

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	Type of Action Requested:	Subject:
October 24, 2007	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Statewide Implementation of DUI Case Processing Project

FROM:

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DISCUSSION:

The DUI Case Processing Pilot Project has concluded and has been a success. A second phase of the project began in September 2007. This proposal is being presented to Council to show the results of the pilot project and discuss a proposal to implement the project on a statewide level.

RECOMMENDED COUNCIL ACTION:

Motion to approve implementation of this project statewide on a mandatory basis beginning July 1, 2008.

Administrative Office of the Courts DUI Case Processing

Proposal for statewide implementation

History/Background

In June 2005, Chief Justice Ruth McGregor established the DUI Case Processing Committee. Chief Justice McGregor charged the committee with examining DUI cases from the time of the commission of the offense through the imposition of sanctions, 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 recommendations target improvement of DUI case processing as well as other aspects of the DUI case, ensuring swift justice for DUI defendants and the citizens of Arizona.

In November 2005, the DUI Case Processing Committee issued its report. The committee suggested that a pilot court approach be taken instead of immediately implementing the recommendations; but they deferred to the chief justice to decide how and when to employ the various recommendations. Chief Justice McGregor decided that a pilot court approach would be taken and subsequently eleven limited jurisdiction courts volunteered to participate in the pilot project.

In early November 2005, representatives from the eleven pilot courts met and began drafting business requirements and reporting formats for the pilot project. These business requirements and formats were created so all courts would be defining cases and processing cases the same way.

In April 2006, Chief Justice McGregor signed Administrative Order 2006-38 officially announcing the pilot project and outlining how it was to be implemented. An important aspect to tracking progress was the implementation of four CourTools performance measures as developed by the National Center for State Courts as which have been reported on a monthly basis.

PROPOSAL

DUI Case Processing Implementation

Elements of Administrative Order 2006-38 were found most effective with improving DUI case processing in a majority of the DUI pilot courts. In order for statewide implementation to be successful these elements are necessary for all limited jurisdiction courts throughout Arizona to implement. For example, every justice and municipal court should organize and participate in criminal justice coordinating committees, implement Measures 2 – 5 of CourTools, create a continuance policy, define appearance criteria for litigants and attorneys, and use the data warehouse or create case management reports and use reports to manage the flow of DUI cases as well identify issues.

This plan has the following timeline:

- November 2005: DUI committee issues final report suggesting pilot court approach - DUI pilot courts begin meeting
- April 2006: Press conference announcing pilot project – signing of administrative order 2006-38
- July 2006: Pilot project begins tracking statistics - create new AZTEC event codes for data warehouse reports – begin informing court staff in judicial staff conferences about event codes and pilot project
- August 2006: Present pilot court information to Arizona Judicial College DUI case processing conference and Governor’s Office of Highway Safety judicial conference
- May 2007: Present event code information, DUI reporting criteria, and information regarding statewide implementation to AJCAA and County Field Trainers
- June 2007: Pilot project ends – pilot courts report out during judicial conference business luncheon – training for support center, data warehouse, and automation services staff on how to use the DUI reports
- July 2007: Data warehouse reports used by pilot courts available for statewide use – pilot courts report out to Governor’s Office of Highway Safety judicial conference
- August 2007: Pilot court final reports due to AOC; Chief Justice send out memo to superior court presiding judges asking for county-wide participation during second phase of project; courts begin using DUI reports and data clean-up
- September 2007: AOC final report due to chief justice
- October 2007: Propose statewide implementation to AJC
- January 2008: Begin process of rolling out DUI case processing statewide

Proposed Program Elements

1. **Case Management Plan:**

While the DUI Committee recommended changes to several rules of criminal procedure, it is proposed that rule change petitions not be submitted at this time. Instead of rule changes, the pilot courts discovered that their case management plans were just as effective. Administrative Order 2006-38 required pilot courts to develop a case management plan that detailed how the court was going to process its DUI cases in order to meet the established performance standards. All of the courts worked diligently to create case processing plans and involved all the necessary stakeholders in creating their plan. However, if the time comes to make a proposal to change the rule, it is anticipated the proposal can be crafted in such a way that all courts will benefit from it.

Most of the pilot courts had critical success with the pilot project due to working the plan, communicating with stakeholders, updating the plan during criminal justice coordination committee meetings, and finding a way to develop a “win/win” solution for all stakeholders. DUI pilot courts have stated that including the stakeholders to develop the case management plan was critical to the success of the pilot project because those that contributed to creating the plan already believed in it and put forth the effort necessary to make it successful. Without a written plan the project would have failed.

In order for statewide implementation to be successful, it is proposed each limited jurisdiction court be required to develop a case management plan for processing DUI cases in order to meet the established performance standards. It is proposed these plans be submitted to and approved by the presiding judge of the county by June 1, 2008. The presiding judge will be provided a copy of a checklist from the Administrative Office of the Courts (AOC) that will assist the judge in determining whether all required elements of the project exist in the case management plan. After approval, the presiding judge of the county will submit a copy of the case management plan to AOC and all involved stakeholders by July 1, 2008. A copy of the checklist should also be submitted to AOC by July 1, 2008. The presiding judge of the county will consult with AOC as needed.

At a minimum, the DUI case processing plan shall contain the following:

- Baseline information regarding the current age of active and inactive pending caseload and time to disposition of DUI cases disposed during the current fiscal year (as of June 30, 2008);
 - For example, for those courts that have access to the data warehouse, run each report and use the information as the baseline data
- The goal of resolving 85 percent of DUI cases within 120 days from the date of filing to disposition, and 93 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*);
 - It is proposed the goal be reduced from the chief justice’s pilot project goal due to the lack of times the pilot courts actually reached the goal. Of the eleven pilot courts, those courts that received less than 25 DUI cases per month were able to reach the chief’s goals at least once; those courts that received more than 25 DUI cases per month did not reach the goal once
 - In order for statewide implementation to be successful, it is recommended that the goal be reduced while courts are in the “clean-

up” phase of the project. As older cases are worked and resolved, the goals will be reached. As more and more courts are reaching the goals, the goals can be raised to 90% and 98%. If courts are unable to obtain the goal it is possible that frustration may set in and courts will no longer work their case management plan

- A description of how the court plans to manage its calendar to avoid scheduling conflicts. Examples of what worked with the pilot courts include;
 - Requiring the prosecutor and defense (including *pro per* defendants) to bring their schedule book to court as well as considering all court dates a “firm” date since the parties affirmed that they were available on that date
 - Defining the court’s continuance policy (*only allow continuances for the time necessary instead of automatic 30-day continuances*)
 - Advising attorneys not to create a scheduling conflict by over-scheduling their calendars, but 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
- The court’s policy on defendant attendance;
 - Pilot courts required the presence of the all parties at each proceeding, unless extraordinary circumstances exist (*the court defined what extraordinary circumstances are in the case management plan*)
- The court’s policy on timing of pre-trial conferences;
 - Pilot courts were required by administrative order to set the first pre-trial conference within 30 days after the arraignment. However, some pilot courts struggled with this requirement due to a backlog of receiving blood sample results from the DPS crime lab.
 - In order for statewide implementation to be successful, it is recommended a pre-trial conference be held within 30 days after the arraignment. Some pilot courts found success in granting continuances only for the time needed to accomplish the reason for the motion instead of automatic 30-day continuances.
- The court’s policy on timing of DUI sentencing;
 - Pilot courts presumed that all DUI cases will be sentenced the same day as the determination of guilt unless extraordinary circumstances exist (*the court defined what extraordinary circumstances are in the case management plan*)
- The purpose of the local criminal justice coordinating committee, how often the committee will meet, and what issues to discuss;
- The steps necessary to accomplish the case processing time goal; and
- The time needed to for the court to meet this goal.

Exceptions to the proposal: The presiding justice of the peace may elect to develop one plan for all justice courts within the county. Municipal courts may elect to seek approval from the presiding justice of the peace or the presiding judge of the county to join the justice courts in developing a countywide case management plan.

- Collaboration between all stakeholders is crucial in the success of developing a case management plan that everyone will adhere to. As the plans are developed, precaution must be taken to ensure counties and

municipalities do not develop conflicting plans. Several stakeholders will be appearing in both the justice and municipal courts.

Potential obstacles: Politics always play a role in developing a plan for the whole county. There may be dissension in developing a case management plan within a county as a whole. Some judges may want to do their own plan while others will not want to do a plan at all.

If plans between courts are conflicting, it may cause attorneys and others involved in the process to have to learn all the court processes. It will then be harder to adhere to all the plans. When the presiding judge is reviewing the case management plans for approval, he or she must ensure conflicts do not exist.

Some jurisdictions may be hindered in meeting the established performance standard due to issues from the prosecutor not receiving blood test results timely from the crime labs. Courts are encouraged to continue to address the non-blood issues such as probable cause for stop, Miranda, and so forth until the blood results are available.

Small/Rural courts only have a prosecutor on-site once a month. If a case management plan requires shorter continuances, these courts may not be able to comply.

2. **Reporting Requirements:**

In order to determine how successful the project is, statistical reports will be required to measure the courts' performance. It is proposed each limited jurisdiction court report the following statistics as modified versions of the National Center for State Courts CourtTools: Measure 2 – *Clearance Rate*; Measure 3 – *Time to Disposition*; Measure 4 – *Age of Active Pending Caseload*; Measure 5 – *Trial Date Certainty*, as well as *Age of Inactive Pending Caseload* and *Manner of Disposition*.

The courts that use the Supreme Court Data Warehouse to produce case management and data clean-up reports will have the ability to utilize newly developed DUI performance measure reports beginning July 1, 2007. These reports have been developed to help the courts manage the flow of DUI cases as well as identify issues that need to be addressed. AOC will send out a statewide memo informing each limited jurisdiction court, presiding judges of the county, and superior court administration of the new reports by June 26, 2007.

Between July 1, and December 31, 2007 those courts that use the data warehouse to run the new DUI reports should first run the *Age of Pending Caseload* reports and begin reviewing each pending case listed to ensure it truly is a pending case. Those courts that do not use the data warehouse should create case management reports based upon the business requirements of the data warehouse and begin reviewing each pending case.

By July 1, 2008, the presiding judge of each limited jurisdiction court shall ensure each active and inactive pending DUI case has been reviewed to ensure the existing data is accurate and complete.

Each court will uniformly count by defendant, track, and report DUI cases to the presiding judge of the county on a monthly basis beginning July 1, 2008. The presiding judge of the county will submit a summary report to AOC on a monthly basis.

Reports will be due to the presiding judge of the county no later than 20 business days after the end of the previous month. Reports will be due to AOC no later than 30 business days after the end of the previous month.

In order for statewide implementation to be successful, it is recommended the presiding judge of the county meet quarterly with the limited jurisdiction judges to discuss issues related to DUI case processing. Pilot courts met quarterly during the pilot project and shared information about successes and obstacles. Because of that, it is proposed that the first quarterly meeting in each county be organized by AOC, Court Services Division.

Pilot courts were required to report 10.1 and 10.2 (change of judge) motions. It is proposed that courts not be required to track 10.1 or 10.2 (change of judge) motions, however, the court should watch for an abuse of the rule and take appropriate action as needed.

Exceptions to the proposal: The presiding judge of the county may allow for an exception on a court by court basis to the monthly reporting requirement. The presiding judge of the county may elect to have the court report quarterly, but no less than quarterly. The presiding judge must report all exceptions to AOC.

The presiding judge of the county may choose to hold an annual meeting instead of quarterly meetings. The presiding judge of the county must inform AOC of the decision not to hold quarterly meetings. If an annual meeting is to be held, the presiding judge should require all limited jurisdiction judges and/or administrators to attend as well as representatives from AOC.

Potential obstacles: Courts that do not submit criminal case data to the data warehouse or do not use the data warehouse to run reports will have to create their own reports using the same business requirements as the data warehouse. For courts that are unable to comply by July 1, 2008, the presiding judge of that court must request an exception through the presiding judge of the county. The request must describe the nature of the issue causing non-compliance and detailed information regarding the time and cost that will be necessary for the court to be compliant.

Additionally, courts that do not perform data clean-up due to lack of time or resource during the time prior to implementation or that do not review the DUI reports for compliance/progress will not have accurate data. Numbers will be skewed by inaccurate data.

3. **Local Criminal Justice Committees:**

The presiding judge of each limited jurisdiction court will establish a local criminal justice committee to assist the court in developing a DUI case processing plan and resolve processing issues that occur prior to filing through disposition of a case. Each committee will include representatives of the judiciary, court administration, court

clerks, law enforcement agencies that cite into the court, prosecutors, defense attorneys (private and public) and probation officers, and may include other members at the discretion of the appointing judicial officer.

The local case management plan will describe how often the committee will meet to update, as necessary, the DUI case processing plan and procedures that accelerate the completion of pre-filing documentation and discovery; and ensure that fingerprints are taken at the time of the offense or establish a time and place that fingerprints can be taken. How often the committees meet will be at the discretion of the appointing judicial officer; however, it is recommended the committees meet at least quarterly.

Committees will also discuss procedural issues such as crime lab delays, implementing early disposition courts, and how to work together to resolve issues.

DUI pilot courts have stated that establishing the criminal justice committee has been beneficial because as problems or issues are identified, they are able to discuss possible solutions. This is accomplished because everyone has an interest in seeing that problems or issues are dealt with fairly and efficiently.

Exceptions to the proposal: The presiding justice of the peace of each county or the presiding judge of the county may elect to create a county wide criminal justice committee in lieu of having a committee for each justice court. Municipal courts that are consolidated with a justice court may elect to join the county wide criminal justice committee or the committee established by the justice court.

Potential obstacles: There may be tension or politics that play into the establishment of the local criminal justice committee. AOC may need to respond or provide assistance to courts that do not have a cordial working relationship with the necessary stakeholders.

The definition of “regular” meetings differed between DUI pilot courts. Some met monthly, others met quarterly or quit meeting after the case management plan was created. These same issues may exist when the project is implemented statewide.

4. **Continuance Policy:**

Pilot courts have discovered that enforcing Rule 8.5(b), “A continuance may be granted only for so long as is necessary to serve the interests of justice” has helped speed up case processing times. Judges will be informed to ask questions of the person filing the motion to continue how much time is needed to accomplish the reason for the motion. Instead of granting “automatic” 30-day continuances, the judge will only continue a case for the necessary time.

Exceptions to the proposal: None.

Potential obstacles: Some of the rural DUI pilot courts only have a prosecutor available one day a month for arraignments and pre-trials. It is difficult for them to grant continuances only for the time needed to accomplish the reason for the motion.

Additionally, while the AO specifically states that all parties must appear at all court events, some pilot courts have opted to excuse the defendant if the state and defense stipulate that nothing will happen at the next scheduled event. One pilot court required that the party requesting the continuance receive a written waiver from the court prior to the scheduled hearing. If the party did not receive the waiver, they were expected to be in court.

Administrative Office of the Courts

DUI Case Processing Pilot Project

Final Report



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Introduction

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 the State of Arizona 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.

On April 26, 2006, Chief Justice Ruth V. McGregor signed Administrative Order 2006-38 authorizing a DUI case processing pilot program in Maricopa, Navajo, Pima, and Yavapai Counties. Eleven pilot courts, listed below, met with representatives from the Court Services Division, Caseflow Management Unit, to discuss how cases should be processed, counted, and reported. Each pilot court was tasked with creating a local criminal justice coordinating committee, if one did not currently exist, to assist with developing a local case management plan. The plans were shared with all involved stakeholders and others conducting business in the court.

One key component of the plan was to address how the court planned to achieve the primary goal of the pilot project. Chief Justice McGregor set a goal for the courts to adjudicate 90% of DUI cases within 120 days and 98% within 180 days.

Each pilot court was required to implement four of ten performance measures developed by the National Center for State Courts (CourTools). These measures include: Measure 2: Clearance Rate; Measure 3: Time to Disposition; Measure 4: Age of Active Pending; and Measure 5: Trial Date Certainty specific to DUI cases. In order to track the court's performance, each court was responsible for developing a case management report that accurately counted and tracked each pending DUI case.

In addition to tracking the progress of DUI cases, pilot courts were asked to create policies within their local case management plans that addressed the following issues: attendance of parties; continuance policy; scheduling conflicts; the steps the court would pursue to meet the case processing time goal; and the time needed to meet this time goal.

The following participating courts achieved impressive results:

Phoenix Municipal Court
Pima County Consolidated Justice Courts
Prescott Justice Court
Pinetop-Lakeside Justice Court
Snowflake Justice Court
Kayenta Justice Court

Mesa Municipal Court
Holbrook Justice Court
Prescott Municipal Court
Winslow Justice Court
Show Low Justice Court

Progress Prior to Pilot Program

Several courts implemented changes prior to implementation of the pilot program that are worth noting. For example: The Phoenix and Mesa Municipal Courts were directed by an administrative order issued by then Presiding Judge Colin Campbell of the Superior Court in Maricopa County to provide a case management plan and case aging statistics for DUI cases. The goal set by the local administrative order was to complete all DUI cases within 180 days.

The Phoenix Municipal Court approached the city council and presented them with the option of funding a prosecutor and public defender to be present at arraignment. The anticipated impact would be an overall benefit to the criminal justice system. It was expected that the number of pleas at arraignment would increase and the number of pre-trial hearings would decrease, thus reducing the need for all parties to take time out of their schedules to come to court more than they needed.

Both the Phoenix Municipal and Pima Consolidated Justice Courts provided case management training to the judges (Phoenix also included representatives of the prosecutor's office, public defender, private defense bar and police). Several important ideas brought to the table by various participants were later incorporated into the court's case management plan. This also provided a foundation of common understanding across their entire bench.

The Pima Consolidated Justice Courts implemented changes to their calendar, going from a master calendar (each hearing was conducted by a different judge) to an individual assignment calendar (each judge being responsible for their own caseload).

All courts established (or already had established) a local criminal justice coordinating committee. With the exception of the Navajo County Justice Courts, the remaining pilot courts regularly met with their criminal justice committees. Navajo County reported that although an invitation was mailed to every defense attorney in the county, one showed in the early stages but then ceased attending the meetings. Eventually, the committee disbanded to prevent the appearance of the court working with the state and not with the defense bar.

Pilot Court Accomplishments

The following are highlights of the accomplishments during the pilot project as reported by the court. Although not all pilot courts reached the disposition goals of the program, statistics indicate that overall, the project was successful and improved the processing and disposition of DUI cases.

Phoenix Municipal Court: The court reduced its pending DUI caseload by 26% during the 12-month pilot program. In addition, the number of DUI cases over 180 days old was reduced by 45%. The court was also able to reduce the number of continuances for all scheduled jury trials and increased the number of cases resolved at the first trial setting. Prior to the pilot project, less than 20% of DUI cases were resolved at the first trial setting. Following the first three months of the program, more than 50% of DUI cases were resolved at the first trial setting.

Pima County Consolidated Justice Courts: The court reduced the number of DUI cases over 180 days old by 45% during the 12-month pilot program. In addition, the court was able to reduce the total number of pending cases by 19%. Finally, the percentage of cases resolved at the first trial setting increased by 17.4%.

Mesa Municipal Court: The court has been able to adopt a more global perspective with respect to developing effective case management. An examination of critical influences on DUI cases has led to a broad view of case management in general. The realization being that efficient management of other case types creates more calendar and judicial time for scheduling DUI cases. This fact has produced a shift in the court's business model to an emphasis on front-end resolution of cases, ideally at the arraignment state. To this end, the court has established a dedicated "arraignment division" to settle cases at arraignment.

Navajo County Justice Courts: While each justice court in Navajo County is located separately throughout the county, as one body, they did remarkably well. The justice courts were able to reduce the number of pending cases by 90%. This was due to an overwhelming number of cases that appeared as pending but should not have been. The court staff, administrators, and judges worked diligently to clean up the pending report. Additionally, four of the six justice courts were able to reach the disposition goal of the project at least once during the 12-month project.

Prescott Justice/Municipal Courts: The justice court was able to reduce its total pending DUI caseload by 42% and averaged 110% clearance rate. Additionally, the courts were able to reduce the number of continuances per scheduled jury trial case by 50% and reduced the number of cases actually being scheduled for trial by 67%.

Policies and Procedures: Effective/Not Effective

The following policies and procedures of what worked and did not work were shared by the majority of the pilot courts.

What Worked:

- Leadership from the presiding judge in educating the various stakeholders about the need for more effective caseload management and establishing expectations among the judges concerning their role in effective caseload management.
- Establishing an ongoing dialogue with the various stakeholders for the purpose of obtaining their ownership in the case management plan then holding everyone accountable for following the plan. Those that followed and adhered to the plan saw success and came to realize that the case management plan would work if everyone worked together.
- Both Phoenix and Prescott saw results by encouraging law enforcement officers to submit their incident reports to the prosecutor before the arraignment or at least 10 days prior to the first scheduled pre-trial conference. This allowed the prosecutor to provide discovery to the defense which made the pre-trial conferences more productive.
- Mandatory appearance by the defendant at all pre-trial hearings helped to facilitate pleas. Some courts allowed an exception to the mandatory appearance by either filing a motion well in advance of the scheduled proceeding or not requiring the appearance for out-of-state defendants. Encouraging early disclosure, face to face meetings between the defense attorney and the defendant, and early interviews of witnesses resulted in most cases being resolved without a trial being set.

- Requiring all parties to bring their schedule book to each proceeding for the purpose of obtaining a firm date for the next proceeding. This helped immensely in reducing the number of continuances per case. When the parties help pick the date with the knowledge that it is a firm date, it reduces the requests for continuances. Additionally, if a party agreed to a date and later files a motion to continue, it is easier for the court to hold that date firm because all parties agreed that date worked for them.
- Creating a continuance policy or controlling the number of continuances as well as reducing the amount of time granted for a motion to continue. Most courts reduced the time between hearings from 4-5 weeks in between hearings to 2-3 weeks.
- Reviewing statistics monthly with the entire bench and administration in an effort to keep the court apprised of its progress and to take action when needed. Judges should review their cases monthly in order to see which cases are coming close to the 120 and 180 day timeframe and make decisions how to move the case along to trial or a change of plea.

What Did Not Work:

- One reason the larger pilot courts were unable to reach the disposition goal of the project was due to the amount of warrants that are quashed every month. Many of these cases were already over 180 days old when the arrest warrant was issued. Therefore, when the person is arrested or self-surrenders, the average time to disposition is already above 180 days and therefore increases the time to disposition.
- Pima County reported that while there was agreement from the whole bench to participate in the pilot project, there were various levels of adherence to the case management plan. For the judges who strictly adhered to the case management plan, they discovered cases were disposed of much more timely than they were before the pilot project.
- Navajo County received a grant to print 1,000 new Arizona Traffic Ticket and Complaint forms in accordance with the recommendation from the DUI case processing committee. However, it took several months for the officers to adjust to the new citation and to remember to check the discovery boxes that were added to the form. At the conclusion of the project, the court spoke with the prosecutor and defense attorneys and both agreed that the discovery boxes were not useful because they could obtain that information through the officer's incident report.
- Pilot courts were unable to track cases that were dismissed and then re-filed. Because of this, the percentage of cases re-filed could not be determined. It will take further coordinating efforts between the courts and prosecutors to develop a process to track re-filed complaints.

Obstacles to Success

Pima County reported the Pima County Attorney's Office experienced delays in obtaining the blood-alcohol test results from the DPS laboratory in Tucson. Due to the delay with the prosecutor obtaining these results, defense attorneys filed several motions to have cases dismissed due to the state's failure to comply with Rule 15, Arizona Rules of Criminal Procedure. The court's dismissal rate averaged 47.3% of all DUI cases filed per month. However, there is some controversy concerning this delay. The superintendent of the DPS Scientific Analysis Bureau reports his office has conducted

a study of all blood-alcohol tests performed in the DPS labs across the state (particularly the Tucson lab) and the average turn-around time is 30 days. Therefore, according to DPS, Pima County should not be experiencing the delays reported by the court. This issue is still being researched and a resolution would aid state-wide implementation.

All the courts were advised to review each pending DUI case and ensure the accuracy of the information in the file matching the information in the court's automation system. Courts had a daunting task of reviewing each DUI case that appeared on the active pending DUI reports to ensure the case was truly pending. Courts were able to determine the true number of backlogged cases by reviewing each case and cleaning up those that were incomplete. For some courts it took nine months to review and correct the data. However, after the task was completed, several courts reported that they were pleased with the result of having clean and accurate data to work with and the task of reviewing each case was worth the results. As this project is implemented state-wide, emphasis will be placed on reviewing case files and automation systems to ensure the data is as accurate.

The Navajo County Justice Courts experienced an issue relating to jury trials. For approximately three to four months during the pilot project, the jury commissioner for Navajo County reported that either the computer crashed and they were unable to summons jurors or the pool of qualified jurors had run out and no jurors could be summonsed for approximately two months. This caused delays in some of the Navajo Justice Courts because their scheduled jury trials had to be continued for approximately 60 days.

DUI-Drug cases take a toll on the case processing times as well. When an officer requests that the lab conduct a toxicology test as well as blood-alcohol test, it can take up to 90 days to complete. It appears that it does not matter whether it is a city, county or state crime lab conducting the tests. All labs report that it takes approximately three months to complete a toxicology test. Cases cannot move forward without these results as they are critical to discovery.

Continuing Efforts

Some courts have incorporated the lessons learned from the pilot project into other criminal cases filed in their court, and others have incorporated the DUI project into their daily routine. Each court has updated their case management plan and most have committed to continue to work the plan and incorporate it into other criminal cases.

The courts report they will continue using the statistical reports they created to monitor their progress with DUI cases. Major issues will be facilitated through the local criminal justice coordinating committee. Those courts that are having issues with crime laboratories will continue working toward improved turn-around times.

One important issue that should be considered at the end of any project is that courts should not revert back to the practices that were in place prior to the start of the pilot project. Reverting back is a human tendency which needs to be avoided in order to continue to maintain improvements that have been achieved.

DUI Case Processing Pilot Project Statistics

The following graphs reflect data totaled from all the pilot courts.

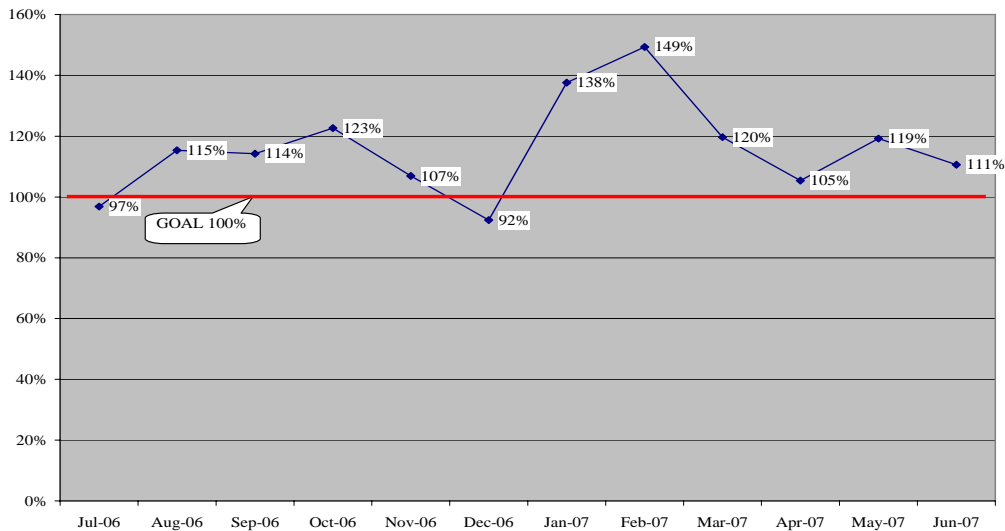
Measure 2: Clearance Rate

Clearance rate is measured as the number of outgoing cases as a percentage of the number of incoming cases.

During the 12-month pilot project the pilot courts received 14,055 new DUI cases (average of 1,160 new DUI cases per month) and disposed of 14,400 DUI cases (average of 1,200 disposed DUI cases per month).

The pilot project average clearance rate for the 12-month project was 116% meaning the pilot courts disposed of more outgoing cases than it received. It should be noted that the pilot courts exceeded 100% 10 of 12 months, thereby reducing their backlog.

DUI CASE PROCESSING PILOT PROJECT - CLEARANCE RATE AVERAGE



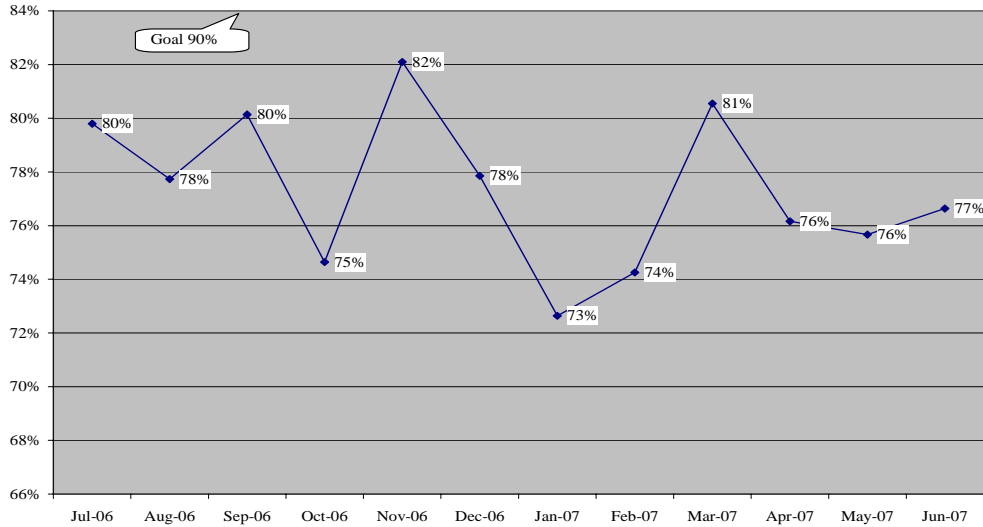
Measure 3: Time to Disposition

Time to disposition is measured as 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 were measured beginning with filing date and excluding warrant, mental health, special action appeal, and proceeding stayed time.

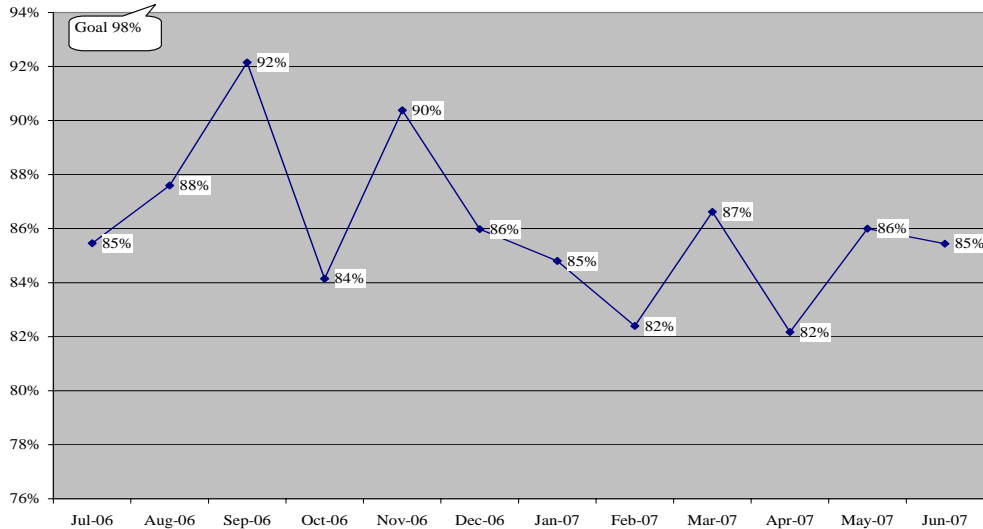
The goal of the pilot project was to adjudicate 90% of DUI cases within 120 days and 98% within 180 days. The following graphs show the monthly results of the pilot courts time to disposition percentage.

Overall, the pilot courts were able to adjudicate 76.7% of DUI cases within 120 days and 88.5% within 180 days. Additionally, six of eleven pilot courts were able to obtain the 90% goal at least once during the 12-month project and seven of eleven pilot courts were able to obtain the 98% goal at least once during the project.

DUI CASE PROCESSING PILOT PROJECT - 90% GOAL
 (data includes an average from all pilot courts)



DUI CASE PROCESSING PILOT PROJECT - 98% GOAL
 (data includes an average from all pilot courts)

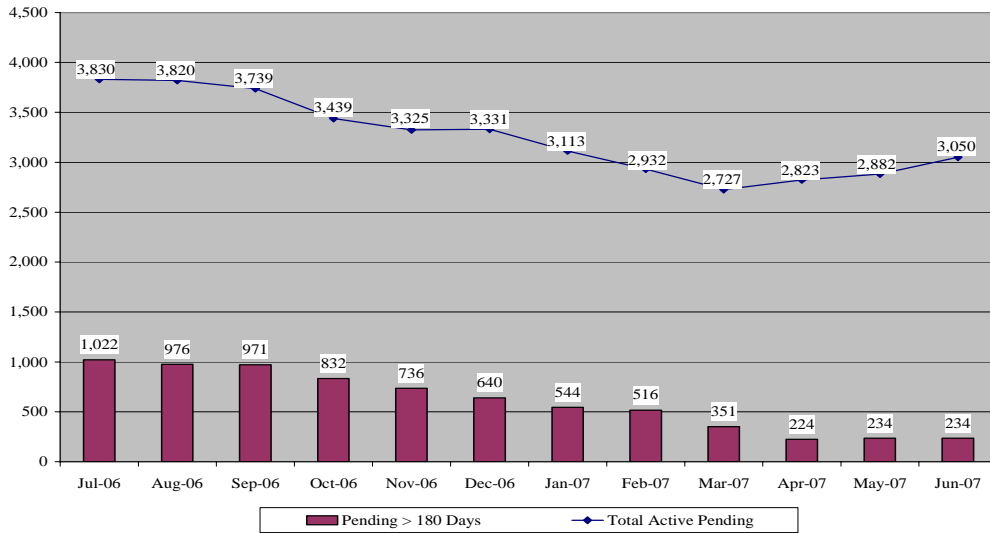


Measure 4: Age of Active Pending Caseload

The age of active pending caseload is measured as the age of the active DUI cases pending before the court, measured as the number of days from filing until the time of measurement. In this case, the courts counted their pending cases at the end of each month.

DUI cases pending over 180 days were reduced by 77% through data clean-up and placing an emphasis on adjudicating older cases and the total number of pending DUI cases was reduced by 20%. The following graph shows the total number of pending DUI cases as well as the total number of DUI cases that are over 180 days old.

**DUI Case Processing Pilot Project
Age of Active Pending Caseload**

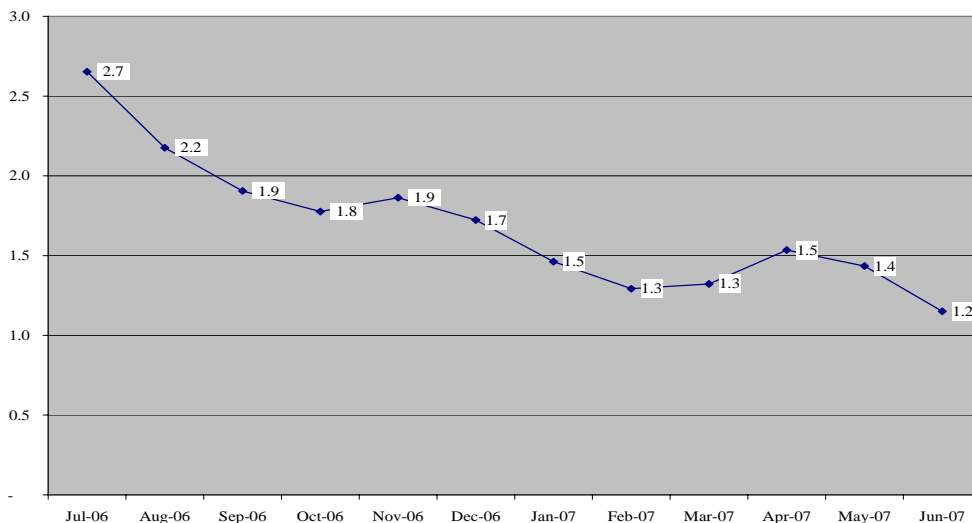


Measure 5: Trial Date Certainty

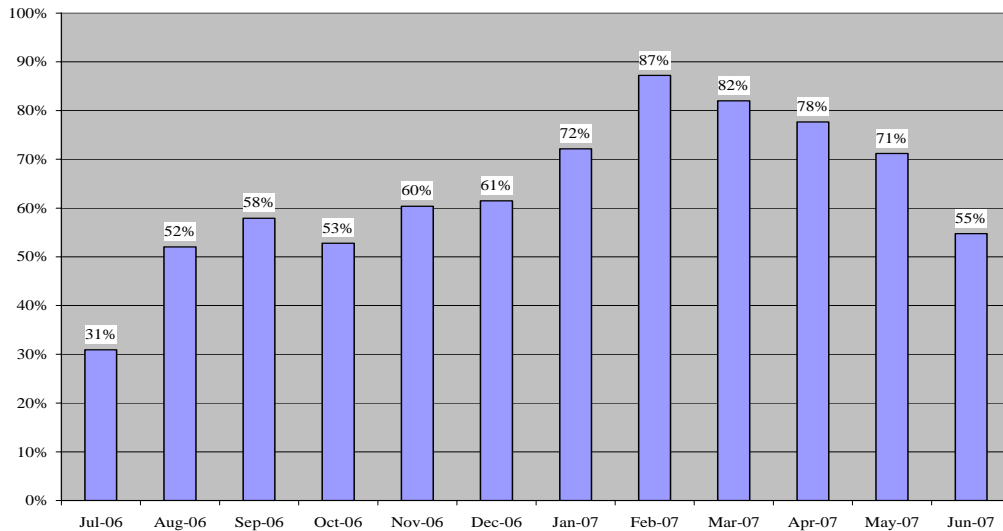
Trial date certainty is measured as the number of times a case was scheduled for a trial and the manner of disposition once the case was resolved.

During the 12-month pilot project, pilot courts held 498 jury trials and 151 bench trials. Of the trials scheduled, the average number of settings per case was reduced 2.7 to 1.2 (56% decrease) and the percentage of cases resolved at the first trial setting was increased from 31% to 63% (51% increase)

DUI Case Processing Pilot Project - Average # Trial Settings



DUI Case Processing Pilot Project
% Cases Resolved at 1st Trial Setting



Conclusion

The overall DUI case processing project has been a success. Several qualitative and quantitative results were obtained and the pilot courts experienced overall project success. One cannot measure success by statistics alone. Courts were able to develop local criminal justice coordinating committees, thus opening the channels of communication with other branches of government; a focus was placed on data clean-up; and statistics were reviewed monthly to gauge progress.

Due to the success of the project, Chief Justice Ruth V. McGregor announced a second phase of the project would begin on January 1, 2008. Several counties have expressed interest in joining the second phase. A state-wide satellite broadcast will be held in December 2007 announcing state-wide implementation of the DUI project which will begin July 1, 2008. It is believed that Arizona will be the foremost leader in processing DUI cases.

ATTACHMENT A

Supreme Court Administrative Order

2006-38

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

ATTACHMENT B

DUI Case Processing Pilot Court Highlights

Stats for DUI Case Processing Pilot Project during FY2007

- Goal: 90% within 120 days
 - Pilot Court Average is 77%
 - Have decreased each quarter: 79%, 78%, 76%, 76%
 - 6 of 11 pilot courts achieved goal at least once
 - Goal was achieved 17% of the time

- Goal: 98% within 180 days
 - Pilot Court Average is 86%
 - Have decreased each quarter: 88%, 87%, 85%, 85%
 - 7 of 11 pilot courts achieved goal at least once
 - Goal was achieved 16% of the time

- DUI cases pending over 180 days were reduced by 77% through data clean-up and placing an emphasis on adjudicating older cases;

- Total active pending DUI cases were reduced by 20%;

- Pilot courts received 14,055 new DUI cases while disposing 14,400 of them;
 - Averaged 1,160 new cases per month
 - Averaged 1,200 disposed cases per month

- Clearance rate averaged 116% meaning the pilot courts produced more outgoing cases than incoming, thus reducing backlog;
 - Clearance rate by quarter: 109%, 107%, 136%, 112%
 - Only two months did pilot courts average less than 100% (97%, 92%)

- Total number of Jury Trials held: 498
- Total number of Bench Trials held: 151

- The average number of trial settings per case was reduced from 2.7 to 1.2 (56% decrease); and

- The percentage of cases resolved at the first trial setting was increased from 31% to an average of 63% (51% increase).



ARIZONA SUPREME COURT

Administrative Office of the Courts

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This project was supported by Grant No. 2005-DD-BX-K238 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice.