

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
AUTHORIZING A DUI CASE)	Administrative Order
PROCESSING PILOT PROGRAM IN)	<u>No. 2006- 38</u>
MARICOPA, NAVAJO, PIMA, AND)	
YAVAPAI COUNTIES)	
_____)	

The continued examination of innovative ways to resolve Driving under the Influence (DUI) cases in a fair, timely, and cost-effective manner is important to the administration of courts of this state and the citizens that are served. In June 2005, a DUI Case Processing Committee was established and charged with examining DUI cases from the commission of the offense through the imposition of sentence, with particular emphasis on the processing of cases once they reach the court.

The Committee examined the entire Arizona criminal justice system as it relates to DUI cases and recommended specific improvements to court processes, rules, and statutes. The Committee also recommended the establishment of pilot courts in order to implement the case processing recommendations and determine which recommendations are most effective.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that a DUI case processing pilot project is established effective as of the date of this Order through June 30, 2007 (the project term) in the following limited jurisdiction courts:

- Phoenix Municipal Court – Maricopa County
- Mesa Municipal Court – Maricopa County
- Holbrook Justice Court – Navajo County
- Kayenta Justice Court – Navajo County
- Pinetop/Lakeside Justice Court – Navajo County
- Show Low Justice Court – Navajo County
- Snowflake Justice Court – Navajo County
- Winslow Justice Court – Navajo County
- Pima County Consolidated Justice Courts – Pima County
- Prescott Municipal Court – Yavapai County
- Prescott Justice Court – Yavapai County

IT IS FURTHER ORDERED that the following pilot program requirements and procedures are adopted to implement the DUI case processing pilot project in these courts:

1. PILOT PROGRAM PLANS

- a. The presiding judge in each pilot court shall develop a case management plan for processing its DUI cases in order to meet established performance standards.
 - 1) The plans shall be submitted to the presiding judge of the county and filed with the Administrative Office of the Courts (AOC) no later than May 31, 2006.
 - 2) The AOC will review each plan to ensure conformance with the requirements of this order and the goals of the project. The AOC will consult with courts as needed prior to the approval of the plan.
- b. At a minimum, the DUI case processing plan shall contain:
 - 1) Baseline information regarding time to disposition of DUI cases disposed during the current fiscal year;
 - 2) The goal of resolving 90 percent of DUI cases within 120 days from the date of filing to disposition, and 98 percent of the cases within 180 days (*this is a performance measure that in no way impacts the rights of the defendant provided in Rule 8, ARCrP*);
 - 3) How the rules of procedure discussed in section 3 will be implemented and notice provided to affected parties/agencies;
 - 4) A description of how the court plans to manage its calendar to avoid scheduling conflicts;
 - 5) The court's policy on continuances addressing common scheduling issues such as:
 - (a) Unknown schedules of all parties related to the case which may prevent scheduling firm dates;
 - (b) Attorneys scheduling multiple hearings on the same day in multiple locations; and
 - (c) The court automatically granting motions to continue;
 - 6) The steps necessary to accomplish the case processing time goal; and
 - 7) The time needed for the court to meet this time goal.
- c. The presiding judge in each pilot court shall submit a final report no later than August 15, 2007 to the AOC. The report shall contain:
 - 1) A summary of case processing and data collection changes made by the court

prior to the implementation of this pilot program;

- 2) A description of the court's accomplishments during the pilot project;
- 3) A description of policies and procedures that worked and did not work; and
- 4) A description of how the court will continue to meet DUI case processing goals beyond the pilot project term.

2. MONTHLY REPORTING REQUIREMENTS

- a. By July 1, 2006, the presiding judge of each pilot court shall review the status of each active and inactive pending DUI case and ensure the existing data is accurate and complete.
- b. By July 1, 2006 each pilot court shall report the number of active pending DUI cases and the age of pending caseload to the AOC.
- c. Beginning July 1, 2006 and continuing until the end of the project term, each pilot court shall uniformly count by defendant, track, and report DUI cases to the AOC on a monthly basis. At a minimum, each pilot court shall report the following statistics as defined in the National Center for State Courts CourTools:
 - 1) Measure 2 – *Clearance Rate*: The number of outgoing cases as a percentage of the number of incoming cases.
 - 2) Measure 3 – *Time to Disposition*: The percentage of cases disposed or otherwise resolved within established time frames: 1-30 days, 31-60 days, 61-90 days, 91-120 days, 121-150 days, 151-180 days, 181-210 days, 211-270 days, and 271 + days. Disposition times are to be measured beginning with filing date.
 - 3) Measure 4 – *Age of Active Pending Caseload*: The age of the active cases pending before the court, measured as the number of days from filing until the time of measurement.
 - 4) Measure 5 – *Trial Date Certainty*: The number of times cases disposed by trial are scheduled for trial.
- d. Beginning July 1, 2006 and continuing until the end of the project term, the presiding judge of each pilot court is required to keep track of the notices of change of judge filed under Rule 10.1 and 10.2, ARCrP and report the data on a monthly basis. Each court shall compile and report the following:
 - 1) The number of notices filed under Criminal Rule 10.1 (change of judge for

cause) for both DUI and non-DUI cases and for each such filing:

- a) The date of filing; and
 - b) The party filing the notice.
- 2) The number of notices filed under Criminal Rule 10.2 (change of judge upon request) for both DUI and non-DUI cases and for each such filing:
- a) The date of filing; and
 - b) The party filing the notice.
- e. The AOC shall compile the information submitted and prepare a monthly report to evaluate the progress of each pilot court.

3. RULES OF PROCEDURE

The following procedures will govern the processing of DUI cases during the pilot project:

- a. In addition to the requirements of Rule 16.5, Arizona Rules of Criminal Procedure (ARCrP), in cases involving a misdemeanor violation of an offense listed in Title 28, Chapter 4, A.R.S., the court shall hold a pre-trial conference within 30 days of arraignment. Attendance at the pre-trial conference at the date and time scheduled is mandatory upon the defendant, his counsel, if any, and the prosecutors unless extraordinary circumstances exist.
- b. In cases involving a misdemeanor violation of an offense listed in Title 28, Chapter 4, A.R.S., all court dates shall be considered firm in accordance with the local case management plan. In addition to the requirements of Rule 14.3, ARCrP, the court shall advise the parties of any specific dates set pursuant to Rule 16, ARCrP.
- c. In addition to the requirements of Rule 8.1, ARCrP, beginning with the first pre-trial conference and all subsequent proceedings, both the state and the defense (including *pro per* defendants) shall have their schedules available for the purposes of scheduling firm court dates and be prepared to inform the court of future available dates in accordance with the local case management policy. Additionally, the court shall advise all attorneys:
 - 1) Not to create a scheduling conflict by over-scheduling their calendars; and
 - 2) If the attorney's calendar is over-scheduled, the attorney shall provide the services of another attorney to the client so as not to delay these proceedings.
- d. For the purposes of this pilot project, if a law enforcement officer does not file the

original complaint within ten calendar days of the date the complaint was issued to the defendant, the court may reject the complaint. Should there be a pattern of complaints filed later than ten calendar days from the date of issuance, the court shall address this issue through discussions with the local criminal justice committee discussed in section 4 of this Administrative Order.

- e. In addition to the requirements of Rule 4.2, ARCrP, at the arraignment of a defendant who is charged on an Arizona Traffic Ticket and Complaint (ATTC) with a violation of an offense listed in Title 28, Chapter 4, A.R.S., the court shall order that the defendant be fingerprinted at a designated time and place, but not later than the first pre-trial conference, by an appropriate law enforcement agency if the court has reasonable cause to believe that the defendant was not previously fingerprinted as prescribed by A.R.S. § 41-1750(U).
- f. In addition to the requirements of Rule 16.6, ARCrP, if the court, upon motion of the prosecutor made on the day of trial, grants a motion to dismiss a misdemeanor prosecution for a violation of an offense listed in Title 28, Chapter 4, A.R.S., the court may impose any sanction it finds appropriate, including dismissal with prejudice. If the misdemeanor prosecution is dismissed without prejudice, the court may order:
 - 1) Precluding or limiting the calling of a witness, use of evidence or argument in support of a charge in any future proceeding based upon the dismissed charge(s);
 - 2) Imposing costs of continuing the proceeding(s), up to and including the day of the trial; or
 - 3) Any other appropriate sanction that is reasonably related to the reason for the prosecutor's motion to dismiss.

4. LOCAL CRIMINAL JUSTICE COMMITTEES

- a. Prior to implementation of the project, the presiding municipal court judge and the justice of the peace of each pilot court shall establish local criminal justice committees to assist the court in implementing its DUI case processing plan and resolve processing issues that occur prior to filing through disposition of a case. In Navajo County, the presiding superior court judge and presiding justice of the peace shall establish a county-wide criminal justice committee to address and resolve DUI case processing issues.
- b. Each local criminal justice committee shall include representatives of the judiciary, court administrators and court clerks, law enforcement agencies that cite into the court, prosecutors, defense attorneys and probation officers, and may include other members at the discretion of the appointing judicial officer.
- c. Local criminal justice committees shall meet on a regular basis to update, as needed,

the DUI case processing management plan and identify and implement procedures that:

- 1) Accelerate the completion of pre-filing documentation;
 - 2) Ensure that fingerprints are taken at the time of the offense or establish a time and place that fingerprints can be taken; and
 - 3) Address complaints that are rejected by the court as untimely filed.
- d. Local criminal justice committees shall review the ATTC and consider the potential benefit of adding discovery information to the form.

Dated this 26th day of April, 2006.

RUTH V. MCGREGOR
Chief Justice