

## ARIZONA JUDICIAL COUNCIL

### Request for Council Action

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<b>Date Action Requested:</b>	<b>Type of Action Requested:</b>	<b>Subject:</b>
October 27, 2016	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Fair Justice for All Task Force Final Report and Recommendations

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#### **FROM:**

Dave Byers, Director of the Administrative Office of the Courts, and Chair of the Fair Justice for All Task Force

#### **DISCUSSION:**

Mr. Byers will update the Arizona Judicial Council members regarding an anticipated future change to the Arizona Constitution, the efforts of the Fair Justice Task Force, and he'll present the final report and recommendations for the committee's consideration.

#### **RECOMMENDED COUNCIL ACTION:**

Request that the members of the Arizona Judicial Council support the recommendations of the Fair Justice for All Task Force and approve the filed rule change petition (R-16-0041) to implement the recommendations and approve the inclusion of the legislative proposals in the Arizona Judicial Council package for the next session.

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of: )  
)  
ESTABLISHING THE TASK FORCE ) Administrative Order  
ON FAIR JUSTICE FOR ALL: ) No. 2016 - 16  
COURT-ORDERED FINES, PENALTIES, )  
FEES, AND PRETRIAL RELEASE )  
POLICIES AND APPOINTMENT OF )  
MEMBERS )  

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Our ideal of “justice for all” means that people should not be disparately punished because they are poor. While everyone should face consequences for violating the law, criminal fines and civil penalties should not themselves promote a cycle of poverty by imposing excessive amounts or unduly restricting people’s ability to be gainfully employed.

To promote these goals, practices in Arizona’s courts should reflect these principles:

1. People should not be jailed pending the disposition of charges merely because they are poor. Release decisions and conditions should protect public safety and ensure the defendant’s appearance at future proceedings.

2. Article 2, Section 18 of Arizona’s Constitution provides that “There shall be no imprisonment for debt, except in cases of fraud.” Consistent with this constitutional provision, people should not be jailed for failing to pay fines or other court-assessed financial sanctions for reasons beyond their control.

3. Court practices should help people comply with their court-imposed obligations, for example, by effectively alerting people to appearance dates, allowing deferred payment of fines, and allowing community service as an alternative to financial sanctions.

4. Sanctions such as fees and fines should be imposed in a manner that promotes, rather than impedes, compliance with the law, economic opportunity, and family stability.

Fines are the most common sanction imposed by courts for violations of law. The impact of fines varies greatly among people of different income levels. Although most people issued a citation pay their fine or appear in court to make time payment or community service arrangements, many do not. When people willfully fail to pay their fine, penalty, or restitution, or to appear in court, oftentimes for civil traffic or minor misdemeanor matters, more serious consequences may follow, including additional financial sanctions, loss of driving privileges, loss of employment, and jail time.

Our communities incur great costs in issuing warrants, effecting arrests, and holding people in jail. The costs to the people arrested are also substantial – not only the loss of liberty, but potentially the loss of employment, housing, and family ties.

In some cases, people who pose little or no risk to the community remain in jail simply because they cannot afford to post bail or they find themselves arrested and jailed for failing to pay a court-imposed financial sanction. People should not be jailed unnecessarily or because they are poor. Consistent with this proposition, the Arizona Judicial Branch’s strategic agenda *Advancing Justice Together* calls for examining pretrial release policies and procedures; release conditions for eligible defendants; and research-based practices to promote defendant accountability, crime reduction, and community protection.

With this background, it is appropriate for the Arizona judiciary to conduct a review of statutes, rules, court-ordered financial obligations, and pretrial release policies to explore opportunities for systemic improvements in achieving fair justice for all.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that:

1. The Task Force on Fair Justice for All (Task Force) is established.
2. Purpose: The Task Force shall study and make recommendations as follows:
  - a) Recommend statutory changes, if needed, court rules, written policies, and processes and procedures for setting, collecting, and reducing or waiving court-imposed payments;
  - b) Develop suggested best practices for allowing citizens unable to pay the full amount of a sanction at the time of sentencing options for reasonable time payment plans or by the performance of community service.
  - c) Recommend best practices for making release decisions that protect the public, but do not keep people in jail solely for the inability to pay bail.
  - d) Review the practice of suspending driver’s licenses and consider alternatives to license suspension.
  - e) Recommend educational programs for judicial officers, including pro tem judges and court staff who are part of the pretrial decision making process.
  - f) Identify technological solutions and other best practices that provide defendant notifications of court dates and other court-ordered deadlines using mobile applications to reduce the number of defendants who fail to appear for court and to encourage citizens who receive a citation to come to court.
3. The Task Force shall file a report and make recommendations to the Arizona Judicial Council (AJC) by October 31, 2016.

4. Membership: The individuals listed in Appendix A are appointed as members of the Task Force, beginning upon entry of this Order and ending December 31, 2016. The Chief Justice may appoint additional members as may be necessary.
5. Meetings: The Task Force shall meet as necessary, and meetings may be scheduled, cancelled, or moved at the discretion of the Task Force chair. All meetings shall comply with the public meeting policy of the Arizona Judicial Branch, Arizona Code of Judicial Administration § 1-202.
6. Administrative Support: The Administrative Office of the Courts shall provide staff to assist and support the Task Force.

Dated this 3rd day of March, 2016.

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SCOTT BALES  
Chief Justice

## APPENDIX A

### TASK FORCE ON FAIR JUSTICE FOR ALL: COURT-ORDERED FINES, FEES, AND PRETRIAL RELEASE POLICIES

Chair - David K. Byers, Administrative Director, AOC  
Vice Chair - Mr. Tom O'Connell, Pretrial Manager, AOC

#### Members:

Honorable Michael Robert Bluff  
Associate Presiding Judge  
Superior Court in Yavapai County

Honorable Thomas Robinson  
Tempe Municipal Court

Honorable Maria Elena Cruz  
Presiding Judge Designee  
Superior Court in Yuma County

Hon. Donald Taylor  
Chief Presiding Judge  
Phoenix Municipal Court

Mr. Kent Batty  
Court Administrator  
Superior Court in Pima County

Mr. Doug Kooi  
Deputy Court Administrator  
Pima County Consolidated Justice Court

Mr. Bob James  
Deputy Court Administrator  
Maricopa County Superior Court

Mr. Jeffrey Fine  
Court Administrator  
Maricopa County Justice Courts

Ms. Rebecca Steele  
Deputy Director  
Maricopa County Clerk of Court

Michael Kurtenbach  
Assistant Chief, Community Services  
Division  
City of Phoenix Police Department

Honorable Lisa Roberts  
Commissioner  
Superior Court in Maricopa County

Ms. India Davis  
Corrections Chief  
Pima County Sheriff's Department

Honorable Dorothy Little  
President, Arizona Justice of the Peace  
Association  
Payson Magistrate Court

Ms. Mary Ellen Sheppard  
Deputy County Manager  
Maricopa County

Honorable Antonio Riojas  
Presiding Magistrate  
Tucson City Court

Mr. Ryan Glover  
Prosecutor  
Glendale City Prosecutor's Office

Mr. Paul Julien  
Judicial Education Officer  
Education Services Division, AOC  
Judge Pro Tem

Ms. Kathy Waters  
Director, Adult Probation Services, AOC  
Liaison to Pretrial Advisory Committee

Mr. Dave Rozema  
County Attorney  
Coconino County Attorney's Office

Mr. Jeremy Mussman  
Deputy Director  
Maricopa County Public Defender's Office

Tony Penn  
Arizona Judicial Council Public Member  
Representative  
President and CEO  
United Way of Tucson and Southern Arizona