote:** Unanimous.

#### **D. Coordinating Jury Trial/Expert Witness Scheduling Conflicts**

Judge Kevin Kane spoke on an issue that affects courts’ ability to schedule jury trials and hold them as scheduled due to the limited number of expert witnesses preferred and called by defense counsel, particularly in DUI jury trials. There is an acute need to establish statewide guidelines in the scheduling of expert witnesses to avoid conflicts in scheduling jury trials and meet the Supreme Court’s DUI time standards.

**Motion:** To create a subcommittee to study the issue further and report back to LJC in February 2020 with recommendations. **Moved:** Judge Laine Sklar. **Second:** Lisa Royal. **Vote:** Unanimous.

**Note:** Judge Kevin Kane was appointed chair of the subcommittee. Committee members interested in participating on the subcommittee are asked to contact either Judge Riojas or Judge Kane.

#### E. Court Security Code Sections for ACJA

Jeff Schrade, AOC Education Services Division director, provided background information and reviewed the proposed ACJA court security code sections, which will be presented to the AJC in December.

- **ACJA § 5-301 Court Security Standards** – creates framework for court security policy-making regarding the security of court facilities, personnel, and the public.
- **ACJA § 5-302 Court Security Officers Powers and Duties** – provides guidelines for the use of force by court security officers to detain individuals, details use of force options, and the reporting requirements.
- **ACJA § 5-303 Personnel Practices** – establishes minimum personnel requirements for armed and unarmed court security officers such as pre-employment or reasonable suspicion drug testing, background checks, and fingerprinting. Armed officers are also required to undergo psychological evaluation.
- **ACJA § 5-304 Court Security Officer Training and Certification** – establishes the certification and training standards for court employees who are engaged primarily as security officers, off-duty police officers, and contracted security personnel. It is anticipated that all court security officers will be trained by January 2021. Court-employed security officers must complete training within 90 calendar days.
- **ACJA § 5-305 Use of Force** – provides guidelines for the use of force by court security officers, details of force options, and reporting requirements.
- **ACJA § 5-306 Firearms** – standardizes uniform practices and governs the authority of a court security officer to use a firearm while on duty. The presiding judge may require a polygraph if deemed necessary. A firearms training academy is in the conceptualization stage and will not be a reality until possibly next year.
- **ACJA § 5-307 Conducted Electrical Weapons (CEW)** – establishes protocols for the use of CEWs and governs the administration and authority of an officer to use a CEW for official court security.

**Motion:** To not support support proposed ACJA code sections. **Moved:** Judge Riggs. **Second:** Judge Marianne Bayardi. **Vote:** Unanimous.

#### F. Update from Discovery Limits in Justice Court Cases Workgroup

Laura Ritenour, AOC business analyst, reviewed background information regarding the Discovery Limits in Justice Court Cases Workgroup, which was tasked with providing input on Rule Petition R-19-0020. This rule petition filed by Maricopa County Superior Court and Arizona State Bar representatives would align discovery limits in justice courts with the limits in Tier 1 cases in superior courts. The petition was later amended to include the State Bar's proposed modification that discovery limits can be modified by

stipulation or by the court for good cause. The workgroup now recommends support of the petition and the amended petition.

**Motion:** To support the workgroup’s report and adopt the recommendations in the petition and amended petition. **Moved:** Judge Brett Eisele. **Second:** Judge Bayardi. **Vote:** Unanimous.

#### **G. Proposed Rule Changes to the Arizona Rules of Protective Order Procedures**

Judge Gerald Williams explained how granting an Injunction Against Harassment may impact an existing family law court order when the parent seeks an injunction against the other parent’s new spouse or cohabitating significant other. The proposed rule change would require that the injunctions be transferred to family law court to be heard by a single judge with jurisdiction over the injunction and the family law court order.

**Motion:** Move that LJC support the filing of a rule petition to modify the Rules of Protective Order Procedure to reduce case conflicts and report back to LJC in May 2020. **Moved:** Judge Riggs. **Second:** Christian Whitney. **Vote:** Unanimous.

#### **H. Committee on Mental Health and the Justice System Legislative Proposal Request**

*(agenda item taken out of order)*

Paul Thomas, court administrator, Mesa Municipal Court, explained that the Committee on Mental Health and the Justice System formed a workgroup to examine the requirement for two doctors in misdemeanor Rule 11 competency cases. In the last three years, Mesa Municipal Court has piloted a modified procedure that immediately schedules a full Rule 11 examination with only one doctor followed by a hearing. As a result, the turnaround time was reduced from several months to 45 days and approximately 70 percent of the court’s cases were resolved with one doctor’s report on the competency of the defendant. Mr. Thomas sought LJC’s approval to submit a legislative proposal request to amend A.R.S. § 13-4505, which would permit courts within their discretion to appoint one doctor (or more) for misdemeanor Rule 11 cases to examine the defendant and report on defendant’s competency.

**Motion:** To support presenting this legislative proposal request to the Presiding Judges and the Arizona Judicial Council (AJC) in December for inclusion in the 2020 AOC Legislative Package. **Moved:** Judge Kane. **Second:** Judge Tafoya. **Vote:** Unanimous.

#### **I. AZPoint.gov; Glendale City Court as Pilot Project (agenda item taken out of order)**

Michele Gillich, AOC IT architecture project manager, provided a status update on the three AZPOINT web applications in development: petition portal, service portal, and court portal. Glendale City Court will begin testing the AZPOINT petition portal next week. Ms. Gillich identified an application improvement with the addition of a floating “save” button to allow an applicant to quickly save the information should they need to exit the application quickly. Her team will be accepting feedback until December 11, at

which time comments will be evaluated to determine if issues need to be addressed immediately or are enhancements that can be made after January 1, 2020. The service portal is the next application in development for use by law enforcement to receive documents for service on the defendant.

Kay Radwanski, AOC senior court policy analyst, reported that interested parties can set up an account and experience the portal from the petitioner's viewpoint. The petition portal is set up as a guided interview, asking the petitioner questions that are being used behind the scene to fill in the petition. Some features include hover text, frequently asked questions, and information about computer safety. Petitioners are encouraged to work with a victim advocate to make informed decisions and work out a safety plan.

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

**Call to the Public:** None present.

**Adjournment:** Meeting adjourned at 1:21 p.m.

**Next Meeting: Wednesday, February 26, 2020**

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

State Courts Building, Room 119A/B

1501 West Washington Street

Phoenix, Arizona 85007