

Comparative Analysis of Arrest Warrant Issuance and Enforcement

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COMPARATIVE ANALYSIS OF ARREST WARRANT ISSUANCE AND ENFORCEMENT

Jessica Cortes

Abstract

When an individual is found to have violated a law in our communities there is an expectation by that community that there will be consistent follow-through in the prosecution and enforcement of the laws that were broken. Often, it is the initial portion of the process, the actions of law enforcement, which get the most attention and it is assumed that once the person is charged with a crime the rest of the justice system will work and the person will be held accountable for the violation. Frequently this is not the case. What is often unknown, and sometimes ignored, is the fact that many individuals are never held accountable for their crimes because there is a lack of responsibility in holding persons answerable after the initial court process. An individual may be brought into court, found guilty, had judgment entered and sentenced, but if the sentence is never enforced then the process becomes ineffective.

This project is a comparative analysis of post-adjudicated arrest warrant issuance and enforcement. The Flagstaff Municipal Court developed a warrant enforcement program in 1997 to address two main issues facing the court at that time. The first was the overcrowding of the Coconino County Jail. The second was the exceedingly high number of outstanding arrest warrants that were issued out of the Flagstaff Municipal Court, but not cleared. Due to the fiscal realities that the Flagstaff Municipal Court faces, the resources allocated to the warrant enforcement program have come under intense scrutiny. Like other municipalities, the City of Flagstaff has

endured extreme budget cuts over the past five years. The reduction in resources has called into question the effectiveness of the warrant enforcement program largely because of the significant amount of resources budgeted to the issuance and enforcement of the court's warrants.

This project focuses on a comparison of seven municipal courts in Arizona. The courts chosen were evaluated on the city's population, total case filings, criminal case filings, number of outstanding warrants and the percentages of cases on warrant status in comparison to those of The Flagstaff Municipal Court. The intent of the research is to specifically address two questions: (1) how does the Flagstaff Municipal Court compare to other municipal courts that do not have a warrant unit in terms of effective warrant enforcement? And, (2) assuming that there are differences, what factors contribute to those differences?

The initial process used to analyze arrest warrant issuance and enforcement was the request and collection of the policies and procedures from each of the comparison courts. The policies and procedures were assessed specifically to identify significant differences in business processes. Upon completion of the assessment of the policies and procedures, a questionnaire was developed in order to gain further insight and information. The questionnaire was distributed in advance via email and a subsequent site visit was completed to go over all information collected.

The findings indicate significant variances of the comparison courts. This is largely due the autonomy of our local courts. There is judicial discretion in implementing policies and procedures on the issuance and enforcement of warrants of the comparison courts. Judicial discretion affords the opportunity to manage the court

caseload in the way that the presiding judge sees fit for the overall operation of the court and for the individual judge to have discretion in relation to the individual case.

There has been much discussion in the court community over the past several decades regarding the purpose and responsibilities of the courts. There is no longer a general societal assumption that courts simply must exist for their own sake. It can be argued that what counts for the judicial branch is ensuring that laws are administered in a just manner, deterring violations of the law and the effectiveness of the court order. When examining these issues we find that doing individual justice in individual cases, appearing to do justice in individual cases, deterring criminal behavior and separating persons convicted of serious offenses from society do not take place without the follow-through of the court on the sentences they impose.

Interestingly, there is very little research on how courts enforce orders and specifically which enforcement techniques lead to greater compliance. The issuance and the enforcement of warrants is a largely overlooked piece of the process. Warrants need to begin to be accounted for. The inability to measure clearance rates of warrants means that this important metric is unknown. How long are warrants active on any particular case? How many have been issued on any particular case? Once the warrant has been quashed, what is the time frame until the case has been completed? Does issuing warrants on cases bring cases into compliance? Is it more effective to report delinquent cases to a credit bureau instead of issuing a warrant? Warrant issuance and enforcement is long overdue for a systematic policy approach.

Consistency both within the court community and with our justice partners, to ensure equitable treatment to all, can be accomplished by finding creative approaches

to enforcement that show both fiscal responsibility and court potency. Courts need to address the issue of warrants and their efficacy if we want to maintain credibility and relevance in the eyes of our funding authorities and the communities that we serve. Relinquishing the enforcement responsibility without requiring accountability of the executive branch only weakens the perception of the court in our communities. Fulfilling the responsibility in the enforcement of court orders can help solidify the role of the court in our society. And lastly, it is imperative that the judicial branch takes responsibility for making sure that what is ordered is carried out or there is a possible risk that courts will be seen as ineffective and possibly unnecessary by the public that they serve and by society as a whole.

Introduction

Public trust and confidence in the judicial branch of government is closely tied to the enforcement of the courts' order. This statement may carry more weight in lower level courts because of the higher volume of cases adjudicated and therefore the amount of monetary obligations collected as well as other requirements a court may order, such as jail terms. A sentence with incomplete compliance arguably requires enforcement measures to maintain the integrity of the courts' order. Ensuring the compliance with court orders creates accountability among defendants, as well as the judiciary. Interestingly, there is very little research on how courts enforce orders, and specifically which enforcement techniques lead to greater compliance. Guaranteeing compliance may require that courts and their communities expend considerable resources on these efforts. This oversight may be comprised of compliance rates, issuing warrants and calendaring court hearings to resolve those warrants, and the arrest and confinement of the defendants with warrants pending resolution. In the 1990's the Flagstaff Municipal Court made the decision to address court order compliance.

The 1990's were a complex time for the criminal justice system in Flagstaff, Arizona. The concerns with jail population were in full swing and issues with the Flagstaff Municipal Court were coming to the forefront. In order to provide an accurate background it is important to know how The Flagstaff Municipal Court fits into the Arizona Judicial Branch structure. By law, all self-governing charter cities must establish a municipal court within their jurisdiction. The Flagstaff Municipal Court is part of the State of Arizona Unified Judicial System and is accountable to the Arizona

Supreme Court in judicial and operational matters and reports to the City of Flagstaff regarding financial and administrative matters, not unique to court operations. The Flagstaff Municipal Court is responsible for misdemeanor criminal cases, traffic-related cases (both civil and criminal), violations of city ordinances, the issuance of search warrants, orders of protection and injunctions against harassment.

In 1994, the Flagstaff Municipal Court was under a mandate to comply with a series of shortcomings identified in an operational review conducted by the Arizona Supreme Court, Administrative Office of the Courts. Subsequent to the operational review, the Flagstaff Municipal Court was seized by order of Vice Chief Justice Thomas Zlacket. Justice Zlacket had ordered Coconino County Superior Court Presiding Judge Honorable H. Jeffery Coker to take direct operational responsibility for the Flagstaff Municipal Court. Judge Coker then assigned Judge William Sutton and Donald Jacobson the task of resolving the outstanding issues of the court.

In August 30, 1995, Donald Jacobson was hired as the Court Administrator for the Flagstaff Municipal Court. At this time, emergency meetings were being called to address the overcrowding of the Coconino County Jail. The jail was under a federal judge's order that came about due to the *Davis v. Richards* class action lawsuit. *Davis v. Richards* originated out of the detainment of two men that robbed a service station outside of Flagstaff, Arizona in 1975. Billy McCallister and Lester Leonard McFord murdered the station owner and made off with a total of \$25.00. They were subsequently apprehended and charged. During their detainment in the Coconino County Jail they set fire to a portion of the jailhouse, which resulted in a response by Flagstaff Fire Department and other law enforcement officials. The fire resulted in

claims by McCallister and McFord that the Coconino County Jail provided inadequate housing for detainees. Other inmates used this chain of events to file claims of their own. Eventually, this state of affairs turned into *Davis v. Richards*, a class action lawsuit filed in 1976 that resulted in a judgment against the sheriff and the county that specified the number of inmates the jail could have in custody, how those inmates could be housed, how much recreation they received, the amount and type of food they needed to be served and other findings. The aging jail could not house more than 162 inmates and yet on some days the population peaked at well over 200, resulting in inmates sleeping on floors and even in hallways. In 1996, the Department of Justice imposed sanctions against the sheriff and the county. There was a specific sanction of \$1,000.00 per day; per prisoner, should the jail go over the cap. This resulted in over three million dollars being spent to house prisoners in other facilities and hundreds of thousands of dollars in fines. The federal judge placed a population cap on the jail at 162 detainees. Because of the federal judge's order, if the jail was at its capacity the sheriff's department would push to not accept defendants into custody who had only criminal misdemeanor warrants. Due to the overcrowding issue, the question would be posed to the local judges by the sheriff; 'whom do you want to release?' Meetings with the stakeholders were being held on the issue of the number of warrants originating out of the Flagstaff Municipal Court; ultimately the court orders were not being enforced due to the jail being under federal sanctions. Also, at this time, the city was paying a daily per diem cost to the jail for housing inmates resulting in an annual budgeted amount of \$250,000.00 for the municipal court to hold defendants in the county jail. In 1997, partially due to these significant troubles, a jail district was initially approved by voters.

The approval of this special taxing district provided the funding to construct a new jail facility. To the municipal court it meant that we would no longer have to pay a per diem cost for our detainees. The jail district agreement allows the district to use municipal taxing authority, with the provision that the costs associated with municipal court detainees would be absorbed by the district. The new jail facility was not completed until August of 2000; the sanctions remained in place until all the prisoners were transferred and the new jail met all the requirements of the federal court's order.

Jacobson continued to observe a large number of outstanding arrest warrants issued by the Flagstaff Municipal Court, but not cleared. During this time, the court had six to seven thousand outstanding warrants. These were open cases that the court could not close, and corresponded to approximately fifty-percent of the court's annual filings. In January 1996, Jacobson initiated a series of meetings with the chief of police and the sheriff to discuss jail overcrowding and the outstanding warrants issue. Jacobson asked what the court could do to help in the effort. At that time, there was no active process for the enforcement of warrants. A warrant was only served if the defendant had contact with law enforcement due to a new event such as a traffic stop or new violation complaint. There was no sense of urgency to serve the court's warrants and therefore no enforcement focused on dealing with the problem. When a new contact was made with an individual that had an outstanding warrant the only option that law enforcement had was to book the defendant into the county jail, thus exacerbating the jail population problem. Jacobson also raised the question of how to improve the effectiveness of court orders without increasing the jail population. The chief of the police department was first approached to find out if they had any resources

that could be allocated towards this, such as a special task force. Unfortunately no resources were available to help the court. It became clear that the court would have to figure out a solution on its own.

The current practices in the enforcement of warrants often meant that the judicial order was nothing more than a piece of paper. The efficacy of the order was at stake and the court needed to have something meaningful in place to deal with the court's order. Jacobson's solution was to take control of the enforcement of the court orders and create a warrant enforcement unit. The warrant enforcement unit's purpose is to hold defendants accountable to orders set forth by the court. The need was to have warrant enforcement be based on more than just random contact with defendants; this became a more directed and aggressive way to enforce court orders, taking an active role versus the passive role in the process that had been occurring. Jail bookings would still need to be avoided. The program also needed to provide an opportunity to focus on more serious offenders. The court partnered with the Arizona Supreme Court and requested Judicial Collection Enhancement Funds (JCEF) for a pilot program for fiscal year 1997 (July 1, 1996 through June 30, 1997) for a new warrant officer position for the court. The program also needed our funding authority's approval. The selling points to the Flagstaff City Council were to avoid jail time, jail overcrowding, and saving the city's financial resources. The JCEF Funds would pay for the first year of the program as well as the general start up cost, such as a vehicle for the warrant officer to drive. Per the agreement, the city would then pick up the costs of the program if it was shown to be a success. The city council thought that this was a fantastic and viable option; there was almost no debate as they jumped at the opportunity. The request for funding one full

time position and a vehicle was approved creating the pilot program for outstanding warrants on July 1, 1996. On October 14, 1996, Richard Lundberg was hired. He was a retired, reserve police officer and worked in this new position until 2005.

The primary job duty of the warrant officer is to bring the defendant back before the court, for the purpose of appearing before the judge and answer why they failed to comply with the court order. Additionally, the program provides an opportunity to gain compliance with court orders without having the defendant arrested and booked into custody on the warrant. This procedure saves the local criminal justice system resources that would not be realized without the program. The warrant officer must retain their Arizona Peace Officer Standards and Training Board Certification (AZPOST) and is required to be a reserve officer of the Flagstaff Police Department; additionally the warrant officer must maintain current firearms certification. Because the officers carry firearms, possess the power of arrest, and transport prisoners to court, the certification and reserve status is a key element to the warrant enforcement unit. The warrant officer locates individuals with outstanding warrants and arrests non-complying individuals, bringing them before a city magistrate. The warrant officer transports prisoners from other jurisdictions within a 200 mile radius of Flagstaff, who are arrested on the court's warrants. Warrant officers check a jail population report daily to ensure that active warrants are served on in-custody defendants. The court dockets are also reviewed to see if any outstanding warrants can be resolved. The warrant officers log statistical information on warrants served, contacts made, and fines collected.

Success was attained in the first year, which meant the cost of the program for fiscal year 1998 would be assumed by the city for the full amount. Success of the

program was measured by the number of warrants quashed (served and cleared) without the defendants having to be booked into the jail. On July 1, 1997, the funding shifted from state JCEF Funding to the general fund of the City of Flagstaff for the initial position at the Flagstaff Municipal Court. The program had significant success, but the court continued to see its overall caseload grow. From the years 1996 to 2000, the overall number of cases grew fifty-percent. In 2000, the court sought to expand the program to handle the increase in caseload by creating a second position. An ordinance was submitted to council that created two new fees. A Warrant Fee, which is an additional fee added to criminal cases when a warrant is issued, and a Suspension Fee that was applied to all cases that involved a driver's license suspension. In the spring of 2000 the request was made for the addition of a second position, the costs would be specifically paid for by the established Warrant and Suspension Fees. The new position was approved on July 1, 2000. The decision was made to wait for funds from the fees to build up, and then open the position. On November 1, 2000, the second position was filled by Jerry Montoya who was also a retired and reserve Flagstaff Police Officer. As the program continued, Richard Lundberg retired, and on July 17, 2005, Louis Garcia who was also a retired and reserve Flagstaff Police Officer took his place.

Currently, the program is seeking financial justification. Significant changes have taken place over the past seventeen years. A critical element of these changes was the creation of a new jail facility and the law enforcement agency facility (LEAF) intergovernmental agreement (IGA). The LEAF IGA combined many services like communications, records, and warrant entry in a shared law enforcement facility. A

single repository for all warrants in Coconino County was formed. This connectivity and automation of warrants makes them more accessible to law enforcement across the state. Since the creation of the LEAF IGA, the court pays annually for entry of our warrants into the law enforcement warrant repository, the cost of the entry last year was \$250,000.00. In light of the significant budget cuts that the court has experienced we must examine as well as justify the importance and effectiveness of the warrant program. Although the warrant officer solution fit the situation at the time; the question is what is the impact of the program today?

This research is a comparative analysis of arrest warrant issuance and enforcement specifically addressing two questions: (1) how does the Flagstaff Municipal Court compare to other municipal courts that do not have a warrant unit in terms of effective warrant enforcement? And, (2) assuming that there are differences, what factors contribute to those differences? For the purpose of this project, the focus is on the issuance and enforcement of post- adjudicated warrants for Failure to Pay (FTP) and Failure to Comply (FTC). The intentional exclusion of Failure to Appear (FTA) warrants is to keep the focus narrow for the scope of this project.

Literature Review

The Art and Practice of Court Administration, by Alexander B. Aikman, 2007 (Aikman, 2007), outlines “the purposes of courts plus the tasks and functions courts must carry out if they are to fulfill their constitutional mission. Ernie Friesen identified the eight fundamental purposes of courts in the 1970s” (Aikman, 2007). This analysis, focuses on five of them: (1) To do individual justice in individual cases; (2) To appear to do justice in individual cases; (6) To deter criminal behavior; (7) To help rehabilitate persons convicted of crimes and (8) To separate persons convicted of serious offenses from society (Aikman, 2007, p.205). The issuance and enforcement of warrants appears to coincide with the above purposes of courts. Doing justice and appearing to do justice is not just completed in the pre-adjudication stage of the case. Once the case is adjudicated, it is imperative that the court order is meaningfully enforced. If sentences are handed down without follow through, arguably the court order loses meaning. Why order fines and jail sentences and not have proper enforcement of the order? Society requires that there are consequences for crimes committed, thus deterring criminal behavior. Ultimately, the separation or jailing of defendants through the issuance and enforcement of warrants and court orders is a necessary component to create trust and confidence in the judicial system.

It has become clear that all branches of government are under scrutiny by the public, particularly in the area of their expenditures. The judicial branch is not immune to examination, in fact the publication *Funding Justice: Strategies and Messages for Restoring Court Funding, First Edition 2012*, offers information on how the public views the government and more specifically the judicial system. It states “public distrust in

government taints courts, too.” All branches of government seem to get grouped together to some extent. The information in the study provided, states that 13% of the answers had a “great deal of confidence” in the state court system, slightly more (18%) in the United States Supreme Court. These percentages are unfortunately very. Additionally, the question was posed on whether or not the respondent felt that their state - “does not spend enough on it” (their respective State Court) and only 17% responded; which means that the remaining 83% felt that their state spends too much or about the right amount on state courts. If this is the perception of state courts on a national level, it is no revelation that the Flagstaff Municipal Court is seeking financial justification for the warrant enforcement program, not only from the funding authority but also from a court accountability standpoint. Perhaps if the public had more confidence in the judicial system there would be a higher likelihood of proper funding to the courts that would allow for a higher level of enforcement of the courts’ orders, thus creating more confidence within the judicial system.

Increased funding for the purpose of enforcing court orders is one possible answer in creating a higher level of public trust and accountability. However, another answer may rest on which branch of government should be tasked with the duty of enforcement. The *Current Practices In Collecting Fines and Fees In State Courts: A Handbook of Collection Issues and Solutions*, published by the National Center for State Courts, Court Services Division notes that nationwide, warrants are served on defendants as a result of some other offense having taken place. It further notes that “most localities do not have sufficient staff to actively serve warrants” (Matthias & Klaversma, 2009). The Flagstaff Municipal Court experienced this same issue, hence

the creation of the program. This nationwide problem seems to give the impression that the courts' warrants are not important. If the executive branch, through their law enforcement entities, happens to come across an individual with a warrant, then the warrant will be served, but there is not a pointed focus on enforcing the court's order. It appears that either the executive branch may not be the appropriate branch to enforce judicial orders or that the judicial branch may need to implement new requirements to increase accountability. Courts, through CourTools Measure 7, Collection of Monetary Penalties, have been tasked with the enforcement and collection of monetary penalties, conceivably the enforcement of the courts' warrants could be the next task. Matthias & Klaversma, (2009) address the issue of;

Public trust and confidence in all government entities has also influenced changing attitudes regarding the appropriate role for courts in collections. We live in an age when trust in government institutions, including courts, is not automatic. When defendants perceive a court process or proceeding to be procedurally fair, there is every reason to expect greater compliance with court orders. The integrity, efficiency, and use of public funds by government institutions are widely and openly questioned. There is an increased expectation from the public that all government operations, including those of the courts, should be efficient, accountable, and cost effective. It is difficult to promote public trust and confidence in the judiciary without the courts supporting and encouraging programs and processes that improve the collection of fines and fees (p. 3).

It is the Flagstaff Municipal Court's belief, that warrant issuance and enforcement, in addition to the collections of fines and fees, creates an environment where justice is accomplished and completed. It is communicated regularly from our court's defendants with violations in multiple jurisdictions that they will take care of the court orders issued out of our court before those of other courts, because they are aware that active enforcement will take place. This phenomenon, known as the "word on the street," is

another tool that is used to create an environment of compliance and accountability in the Flagstaff Municipal Court.

The inconsistencies on warrant issuance, enforcement and management are not just a problem in Arizona. The *Warrant and Disposition Management 2011 State Survey* conducted by the National Center for State Courts and SEARCH, provided information on warrant management. The survey was predominately focused on the entry of warrants into the warrant repository and on the accuracy of the information. The most pertinent information for the purpose of this project was their conclusion that, “States vary significantly with respect to how they manage warrants, including where warrants are stored (centrally or locally) and how they are transmitted (electronically or manually)” (National Center for State Courts and SEARCH, 2011). This concept is intriguing and is one that is addressed in this project, specifically in regards to the practices of municipal courts. Courts may only have the warrant entered into a local police database and therefore if the defendant has law enforcement contact outside of that specific city, the other law enforcement entity would be unaware of the warrant. This is not just a court issue, but also a safety concern for law enforcement officers. The practice of only entering the warrant into the local system will also limit the likelihood of the warrant being served on the defendant. Our warrant officers are available to regularly transport defendants who are arrested in other jurisdictions on our court’s warrants due to the utilization of a centralized warrant repository.

Entering warrants into the central repository creates consistency among courts, as does having guidelines on when courts should be issuing a warrant on a case. The Arizona Administrative Office of the Courts, Court Services Division, (2012) *Best*

Business Practices, provides information on timelines associated with court ordered enforcement and criminal warrants. The timeline associated with the issuance of warrants in instances of noncompliance is 30 days. The *Best Business Practices* provides the framework to provide a consistent expectation not only for courts but also for defendants. It seems to be sending a clear message that the violations of court orders should be handled aggressively and in a swift manner. The question becomes an obvious one, why are there inconsistencies of warrant issuance? The research conducted on this project may shed some light on this issue.

Through the research conducted on warrant enforcement in Arizona, there was one statewide initiative. The Arizona Department of Public Safety (AZDPS) and the United States Marshals Service combined efforts for the creation of the Arizona WANTED (Wanted Apprehension Network Targeted Enforcement Detail) Task Force. The information for the WANTED Task Force was located in *The Annual Report of the Arizona Department of Public Safety*. The task force's main function is to investigate and arrest persons who have active state and federal warrants for their arrest. Primarily the types of warrants that are focused on are "violent crimes against persons, weapons offenses, felony drug arrests, failure to register as a sex offender and crimes committed by subjects who have criminal history involving violent crimes, felony drug offenses, and /or weapons offenses" (Arizona Department of Public Safety, 2012). To be specific, this task force would not be responsive to FTC or FTP warrants issued out of any municipal court. The combined efforts produced 353 fugitive arrests in fiscal year 2011 and 346 fugitives in fiscal year 2012. As a comparison, the Flagstaff Municipal Court Warrant Officers served 1326 warrants in fiscal year 2012. That is nearly four times the amount

cleared by the WANTED Task Force. Having the capabilities to have full control over enforcement of the court's warrants, provides the ability to focus our resources on what the court deems important versus what law enforcement values and further demonstrates the importance of the program. The National Center for State Courts published *Creating the Judicial Branch: The Unfinished Reform*, (Tobin, 2004) it states,

Sheriffs often give low priority to serving court process, especially bench warrants. Deputies often joke about how bench warrants are at the bottom of the stack. Basically, these warrants get served only if the defendant is apprehended on a new charge. Once the word gets out on the street that bench warrants are not being served, no one worries too much about coming to court or paying fines on installments (p.76).

Tobin additionally address that, "occasionally, a state legislature or state supreme court has started programs to make trial courts more enforcement oriented, but trial courts have not generally been proactive in this area" (Tobin, 2004, p.77). The Flagstaff Municipal Court creation of the warrant enforcement program was done firsthand in a response to specific issues occurring in Coconino County, Arizona. As long as the program has been in existence, the Flagstaff Municipal Court has been the driving force behind it. The publication also notes, "As courts have withdrawn from the local government milieu to gain more control over their own operations, they have had to deal with their relationship to sheriffs, sorting out those functions of the sheriff that could be performed by court personnel and those that must of necessity be performed by the sheriff." This quote gives validation to the creation of the Flagstaff Municipal Courts Warrant Enforcement Program. The uniqueness of the program affords the court the ability to enforce its own warrants without depending on law enforcement. The court has taken control over the efficacy of our warrants, thereby producing the desired effect of justice in the City of Flagstaff.

As previously noted, our justice system partners have the ability to impact the enforcement of court warrants; this can be a positive or negative effect. In Missouri, it seems to be a negative impact that is primarily focused on the costs associated with poor enforcement of warrants. The Missouri State Auditor report on *Management of Outstanding Warrants* put forward information regarding the State of Missouri. The report estimated that 76 million dollars could be collected if outstanding warrants were served. The following barriers experienced in collecting the millions of dollars, were the lack of resources, the deficiencies in the centralized system for warrant reporting and the unwillingness to cooperate with other law enforcement entities. The lack of resources and the centralized reporting system may have the prospect to be offset by the collection of the outstanding 76 million dollars; the process may be implemented through possible grant opportunities. The unwillingness to cooperate with justice partners is a more difficult problem to overcome.

Cooperation within the criminal justice system seems in most cases to be unattainable. In Coconino County, Arizona there seems to be fewer obstacles to overcome because of a willingness to collaborate and pool resources in order to benefit the greater good of the criminal justice system. Joint facilities, records and information technology are just some of the areas of collaboration. The sharing of technology systems creates a relationship that is mutually beneficial for the criminal justice system as a whole. It has reduced duplicate entry of data and provided an environment to create efficiencies through automation processes. The article titled, *A Law Enforcement Sharing Story*, by Jim Chrisinger, provides the backdrop to the inception of the law enforcement agency facility otherwise known as the LEAF. It offers significant insight to

the collaboration that took place in order to create a co-located facility that makes available our current interoperability of information sharing among the various criminal justice entities in Coconino County. In summary, it was apparent through the story that it was a challenging endeavor, but the benefits overshadow any drawbacks of the partnership.

Methods

The methodology of this paper is comprised of two steps: (1) selecting courts to use for comparison purposes; and (2) collecting information about warrant enforcement procedures in those identified courts. For step one, other Arizona Municipal Courts were compared with the Flagstaff Municipal Court based on the statistical data submitted from individual municipal courts as provided to the Arizona Supreme Court. This information has been obtained through the 2012 Data Report for Arizona Courts. The report offers detailed information on all state courts. Each court is ranked numerically for total cases filed in fiscal year 2012, see Table 1. The specific data elements that are used in this analysis are: Total number of cases filed, the total criminal cases on file, the number of criminal cases, the outstanding warrants and ranking number identified by the data report. Once this information was analyzed, the courts were then further scrutinized on the city's population, and the percentages of cases on warrant status. Other criteria such as geographic location and population demographics were not considered.

The selected courts were contacted via email to request their participation in this project. Of the ten courts considered, seven responded to the request. The seven courts therefore used in the comparative analysis were comprised of courts evaluated on the original criteria and those with a willingness to participate in this project. The seven municipal courts are Avondale, Chandler, Glendale, Goodyear, Scottsdale, Tempe and Yuma.

Table 1: Top 25 Municipal Courts Ranked By Total Cases Filed Fiscal Year 2012

MUNICIPAL COURTS
RANKED BY TOTAL CASES FILED
FISCAL YEAR 2012

| County | Court ID# | Court Name | Ranked Order | Total Cases Filed | Total Cases Terminated |
|-----------------|-------------|-------------------|--------------|-------------------|------------------------|
| MARICOPA | 741 | PHOENIX | 1 | 280,070 | 288,565 |
| PIMA | 1041 | TUCSON | 2 | 191,833 | 273,753 |
| MARICOPA | 745 | MESA | 3 | 126,498 | 133,453 |
| MARICOPA | 751 | SCOTTSDALE | 4 | 101,839 | 100,375 |
| MARICOPA | 753 | TEMPE | 5 | 76,551 | 82,126 |
| MARICOPA | 759 | EL MIRAGE | 6 | 65,059 | 30,684 |
| MARICOPA | 747 | GLENDALE | 7 | 33,885 | 41,075 |
| MARICOPA | 748 | CHANDLER | 8 | 31,809 | 34,437 |
| MARICOPA | 766 | GILBERT | 9 | 25,554 | 27,724 |
| YAVAPAI | 1347 | PRESCOTT VALLEY | 10 | 25,246 | 26,451 |
| GILA | 447 | STAR VALLEY | 11 | 18,198 | 15,994 |
| YUMA | 1441 | YUMA | 12 | 18,092 | 20,342 |
| COCONINO | 341 | FLAGSTAFF | 13 | 17,986 | 20,938 |
| MARICOPA | 750 | PEORIA | 14 | 17,473 | 22,207 |
| MARICOPA | 761 | SURPRISE | 15 | 16,168 | 18,871 |
| GILA | 443 | GLOBE | 16 | 15,857 | 10,136 |
| MARICOPA | 765 | PARADISE VALLEY | 17 | 14,588 | 18,973 |
| YAVAPAI | 1343 | PRESCOTT | 18 | 12,227 | 11,693 |
| NAVAJO | 945 | SHOW LOW | 19 | 10,547 | 11,746 |
| PIMA | 1044 | MARANA | 20 | 9,916 | 10,955 |
| PINAL | 1142 | CASA GRANDE | 21 | 9,507 | 10,196 |
| MARICOPA | 760 | AVONDALE | 22 | 9,361 | 11,071 |
| MOHAVE | 844 | LAKE HAVASU | 23 | 8,863 | 8,511 |
| MARICOPA | 762 | GOODYEAR | 24 | 8,508 | 9,420 |
| MOHAVE | 842 | BULLHEAD CITY | 25 | 6,994 | 6,954 |

(Full list provided in Appendix A).

Flagstaff Municipal Court is ranked number 13; the population of Flagstaff is 60,611. We reported a total of 17,986 total cases filed in fiscal year 2012. The total cases on file are 38,351. Of these cases, 16,262 would be eligible for warrant status. The total number of warrants is 7,998, which equates to 49.18% of open criminal cases on warrant status.

Avondale Municipal Court is ranked number 22; the population of Avondale is 84,914. They reported a total of 9,361 total cases filed in fiscal year 2012. The total cases on file are 11,795. Of these cases, 4,368 would be eligible for warrant status. The total number of warrants is 2,416, which equates to 55.31% of criminal cases on warrant status. The Avondale Municipal Court was chosen as a comparison court because of the percentage of cases with warrants. The percentage is higher than the Flagstaff Municipal Court, but the number of criminal cases is significantly lower.

Chandler Municipal Court is ranked number 8; the population of Chandler is 255,230. They reported a total of 31,809 total cases filed in fiscal year 2012. The total cases on file are 50,079. Of these cases, 20,055 would be eligible for warrant status. The total number of warrants is 2,849, which equates to 14.21% of criminal cases on warrant status. The Chandler Municipal Court has a slightly higher number of criminal cases but has a significantly less percentage of cases with warrants.

Glendale Municipal Court is ranked number 7; the population of Glendale is 252,188. They reported a total of 33,885 total cases filed in fiscal year 2012. The total cases on file are 49,004. Of these cases, 20,316 would be eligible for warrant status. The total number of warrants is 8,018, which equates to 39.47% of criminal cases on warrant status. Glendale Municipal Court was chosen due to the similarities of criminal cases, outstanding warrants and the percentage of cases with warrants to the Flagstaff Municipal Court.

Goodyear Municipal Court is ranked number 24; the population of Goodyear is 66,308. They reported a total of 8,508 total cases filed in fiscal year 2012. The total cases on file are 12,325. Of these cases, 3,683 would be eligible for warrant status.

The total number of warrants is 1,347, which equates to 36.57% of criminal cases on warrant status. The City of Goodyear has a slightly higher population than the City of Flagstaff, but has significantly lower criminal case filings.

Scottsdale Municipal Court is ranked number 4; the population of Scottsdale is 217,385. They reported a total of 101,839 total cases filed in fiscal year 2012. The total cases on file are 120,495. Of these cases, 29,715 would be eligible for warrant status. The total number of warrants is 3,432, which equates to 11.55% of criminal cases on warrant status. The Scottsdale Municipal Court has more criminal cases and fewer outstanding warrants.

Tempe Municipal Court is ranked number 5; the population of Tempe is 174,255. They reported a total of 76,551 total cases filed in fiscal year 2012. The total cases on file are 122,692. Of these cases, 33,171 would be eligible for warrant status. The total number of warrants is 9,457, which equates to 28.51% of criminal cases on warrant status. Tempe Municipal Court has a similar amount of outstanding warrants to the Flagstaff Municipal Court.

Yuma Municipal Court is ranked number 12; the population of Yuma is 91,105. They reported a total of 18,092 total cases filed in fiscal year 2012. The total cases on file are 24,235. Of these cases, 10,118 would be eligible for warrant status. The total number of warrants is 4,918, which equates to 48.61% of criminal cases on warrant status. The Yuma Municipal Court has the most similar amount of percentage of cases with warrants to the Flagstaff Municipal Court.

Figure 1: Criminal Cases per Capita

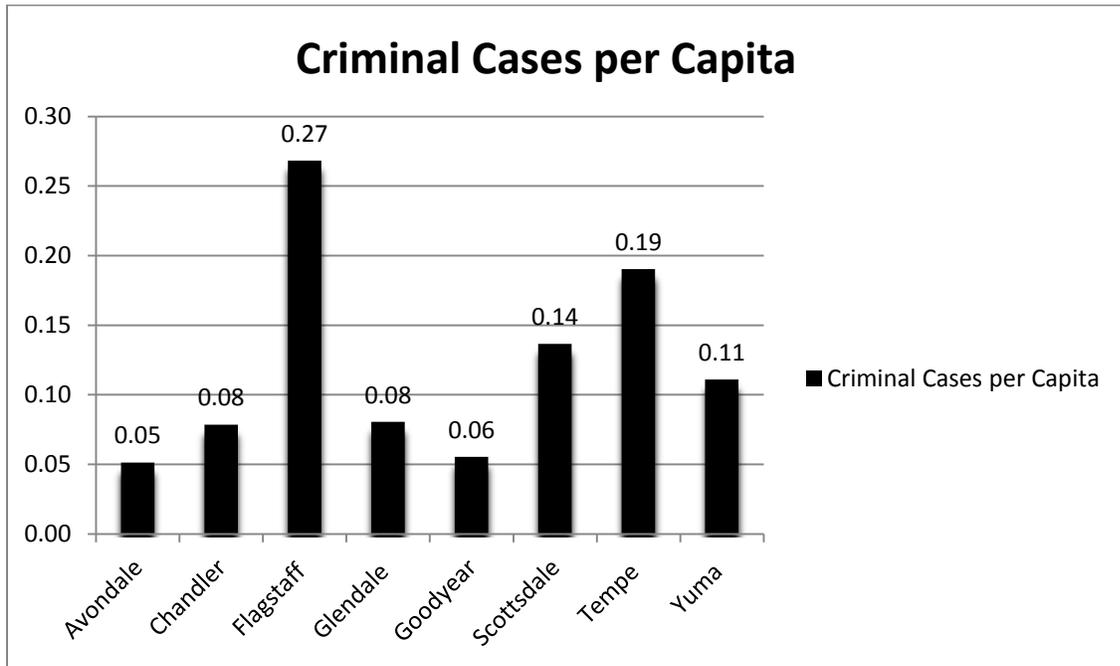


Figure 1 depicts the number of criminal cases per capita for each of the comparison courts. This information is of interest because warrants can only be issued on criminal cases. The number of criminal cases filed within a court will have a direct correlation with how many warrants issued. Issues that are specific to the City of Flagstaff that contribute to the high number of criminal cases per capita are: two major interstates, regional hub for Northern Arizona, being the corridor to one of the nation's busiest tourist attractions – the Grand Canyon, home to one of the three state universities –Northern Arizona University and situated in close proximity to the largest Indian reservation in the nation. The average number of criminal cases per capita is 0.12, but the values ranged from 0.27 to 0.5. Flagstaff has the highest number of criminal cases per capita; this information demonstrates the Flagstaff Municipal Courts interest in this analysis.

Figure 2: Number of Active Criminal Cases Compared to Outstanding Warrants

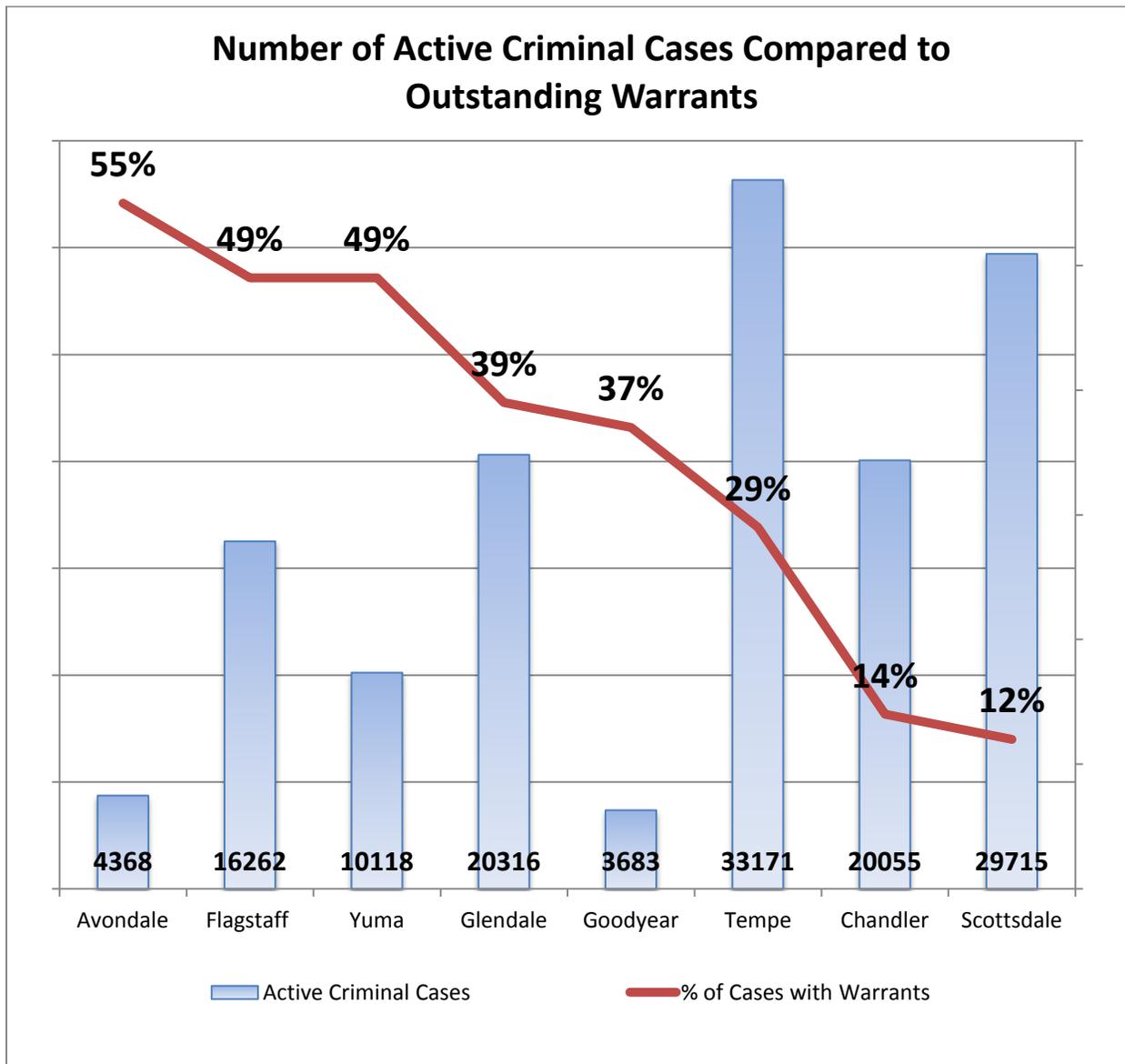


Figure 2 indicates that courts that have a lower overall number of active criminal cases do not necessarily have a lower percentage of cases with warrants.

Correspondingly, the courts that show the greatest number of active cases may have a lower percentage of warrants. Although Avondale, Flagstaff and Yuma have similar percentage of criminal cases with warrants, the significantly higher number of criminal cases in Flagstaff makes that percentage a more significant issue to deal with.

Table 2: Comparison Numbers

| Municipal Court | Total Cases Filed | Total Cases On File | Criminal Cases | Outstanding Warrants | Population | Rank | Percentage of cases with warrants | Criminal Cases per Capita |
|------------------|-------------------|---------------------|----------------|----------------------|---------------|-----------|-----------------------------------|---------------------------|
| Avondale | 9,361 | 11,795 | 4,368 | 2,416 | 84,914 | 22 | 55% | .05 |
| Chandler | 31,809 | 50,079 | 20,055 | 2,849 | 255,230 | 8 | 14% | .08 |
| Flagstaff | 17,986 | 38,351 | 16,262 | 7,998 | 60,611 | 13 | 49% | .27 |
| Glendale | 33,885 | 49,004 | 20,316 | 8,018 | 252,188 | 7 | 39% | .08 |
| Goodyear | 8,508 | 12,325 | 3,683 | 1,347 | 66,308 | 24 | 37% | .06 |
| Scottsdale | 101,839 | 120,495 | 29,715 | 3,432 | 217,385 | 4 | 12% | .14 |
| Tempe | 76,551 | 122,692 | 33,171 | 9,457 | 174,255 | 5 | 29% | .19 |
| Yuma | 18,092 | 24,235 | 10,118 | 4,918 | 91,105 | 12 | 49% | .11 |

The numbers detailed in Table 2 are largely taken out of the Arizona Supreme Court 2012 Data Report. The total cases filed, the comparison courts population numbers and the court ranking numbers are not numbers that the courts can control. The remainder of the numbers in Table 2, the courts do have an ability to control or at least influence. The judicial decisions in comparison courts as well as their policies and procedures dictate the number of outstanding warrants and the percentage of cases with warrants.

The second step involved identifying information that needed to be collected from the courts and why it might shed light on the most effective procedures for warrant enforcement. For the purpose of this project, each participating court was asked to provide any applicable policies and procedures. An analysis and comparison of the policies and procedures of the respective courts on issuance and enforcement of warrants was completed. Subsequently, a questionnaire was developed (Appendix B) to collect specific information on the issuance and enforcement of warrants by the

comparison courts. The questionnaire was disseminated via email to the appropriate court representative. The court representative was asked to complete the questionnaire and return it upon completion. Once the questionnaires were returned, a site visit was scheduled to review and ask any pertinent questions on the policies and procedures, as well as, clarify answers provided in the questionnaire.

Findings

The policies and procedures from the comparison courts were obtained and reviewed. In large part the policies and procedures consisted of step by step procedures followed in the respective case management systems on how to prepare a warrant. The focus of the actual issuance and enforcement of the warrant seemed to be limited in the policies and procedures. The pertinent information from the comparison courts policies and procedures are contained in this section; for specific details see Appendix C. Once the policies and procedures were analyzed, a questionnaire was developed in order to obtain specific information in relation to the five participating comparison courts. The comparison courts provided written answers that were then followed up with the respective onsite visits to obtain additional information and or clarification of the answers provided. The policies and procedures along with the responses to the questionnaire are summarized into findings and noted below; for more detailed information see Appendix C.

Finding 1: In accomplishing the same objective regarding arrest warrant issuance, the study courts employ remarkably individual processes and procedures.

Avondale Municipal Court follows the Administrative Office of the Courts, Court Services Division, Best business practices, 2012. The best business practices state that, "Court Ordered Enforcement: The courts should take enforcement action (letters, OSC, Warrant, etc.) as soon as possible, however, no later than 30 days from date of non-compliance" (Best Business Practices, 2012).

Chandler Municipal Court states that the purpose is to issue a warrant for a defendant's arrest when they fail to pay on a criminal case and/or fail to appear for their Notice for Failure to Pay Review (NFPR). The Chandler Municipal Court will also impose a \$125.00 warrant fee per warrant. The specific process is that the Judicial Enforcement Unit will issue warrants for defendants who fail to pay and/or have failed to appear at their NFPR on a daily basis. Staff also has the ability to recommend warrants be issued for defendants who have not supplied the court with a valid address, who have had three letters for failure to pay issued consecutively, and/or have had three pay order revisions issued consecutively with no payments ever made during this time.

Glendale City Court's procedures on generating an order to show cause warrant for failure to pay, specify that an Order to Show Cause Warrant A.R.S. §13-810, state that a warrant will be issued when a defendant does not comply with payment terms for an outstanding criminal monetary court order. The discussion section identifies the ability to appropriately identify the conditions under A.R.S. §13-810 whether an order to show cause warrant for failure to pay should be issued in the event that a case has been audited and is found to have a remaining balance owed. Glendale City Court's procedures on generating a warrant for failure to pay on probation cases, detail that a petition to revoke probation warrant is to be issued for cases when a defendant does not comply with payment terms for an outstanding criminal monetary court order while on probation. Further discussion requires the ability to appropriately identify when an order to show cause warrant should issue under A.R.S. §13-810 or whether a petition to revoke probation warrant under A.R.S. §13-901(c) should issue in the event that when a case has been audited, the defendant is on probation and a remaining balance owed.

Additionally, if a petition to revoke probation warrant is generated, a petition to revoke probation form needs to be signed the same day that the warrant is generated.

Furthermore, a \$75.00 warrant fee is added for every warrant issued.

The Flagstaff Municipal Court is similar to The Glendale City Court in the process of issuing a warrant under A.R.S. §13-810 or A.R.S. §13-901(c). However, the A.R.S. §13-901(c) probation warrant is only generated by the Flagstaff Municipal Court's Probation Officer; no other court employees are permitted to generate this type of warrant. On noncompliance on payment plans, The Flagstaff Municipal Court's procedures are: Upon detection of noncompliance, a phone call to the defendant will be made within a 24-hour time frame. The defendant will specifically be told that a payment must be made within a 24-hour time frame. If the defendant fails to make a payment within the 24-hour time frame, a FTP warrant will be created on criminal cases. On detection of noncompliance with a court order such as failure to serve jail time, or noncompliance with court ordered counseling, an order to show cause hearing will be set within a 30 day time frame. Once the defendant appears, the judge will give them a second referral for the court ordered counseling or will reset the date of commitment. From that time the defendant will have 30 days to get into compliance with the court order. A second setting of an Order to Show Cause Hearing will be initiated if the defendant continues to be noncompliant or a warrant may be issued. For the third instance of noncompliance an Order to Show Cause Hearing may be set or a warrant may be issued. The judge will order specific sanctions in accordance to their determination of the administration of justice in each particular case. The time frame associated with the issuance of a warrant will be as soon as possible, dependent upon

resources. The average amount of time that it takes for a warrant to be issued is ten days. Additionally, a Warrant Fee of \$85.00 will be assessed to every case that a warrant is issued on. Per ordinance, it is stated that; “the City Court shall collect a warrant fee for each warrant issued by the court. Any person who has a warrant issued by the court for failure to appear, failure to comply with a court order, or any other warrant from the bench shall be required to pay this fee to the City for the cost of issuing and servicing the warrant.”

Scottsdale Municipal Court adheres to best practices as the authority in issuing arrest warrants. In their policies and procedures it notes that, “a warrant represents the exercise of judicial power following a person’s failure to appear or to comply with court orders. The exercise of that power must be done very carefully, assuring that warrants are issued appropriately. When a defendant 18 years of age or older fails to appear in court, as ordered, or fails to comply with a court order in a criminal matter, the judge may order a warrant for the defendant’s arrest. The warrant commands any peace officer within the state to arrest the person named on the warrant and bring that person before the judge. Every warrant contains a bond amount or an order that the defendant is to be held without bond. The bond is the amount to be posted on the defendant’s behalf to secure the defendant’s release from custody.”

Tempe Municipal Court’s purpose is to ensure that warrants are issued in a timely and accurate manner and to ensure that the correct type of warrant is issued. There are two types of warrants issued by this court; the type of hearing missed determines the type of warrant issued. An A.R.S. §13-3904 warrant will include a new misdemeanor charge to the defendant’s case, and an A.R.S. §13-2506 does not add a

new charge. Tempe Municipal Court specifies between a cash only bond and a secured appearance bond.

The Yuma Municipal Court provided their policies and procedures, which note that once the warrant is issued, the defendant must pay the fine in full in order to quash the warrant. Furthermore, it is noted that if the defendant comes in voluntarily, they will be directed to the judicial enforcement unit and it will be determined whether or not the defendant should be arrested.

Finding 2: An Order to Show Cause Hearing is the common initiating action used by the courts when the defendant is noncompliant with a court order.

In Avondale Municipal Court, the file is forwarded to the judge for review. The judge will then issue either an Order to Show Cause Hearing or a Failure to Pay or Failure to Comply Warrant. Typically the first noncompliance is met with an Order to Show Cause Hearing and upon the second occurrence of noncompliance the judge will order a warrant. If the case has a probation component, the court will track the court orders and upon discovery of noncompliance, the judge will order for the file to be forwarded to the prosecutor for the preparation of a petition to revoke probation.

Chandler stated that their process varies depending on the type of case that involves the non-compliance. During the site visit, because of the low number of warrants issued, (only 14%, the second lowest of the comparison courts) further discussion was had on this question. In Chandler, the court's unwritten policy is to either issue a warrant or enter the case into the Fines/Fees and Restitution Enforcement Program (FARE); typically not both actions would be taken on a single case. Most failure to pay cases are entered into FARE for enforcement.

In Glendale, if the noncompliance is specifically for failure to pay, a court clerk will contact the defendant after one missed payment to discuss payment options and consequences for further failure to pay. If a second payment is missed, they proceed to an immediate failure to pay warrant and file a petition to revoke probation if applicable. If a warrant is necessary for issues other than failure to pay it refers to a separate procedure.

The Scottsdale Municipal Court, states that if a defendant is noncompliant with a court order; the court will set an Order to Show Cause Hearing for noncompliance of a program or jail, set a nonpayment of fine review (NPFR) for noncompliance of fines/fees, or notify the prosecutor if the defendant is on probation. The prosecutor will file a petition to revoke probation and the court will set a probation violation arraignment. Failure to appear at an Order to Show Cause Hearing or probation violation arraignment will result in a warrant being issued.

The Tempe Municipal Court will set the case for an Order to Show Cause Hearing.

Finding 3: There is no common process by which the study courts issue Failure to Pay (FTP) and Failure to Comply (FTC) warrants.

Avondale stated that they recently had an operational review conducted by the Administrative Office of the Courts. A recommendation out of the operational review was given to process failure to pay and failure to comply warrants based on the Best Business Practices Manual issued by the Administrative Office of the Courts, Courts Services Division. They stated that they are currently following the recommendation,

which is to “take enforcement action as soon as possible, however, no later than 30 days from the date of non-compliance” (*Best Business Practices*, 2012).

In Chandler, on their FTP cases, a FTP notice is mailed to the defendant or an Order to Show Cause Hearing is set on the calendar. Continued non-compliance will result in a driver’s license suspension or the issuance of a FTP warrant. On FTC cases, probation will monitor with probation reviews and then request appropriate actions, which could result in a FTC warrant.

In Glendale, FTP warrants are issued when a defendant misses their second scheduled payment or when a defendant fails to set up a payment arrangement by a specific date ordered by the judge. The warrant becomes an immediate action following a judge’s order (signature). The failure to comply warrant is issued at the discretion of the judge. It is also at the judge’s discretion whether to order a summons or warrant for FTC and FTP.

The Scottsdale City Court does not issue FTP warrants. FTC warrants are issued when a defendant fails to appear for an Order to Show Cause Hearing, or probation violation arraignment; or if the court is unable to notify the defendant of a violation due to the lack of a current valid address. If the defendant fails to appear for the nonpayment of fine review, the court will begin collection proceedings.

In Tempe, if the defendant fails to appear at their Order to Show Cause Hearing, the judge orders a warrant to be issued.

Finding 4: It is rare for a court to make concerted enforcement efforts on FTP and FTC warrant cases prior to them being cleared by arrest.

Avondale specifies “none” and Chandler noted “no response” to the question. In Glendale, defendants are given the option to pay and set up new payment arrangements prior to seeing a judge to clear FTP arrest warrants. Two full-time Glendale Police Department warrant officers attempt phone and physical contact with defendants prior to any arrest for financial noncompliance. FTC enforcement efforts are imposed at the discretion of the judge prior to the issuance of a warrant or summons. In Scottsdale, notification to the defendant when the warrant is issued and warrant reviews are set out five years for each case when the warrant is issued. Tempe noted that once the case has an active warrant, the court takes no enforcement action.

Finding 5: Flagstaff and Glendale are the only courts that have a warrant specific enforcement unit.

Avondale noted yes and specified a senior court clerk who handles collections. Chandler also noted a yes; they have a Judicial Enforcement Unit (Court Collections) and they also have probation monitoring officers. Glendale City Court responded yes, they fund two full-time warrant officers employed by the Glendale Police Department rather than the court to enforce FTP warrants. Scottsdale responded no, they do have staff dedicated to processing compliance and noncompliance of all court orders, but do not have an enforcement unit. Tempe responded with an answer of “no.”

Finding 6: Most courts view enforcement of warrants as a law enforcement function.

Avondale, Chandler, Scottsdale and Tempe Courts answered that it was a law enforcement function. Glendale City Court views this as a court function, they noted “in order to remain impartial and ethically adhere to governmental separation of power.

Once it proceeds to warrant the court must continue to view it as a court function to further honor the separation of powers.”

Finding 7: The study courts do not universally have a calendared court time to see defendants on warrants.

Avondale noted that if a defendant with a warrant comes into the court during normal business hours they are told they have to post the bond to quash warrant. If they want to self-surrender they are told they may do so at the Avondale Detention Facility. Chandler replied “no” to the question. Glendale replied no, that defendants have the option to see the judge on a walk in basis to address any specific outstanding warrant during normal business hours. Scottsdale responded yes, the court will rule on walk in motions to quash warrants Monday through Friday from 8:30 – 12:00 and 1:30 - 4:30. Each courtroom has one or two days a week in which they are assigned all walk in motions as well as any set calendar events. Walk in motions include motions to quash warrants. Tempe noted yes, that they have a walk in docket Monday through Friday between 9:00AM and 11:30AM.

Finding 8: The study courts do not all report FTP or FTC warrants to the Arizona Criminal Justice Information System (ACJIS) and the National Crime Information Center (NCIC).

Regarding FTP warrants, Avondale, Chandler and Tempe reported yes that they are in fact entered. Glendale reported no, that they are not. Scottsdale, reported that this question was not applicable to their court.

Regarding FTC warrants, Avondale, Chandler, Scottsdale, Tempe, all reported that they entered into ACJIS and NCIC. Glendale reported no, they are not entered into ACJIS and NCIC.

Finding 9: Most of the study courts either do not extradite defendants or see extradition as a law enforcement function.

Three of the comparison courts have countywide extradition on their warrants. Avondale will extradite only within Maricopa County. Chandler replied that they were unsure, as extradition is a police department function. Glendale City Court has requested policy and procedure guidelines from the Glendale Police Department on extradition criteria. Glendale Police Department General Orders for Laws of Arrest do not specify protocol for extradition arrests. Scottsdale noted that the extradition criteria for Scottsdale City Court misdemeanor warrants, is within Maricopa County unless otherwise requested by law enforcement and/or ordered by a judge. Tempe noted that they will pick up prisoners from Maricopa County Sheriff's Office Jails only and will not extradite.

Finding 10: It is usual for the local police department to transport defendants arrested on warrants issued from the corresponding local court.

The Avondale Police Department transports for Avondale. Chandler stated that depending on where they are Chandler Police Department transports. Glendale Police Department's Detention Facility conducts transportation of defendants arrested locally on warrants issued out of Glendale City Court. The majority of defendants arrested on Scottsdale City Court warrants are transported by the Scottsdale Police Department. In

Scottsdale, there have been a few limited occasions when the Department of Public Safety conducts a warrant sweep and brings defendants to the court.

In examining the results of the survey, an attempt has been made to relate the varied efforts made in the enforcement of warrants between the subject courts. By weighting the efforts on the following scale:

0 = No use of this element or aspect within the subject court.

1 = Limited or shared use or this element or aspect within the subject court.

2 = Utilization of this element or aspect within the subject court.

Subject courts based on their response are scored from 0 to 24.

Table 3: Survey Findings

| Court | Criminal Cases Per Capita | % of Cases with Warrants | Q1 | Q2 | Q3 | Q4 | Q5 | Q6 | Q7 | Q8 | Q9 | Q10 | Q11 | Q12 | Level of Enforcement Index |
|------------|---|--------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------------------------|
| Avondale | .05 | 55% | 2 | 2 | 0 | 2 | 2 | 0 | 0 | 0 | 2 | 2 | 1 | 0 | 13 |
| Chandler | .08 | 14% | 1 | 0 | 1 | 2 | 0 | 0 | 0 | 1 | 2 | 2 | 0 | 0 | 9 |
| Flagstaff | .27 | 49% | 2 | 2 | 2 | 2 | 2 | 2 | 0 | 1 | 2 | 2 | 1 | 1 | 19 |
| Glendale | .08 | 39% | 2 | 2 | 2 | 2 | 1 | 2 | 2 | 1 | 0 | 0 | 1 | 1 | 16 |
| Goodyear | .06 | 37% | N/A |
| Scottsdale | .14 | 12% | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 2 | 1 | 1 | 8 |
| Tempe | .19 | 29% | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 1 | 2 | 2 | 0 | 0 | 8 |
| Yuma | .11 | 49% | N/A |
| Q1 | How does your court handle cases where the defendant is noncompliant with a court order? | | | | | | | | | | | | | | |
| Q2 | By what criteria do you issue Failure to Pay (FTP) & Failure to Comply (FTC) Warrants? | | | | | | | | | | | | | | |
| Q3 | What enforcement efforts/procedures does your court perform on FTP & FTC Warrant cases prior to them being cleared by arrest? | | | | | | | | | | | | | | |
| Q4 | Does your court have an enforcement unit? | | | | | | | | | | | | | | |
| Q5 | If so does their area of responsibility include warrants? | | | | | | | | | | | | | | |
| Q6 | Does your court view enforcement of warrants as a court function or a law enforcement function? | | | | | | | | | | | | | | |
| Q7 | Does the law enforcement entity that you send your warrants to have a specialized warrant unit? | | | | | | | | | | | | | | |
| Q8 | Does your court have a calendared court time to see defendants on warrants? | | | | | | | | | | | | | | |
| Q9 | Are the FTP Warrants entered into ACJIS and NCIC? | | | | | | | | | | | | | | |
| Q10 | Are the FTC Warrants entered into ACJIS and NCIC? | | | | | | | | | | | | | | |
| Q11 | What is the extradition criteria on warrants issued out of your court? | | | | | | | | | | | | | | |
| Q12 | What agency transports defendants arrested on warrants issued out of your court? | | | | | | | | | | | | | | |

If we use the percent of criminal cases per capita (Figure1) as a general indicator of the level of overall efforts of the local law enforcement agency in relation to criminal cases within the community and the percentage of criminal cases with warrants as an indicator of how forceful a particular court is in the enforcement of its orders, then we can begin to draw some comparisons. Looking at the relationship between law enforcement efforts and the attitude of the court we see:

Table 4: Law Enforcement and the Courts

| Court | Criminal Cases Per Capita | % Of Cases with Warrants |
|--------------|----------------------------------|---------------------------------|
| Avondale | .05 | 55% |
| Goodyear | .08 | 37% |
| Chandler | .27 | 14% |
| Glendale | .08 | 39% |
| Yuma | .06 | 49% |
| Scottsdale | .14 | 12% |
| Tempe | .19 | 29% |
| Flagstaff | .11 | 49% |

Finding 11: There is no correlation between the efforts of law enforcement and the efforts of the courts issuing warrants on cases.

The results indicate that even though some communities show a correlation between the enforcement of laws by local law enforcement and a culture of enforcement within the court, there is no consistency. Note that Avondale Municipal Court, which although it has the lowest number of criminal cases per capita, has the highest number of cases with warrants. Due to the lack in correlation of these measurements we can see that the separation between executive branch attitudes (law enforcement efforts) and judicial branch attitudes (aggressive or non-aggressive use of warrants) remain intact with the subject communities.

Since the issuance of warrants is at the discretion of the bench we can assume that the use of warrants reflects the culture of a particular court's judges (percentage of cases with warrants, see Figure 2). The level of enforcement regarding those warrants is an administrative function and is reflected in the level of enforcement index.

Comparing these two elements:

Table 5: Warrants and Enforcement Efforts

| Court | % of Cases with Warrants | Level of Enforcement Index |
|--------------|---------------------------------|-----------------------------------|
| Scottsdale | 12% | 8 |
| Chandler | 14% | 9 |
| Tempe | 29% | 8 |
| Goodyear | 37% | N/A |
| Glendale | 39% | 16 |
| Yuma | 49% | N/A |
| Flagstaff | 49% | 19 |
| Avondale | 55% | 13 |

Finding 12: There is a clear correlation between those courts, which have a judicial culture of holding defendants accountable with regards to orders of the court and the emphasis placed on enforcement of those orders.

Unquestionably the courts of Scottsdale, Chandler and Tempe issued the fewest number of warrants for their criminal cases while also having the lowest scores in relation to enforcement efforts by the court. It is also obvious that Yuma, Flagstaff and Avondale showed an attitude by the judges that orders of the court should not be taken lightly and this judicial attitude is reflected in the administrative efforts of the court in regards to warrant enforcement.

Overall, these findings indicate a broad spectrum of policies and procedures on how the comparison courts issue and enforce the warrants generated out of each

respective court. The variance is significant due to the judicial discretion they choose to exercise in administering their cases.

Conclusions and Recommendations

The variances between the comparison courts are due to the very structure of municipal courts. Judicial discretion affords the opportunity for individual courts to manage cases in the way that the presiding judge sees fit, and for the individual judge, in individual cases. It is difficult to gage the effectiveness of issuing warrants on cases and arresting defendants on said warrants; in contrast, with taking the approach of forwarding the case to a collections agency that would ultimately impact the defendant's credit history. The Flagstaff Municipal Court utilizes both approaches; but how is success determined? When dealing with the effectiveness of the court order how does one measure what counts? For the judicial branch of government arguably what counts is ensuring that laws are administered in a just manner, deterring violations of the law and the effectiveness of the court order. Courts may be able to take a systematic approach, assessing the outstanding court ordered monetary obligations; much like, The Missouri State Auditor Report did, and use the information obtained to assess the effectiveness of any given program. But whose responsibility is it? It is not covered in CourTools; and if it is not measured, does it not count? It is strange that issuing a warrant for FTP and FTC is arguably the courts last resort to gain compliance in a criminal case yet only one of the comparison courts allocates resources for the purpose of warrant enforcement. Statistics are few and far between on this topic and the current state case management system lacks the ability to make a determination on whether or not resources should or should not be allocated to warrant enforcement.

A Crystal Report was created from the Flagstaff Municipal Court's Aztec case management database of all post adjudicated warrants issued in 2012. There were a

total of 1140 warrants issued; while the total amount of post adjudicated warrants quashed numbered 839. Therefore in 2012, 74% of post adjudicated warrants issued have been quashed. Based on the high number of criminal cases in the Flagstaff Municipal Court along with the large percentage of cases with warrants, we see that the warrant enforcement program does have a positive impact on the number of outstanding warrants. This data, if measured across each individual court, would facilitate the discussion. But we need to have the ability to dig down further. Once the warrant has been quashed, what happened on the case? Was a subsequent warrant issued for FTP or FTC? Was the case closed due to all court orders being satisfied? Is the case languishing on the file shelf with no further action being taken? Answers to these questions would assist in determining the effectiveness of enforcement efforts.

Conclusion 1: Warrant issuance and enforcement is a largely overlooked piece of information. The inability to measure clearance rates of warrants means that this important metric is unknown. How long are warrants active on any particular case? How many have been issued on any particular case? Once the warrant has been quashed, what is the time frame until the case has been completed? Does issuing warrants on cases bring cases into compliance? Is it more effective to report FTP cases to a credit bureau instead of issuing a warrant? Warrant issuance and enforcement is long overdue for a systematic policy approach.

Recommendation 1: Begin tracking statistics on warrants. As a part of a court's ongoing review of their case management process they should include a specific review of criminal warrant issuance, enforcement, clearing and quashing policy and

procedures. This review should include warrant specific metrics and the establishment of a benchmark for the specific court.

Conclusion 2: While the issuance of warrants is one of the main tools courts have in gaining compliance with court orders their use is applied inconsistently across the courts. The degree of effort in the use of warrants is dependent upon the local culture and the individual judge's attitude toward the need to enforce compliance. Some courts are depending on the executive branch to enforce warrants, while others see it as their own responsibility to follow through with the enforcement of the court orders.

Recommendation 2: Create accountability in the courts by pulling the numbers of warrants issued and compare that number to the number of arrests or warrant clearance rates. If this is done on a statewide basis it would create a baseline for courts to compare the impact of their efforts. This fairly easy measurement would assist in checks and balances of the executive branch, in the instances that they are responsible for warrant enforcement efforts.

Conclusion 3: Because there is a lack of consistency in the application of various enforcement efforts across the courts there is the danger of the perception of unequal application of the law from court to court. This may undermine a major purpose of the judicial branch, "to appear to do justice in individual cases." Some form of focused enforcement and follow-up on warrants issued, appears to create an improvement in the clearance of warrants. While the variance in the programs and efforts of the courts that participated in this study is significant in regards

to warrant enforcement, making some efforts towards the enforcement of warrants was needed in order to make sure that the orders of the court were fulfilled.

Recommendation 3: Clear, detailed and consistent enforcement approaches should be encouraged in all the courts. While one approach to creating consistency in the enforcement of warrants across the courts could be to eliminate all enforcement efforts within the judicial branch towards warrants; this would mean the judicial branch would be abdicating a major constitutional authority afforded it and placing full dependence on another branch of government for the efficacy of its orders. A review of Arizona Rules of Court with an emphasis on additional enforcement protocols would be another approach. Recommendations to the Supreme Court for additional rules regarding enforcement could result in an increase in consistency in efforts across all the courts in the state.

Conclusion 4: Warrant enforcement programs may be a financially savvy approach to cost containment in fiscally difficult times. Costs of booking and incarceration vary from jurisdiction to jurisdiction so the actual cost savings will vary, but these costs are often borne by the court from which a warrant is issued. Finding ways to reduce these costs by having defendants appear before a judge to resolve warrant issues prior to booking is a simple way to reduce these costs. In courts that have a large number of warrants issued, enforcement programs may reduce the overall costs of operation.

Recommendation 4: Courts should do a cost comparison of creating a warrant enforcement program to that of current costs associated with the management of warrants. This includes issuance, warrant entry and tracking, costs to

law enforcement for warrant contacts, booking costs, incarceration costs, appearance before a judicial officer, staff time, records management, clearance and quashing.

Conclusion 5: Of the purposes of the courts notated in this study the two that stand out in relation to warrants and their enforcement are 1) deterring criminal behavior and 2) separating certain individuals from society. Both of these purposes are supported by a judicial culture that regards the efficacy of court order as a critical function of a well performing court.

Recommendation 5: Courts should accept a portion of the responsibility for the enforcement of their orders. Abdication of the element solely to the executive branch places a critical element of court purpose and responsibility in the hands of another branch of government.

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Appendix A

MUNICIPAL COURTS RANKED BY TOTAL CASES FILED FISCAL YEAR 2012

| County | Court ID# | Court Name | Ranked Order | Total Cases Filed | Total Cases Terminated |
|-----------------|-------------|-------------------|--------------|-------------------|------------------------|
| MARICOPA | 741 | PHOENIX | 1 | 280,070 | 288,565 |
| PIMA | 1041 | TUCSON | 2 | 191,833 | 273,753 |
| MARICOPA | 745 | MESA | 3 | 126,498 | 133,453 |
| MARICOPA | 751 | SCOTTSDALE | 4 | 101,839 | 100,375 |
| MARICOPA | 753 | TEMPE | 5 | 76,551 | 82,126 |
| MARICOPA | 759 | EL MIRAGE | 6 | 65,059 | 30,684 |
| MARICOPA | 747 | GLENDALE | 7 | 33,885 | 41,075 |
| MARICOPA | 748 | CHANDLER | 8 | 31,809 | 34,437 |
| MARICOPA | 766 | GILBERT | 9 | 25,554 | 27,724 |
| YAVAPAI | 1347 | PRESCOTT VALLEY | 10 | 25,246 | 26,451 |
| GILA | 447 | STAR VALLEY | 11 | 18,198 | 15,994 |
| YUMA | 1441 | YUMA | 12 | 18,092 | 20,342 |
| COCONINO | 341 | FLAGSTAFF | 13 | 17,986 | 20,938 |
| MARICOPA | 750 | PEORIA | 14 | 17,473 | 22,207 |
| MARICOPA | 761 | SURPRISE | 15 | 16,168 | 18,871 |
| GILA | 443 | GLOBE | 16 | 15,857 | 10,136 |
| MARICOPA | 765 | PARADISE VALLEY | 17 | 14,588 | 18,973 |
| YAVAPAI | 1343 | PRESCOTT | 18 | 12,227 | 11,693 |
| NAVAJO | 945 | SHOW LOW | 19 | 10,547 | 11,746 |
| PIMA | 1044 | MARANA | 20 | 9,916 | 10,955 |
| PINAL | 1142 | CASA GRANDE | 21 | 9,507 | 10,196 |
| MARICOPA | 760 | AVONDALE | 22 | 9,361 | 11,071 |
| MOHAVE | 844 | LAKE HAVASU | 23 | 8,863 | 8,511 |
| MARICOPA | 762 | GOODYEAR | 24 | 8,508 | 9,420 |
| MOHAVE | 842 | BULLHEAD CITY | 25 | 6,994 | 6,954 |
| SANTA CRUZ | 1241 | NOGALES | 26 | 6,759 | 7,763 |
| MARICOPA | 743 | BUCKEYE | 27 | 6,356 | 6,691 |
| PIMA | 1045 | ORO VALLEY | 28 | 6,161 | 6,480 |
| YUMA | 1447 | SAN LUIS | 29 | 5,595 | 5,792 |
| PIMA | 1042 | SOUTH TUCSON | 30 | 4,987 | 6,854 |
| MOHAVE | 841 | KINGMAN | 31 | 4,927 | 5,259 |
| PINAL | 1144 | MARICOPA | 32 | 4,794 | 4,725 |
| PINAL | 1149 | APACHE JUNCTION | 33 | 4,356 | 5,324 |
| COCHISE | 242 | DOUGLAS | 34 | 4,133 | 4,319 |

| | | | | | |
|------------|------|------------------|----|-------|-------|
| PINAL | 1143 | ELOY | 35 | 4,062 | 4,705 |
| YAVAPAI | 1354 | CAMP VERDE | 36 | 3,000 | 3,382 |
| YAVAPAI | 1346 | SEDONA | 37 | 2,892 | 3,329 |
| YAVAPAI | 1342 | COTTONWOOD | 38 | 2,736 | 2,375 |
| COCONINO | 345 | PAGE | 39 | 2,734 | 3,201 |
| MARICOPA | 754 | TOLLESON | 40 | 2,652 | 3,690 |
| PIMA | 1046 | SAHUARITA | 41 | 2,219 | 2,809 |
| MARICOPA | 757 | WICKENBURG | 42 | 2,155 | 2,738 |
| MARICOPA | 742 | FOUNTAIN HILLS | 43 | 2,074 | 2,435 |
| YAVAPAI | 1353 | CHINO VALLEY | 44 | 1,915 | 2,158 |
| PINAL | 1148 | COOLIDGE | 45 | 1,620 | 2,138 |
| GILA | 444 | PAYSON | 46 | 1,594 | 1,812 |
| LA PAZ | 1541 | QUARTZSITE | 47 | 1,538 | 1,661 |
| GRAHAM | 541 | SAFFORD | 48 | 1,423 | 1,506 |
| YUMA | 1442 | SOMERTON | 49 | 1,412 | 1,917 |
| MARICOPA | 763 | YOUNGTOWN | 50 | 1,201 | 1,098 |
| PINAL | 1141 | FLORENCE | 51 | 1,201 | 1,367 |
| MARICOPA | 764 | GUADALUPE | 52 | 1,175 | 1,388 |
| COCHISE | 248 | HUACHUCA CITY | 53 | 1,052 | 1,060 |
| SANTA CRUZ | 1242 | PATAGONIA | 54 | 954 | 812 |
| MARICOPA | 767 | CAREFREE | 55 | 940 | 1,003 |
| MARICOPA | 768 | CAVE CREEK | 56 | 932 | 933 |
| LA PAZ | 1546 | PARKER | 57 | 918 | 1,093 |
| NAVAJO | 949 | PINETOP/LAKESIDE | 58 | 775 | 1,084 |
| COCONINO | 342 | WILLIAMS | 59 | 750 | 829 |
| YAVAPAI | 1349 | JEROME | 60 | 722 | 787 |
| GRAHAM | 546 | THATCHER | 61 | 719 | 847 |
| MARICOPA | 769 | LITCHFIELD PARK | 62 | 689 | 873 |
| NAVAJO | 942 | WINSLOW | 63 | 558 | 833 |
| PINAL | 1140 | SUPERIOR | 64 | 546 | 733 |
| APACHE | 145 | EAGAR | 65 | 512 | 678 |
| APACHE | 141 | SPRINGERVILLE | 66 | 511 | 576 |
| GREENLEE | 641 | CLIFTON | 67 | 461 | 473 |
| COCONINO | 343 | FREDONIA | 68 | 395 | 310 |
| NAVAJO | 941 | HOLBROOK | 69 | 367 | 475 |
| YAVAPAI | 1355 | DEWEY-HUMBOLDT | 70 | 355 | 375 |
| COCHISE | 247 | TOMBSTONE | 71 | 334 | 448 |
| YUMA | 1443 | WELLTON | 72 | 325 | 406 |
| MOHAVE | 845 | COLORADO CITY | 73 | 303 | 316 |
| GILA | 441 | MIAMI | 74 | 264 | 359 |
| PINAL | 1147 | KEARNY | 75 | 258 | 272 |

| | | | | | |
|----------|------|--------------|----|-----|-----|
| YAVAPAI | 1348 | CLARKDALE | 76 | 226 | 268 |
| MARICOPA | 746 | GILA BEND | 77 | 214 | 243 |
| APACHE | 142 | ST. JOHNS | 78 | 202 | 251 |
| GRAHAM | 542 | PIMA | 79 | 153 | 201 |
| GILA | 442 | HAYDEN | 80 | 129 | 164 |
| GILA | 446 | WINKELMAN | 81 | 86 | 95 |
| COCHISE | 245 | SIERRA VISTA | 82 | 59 | 185 |
| PINAL | 1145 | MAMMOTH | 83 | 38 | 108 |

Appendix B

Comparative Analysis of Arrest Warrant Issuance and Enforcement Questionnaire

I am requesting your assistance in completing the below questionnaire to answer specific warrant processing policies and practices. The answers to the questions will aid me in conducting a research project entitled: Comparative Analysis of Arrest Warrant Issuance and Enforcement. The focus of this project is to assess the effectiveness of the Flagstaff Municipal Court warrant enforcement unit in holding defendants accountable for their post adjudication court orders.

- 1 How does your court handle cases where the defendant is noncompliant with a court order?

- 2 By what criteria do you issue Failure to Pay (FTP) & Failure to Comply (FTC) Warrants?

- 3 What enforcement efforts/procedures does your court perform on FTP & FTC Warrant cases prior to them being cleared by arrest?

- 4 Does your court have an enforcement unit?
 Yes
 No
Additional Comments:
- 5 If so does their area of responsibility include warrants?

- 6 Does your court view enforcement of warrants as a court function or a law enforcement function?
 Court function
 Law enforcement function
Additional Comments:
- 7 Does the law enforcement entity that you send your warrants to have a specialized warrant unit?
 Yes
 No
Additional Comments:
- 8 Does your court have a calendared court time to see defendant's on warrants?
 Yes
 No
Additional Comments:

9 Are the FTP Warrants entered into ACJIS and NCIC?

Yes

No

10 Are the FTC Warrants entered into ACJIS and NCIC?

Yes

No

11 What is the extradition criteria on warrants issued out of your court?

12 What agency transports defendants arrested on warrants issued out of your court?

Appendix C

Summarized Policies and Procedures

Avondale Municipal Court follows the Administrative Office of the Courts, Court Services Division. (2012). *Best Business Practices*. This states that, "Court Ordered Enforcement: The courts should take enforcement action (letters, OSC, Warrant, etc.) as soon as possible, however, no later than 30 days from date of non-compliance." ("Best Business Practices," 2012). The Avondale Municipal Court does not have a specific warrant enforcement unit.

Chandler Municipal Court will issue a warrant for a defendant's arrest when they fail to pay on a criminal case and/or fail to appear for their Notice for Failure to Pay Review (NFPR). The Chandler Municipal Court will also impose a \$125.00 warrant fee per warrant. The Judicial Enforcement Unit will issue warrants for defendants who fail to pay and/or have failed to appear at their NFPR on a daily basis. Staff also has the ability to recommend warrants be issued for defendants who have not supplied the court with a valid address, who have had three letter for failure to pay issued consecutively, and/or have had three pay order revisions issued consecutively with no payments ever made during this time. The Chandler Municipal Court does not have a specific warrant enforcement unit.

Glendale City Court's procedures on generating an order to show cause warrant for failure to pay, specify that an Order to Show Cause Warrant A.R.S. §13-810 will be issued when a defendant does not comply with payment terms for an outstanding criminal monetary court order. The discussion section identifies the ability to appropriately identify the conditions under A.R.S. §13-810 whether an order to show

cause warrant for failure to pay should be issued in the event that a case has been audited and is found to have a remaining balance owed. Glendale City Court's procedures on generating a warrant for failure to pay on probation cases, detail that a petition to revoke probation warrant be issued for cases when a defendant does not comply with payment terms for an outstanding criminal monetary court order while on probation. Further discussion require the ability to appropriately identify when an order to show cause warrant should issue under A.R.S. §13-810 or whether a petition to revoke probation warrant under A.R.S. §13-901(c) should issue in the event when a case has been audited, the defendant is on probation and a remaining balance is owed. Additionally, if a petition to revoke probation warrant is generated, a petition to revoke probation form needs to be signed the same day that the warrant is generated. Furthermore, a \$75.00 warrant fee is added for every warrant issued. The Glendale Police Department has assigned two police officers to The Glendale Municipal Court for the purpose of court warrant enforcement.

The Goodyear Municipal Court agreed to provide their policies and procedures, but failed to do so within the appropriate time frame and therefore they were not analyzed, however for the purpose of this study the numbers reported to the Arizona Supreme Court were still taken into account.

The Flagstaff Municipal Court is similar to The Glendale City Court in the process of issuing a warrant under A.R.S. §13-810 or A.R.S. §13-901(c). However, the A.R.S. §13-901(c) probation warrant is only generated by the Flagstaff Municipal Court's Probation Officer; no other court employees are permitted to generate this type of warrant.

Scottsdale Municipal Court adheres to *Best Business Practices* as the authority in issuing arrest warrants. In their policies and procedures it notes that, “a warrant represents the exercise of judicial power following a person’s failure to appear or to comply with court orders. The exercise of that power must be done very carefully, assuring that warrants are issued appropriately. When a defendant 18 years of age or older fails to appear in court as ordered, or fails to comply with a court order in a criminal matter, the judge may order a warrant for the defendant’s arrest. The warrant commands any peace officer within the state to arrest the person named on the warrant and bring that person before the judge; however the extradition radius is typically within Maricopa County unless otherwise requested. Every warrant contains a bond amount or an order that the defendant is to be held without bond. The bond is the amount to be posted on the defendant’s behalf to secure the defendant’s release from custody.” The Scottsdale Municipal Court does not have a specific warrant enforcement unit.

Tempe Municipal Court’s purpose is to ensure that warrants are issued in a timely and accurate manner and to ensure that the correct type of warrant is issued. There are two types of warrants issued by this court. The type of hearing missed determines the type of warrant issued. An A.R.S. §13-3904 warrant adds a new misdemeanor charge to the defendant’s case, and an A.R.S. §13-2506 does not add a new charge. Tempe Municipal Court specifies between a cash only bond and a secured appearance bond. Tempe Municipal Court does not have a specific warrant enforcement unit.

The Yuma Municipal Court provided their policies and procedures, which note that once the warrant is issued, the defendant must pay the fine in full in order to quash

the warrant. Furthermore, it is noted that if the defendant comes in voluntarily, they will be directed to the judicial enforcement unit and it will be determined whether or not the defendant should be arrested. Unfortunately, upon numerous attempts to gain further information or conduct a site visit, no communications were returned from the Yuma Municipal Court.

Summarized Responses to the Questionnaire

Question number one: How does your court handle cases where the defendant is noncompliant with a court order?

Responses to question number one:

In Avondale Municipal Court, the file is forwarded to the judge for review. The judge will then issue either an Order to Show Cause Hearing or a Failure to Pay or Failure to Comply Warrant. Typically the first noncompliance is met with an Order to Show Cause Hearing and upon the second occurrence of noncompliance a warrant will be ordered by the judge. If the case has a probation component, the court will track the court orders and upon discovery of noncompliance, the judge will order for the file to be forwarded to the prosecutor for the preparation of a petition to revoke probation.

Chandler stated that their process varies depending on the type of case that involves the non-compliance. During the site visit, because of the low number of warrants issued, (only 14%, the second lowest of the comparison courts) further discussion was had on this question. In Chandler, the court's unwritten policy is to either issue a warrant or enter the case into Fines/Fees and Restitution Enforcement Program (FARE); typically not both actions would be taken on a single case. Most failure to pay cases are entered into FARE for enforcement. The FARE Program is a statewide project of the judicial

branch with the objective of compliance with court orders to gain efficiencies in the collection process.

In Glendale, if the noncompliance is specifically for failure to pay, a court clerk will contact the defendant after one missed payment to discuss payment options and consequences for further failure to pay. If a second payment is missed, they proceed to an immediate Failure to Pay warrant and file a petition to revoke probation if applicable. If a warrant is necessary for issues other than failure to pay it refers to a separate procedure.

The Scottsdale Municipal Court, states that if a defendant is noncompliant with a court order; the court will set an Order to Show Cause Hearing for noncompliance of a program or jail, set a nonpayment of fine review (NPFR) for noncompliance of fines/fees, or notify the prosecutor if the defendant is on probation. The prosecutor will file a petition to revoke probation and the court will set a probation violation arraignment (PVA). Fail to appear at an Order to Show Cause Hearing or probation violation arraignment will result in a warrant being issued.

The Tempe Municipal Court will set the case for an Order to Show Cause Hearing.

Question number two: By what criteria do you issue Failure to Pay (FTP) & Failure to Comply (FTC) Warrants?

Responses to question number two:

Avondale stated, at the time of the survey, that they recently had an operational review conducted by the Administrative Office of the Courts. One recommendation from the operational review was to process failure to pay and failure to comply warrants based on the *Best Business Practices* issued by the Administrative Office of the Courts,

Courts Services Division. They stated that they are currently following the recommendation, which is to “take enforcement action as soon as possible, however, no later than 30 days from the date of non-compliance” (The Administrative Office of the Courts, Court Services Division. (2012). *Best Business Practices*).

In Chandler, on their FTP cases, a FTP notice is mailed to the defendant or an Order to Show Cause Hearing is set on the calendar. Continued non-compliance will result in a driver’s license suspension or this issuance of a FTP warrant. On FTC cases, probation will monitor with probation reviews then request appropriate action which could result in a FTC warrant.

In Glendale, FTP warrants are issued when a defendant misses their second scheduled payment or when a defendant fails to set up a payment arrangement by a specific date ordered by the judge. The warrant becomes an immediate action following a judge’s order (signature). The failure to comply warrant is issued at the discretion of the judge. It is also at the judge’s discretion whether to order a summons or warrant for FTC and FTP.

The Scottsdale City Court does not issue FTP warrants. Fail to Comply warrants are issued when a defendant fails to appear for an Order to Show Cause Hearing, or probation violation arraignment; or if the court is unable to notify the defendant of a violation due to the lack of a current valid address. If the defendant fails to appear for the nonpayment of fine review, the court will begin collection proceedings.

In Tempe, if the defendant fails to appear at their Order to Show Cause Hearing, the judge orders a warrant to be issued.

Question number three: What enforcement efforts/procedures does your court perform on FTP & FTC Warrant cases prior to them being cleared by arrest?

Responses to question number three:

Avondale specifies none and Chandler noted no response to the question. In Glendale, defendants are given the option to pay and set up new payment arrangements prior to seeing a judge to clear FTP arrest warrants. Two fulltime Glendale Police Department warrant officers attempt phone and physical contact with defendants prior to any arrest for financial noncompliance. FTC enforcement efforts are imposed at the discretion of the judge prior to the issuance of a warrant or summons. In Scottsdale, notification to the defendant when the warrant is issued, and warrant reviews are set out five years for each case when the warrant is issued. Tempe noted that once the case has an active warrant; no enforcement action is taken by the Court.

Question number four: Does your court have an enforcement unit?

Responses to question number four:

Avondale noted yes and specified a senior court clerk who handles collections. Chandler also noted a yes; they have a Judicial Enforcement Unit (Court Collections) and also have probation monitoring officers. Glendale City Court responded yes, they fund two full-time warrant officers employed by the Glendale Police Department rather than the court, to enforce FTP warrants. Scottsdale responded no, that they do have staff dedicated to processing compliance and noncompliance of all court orders, but do not have an enforcement unit. Tempe responded with an answer of no. Flagstaff and Glendale are the only courts that have a warrant specific enforcement unit.

Question number five: A follow up question to question number four stating: If so does their area of responsibility include warrants?

Responses to question number five:

Avondale responded yes, if a case is non-compliant it is sent to the judge for judicial review. The judge reviews each non-compliant case and will order an Order to Show Cause Hearing or a FTP warrant. Chandler's response noted that the judicial enforcement unit has the authority to recommend a warrant to be issued by the judge. Glendale specified that the warrant officers' full-time responsibilities include collections on unpaid and overdue court fines and fees. The bulk of their work is performed in the field. Scottsdale and Tempe, noted no response.

Question number six: Does your court view enforcement of warrants as a court function or a law enforcement function?

Responses to question number six:

Avondale, Chandler, Scottsdale and Tempe answered that it was a law enforcement function. Glendale City Court views this as a court function, they noted that "in order to remain impartial and ethically adhere to governmental separation of power. Once it proceeds to warrant the court must continue to view it as a court function to further honor the separation of powers."

Question number seven: Does the law enforcement entity that you send your warrants to have a specialized warrant unit?

Responses to question number seven:

Avondale and Chandler both replied no to this question. Glendale replied yes, that the failure to pay warrants is forwarded to the court's specialized warrant officers.

For certain domestic violence cases the Glendale Police Department conducts warrant round-ups periodically by a specialized team of family violence officers. Scottsdale replied no, and further noted that Scottsdale Police Department does not currently have a warrant unit for misdemeanor warrants. Scottsdale City Court provides the police department with real time reports in which they can access active warrants for driving under the influence cases, active warrants with addresses in the city's jurisdiction, domestic violence warrants, warrants by zip code, and quashed warrants. Tempe replied no to the question.

Question number eight: Does your court have a calendared court time to see defendant's on warrants?

Responses to question number eight:

Avondale noted that if they have a walk in during normal business hours they are told they have to post the bond to quash warrant. If they want to self surrender they are told they may do so at the Avondale Detention Facility. Chandler has a walk-in docket available during specific hours to ensure a judge is available. Glendale replied no, that defendants have the option to see the judge on a walk-in basis to address any specific outstanding warrant during normal business hours. Scottsdale, yes, the court will rule on walk in motions to quash warrants Monday through Friday from 8:30 – 12 and 1:30 - 4:30. Each courtroom has one or two days a week in which they are assigned all walk in motions as well as any set calendar events. Walk in motions include motions to quash warrants. Tempe noted yes, that they have a walk-in docket Monday through Friday between 9AM and 11:30AM.

Question number nine: Are the FTP Warrants entered into ACJIS and NCIC?
(ACJIS is the Arizona Criminal Justice Information System and NCIC is the National Crime Information Center)

Responses to question number nine:

Avondale, Chandler and Tempe reported yes that they are in fact entered. Glendale reported no, that they are not. Scottsdale, reported that this question was not applicable to their court.

Question number ten: Are the FTC Warrants entered into ACJIS and NCIC?

Responses to question number ten:

Avondale, Chandler, Scottsdale, Tempe, all reported that they entered into ACJIS and NCIC. Glendale reported no, they are not entered into ACJIS and NCIC.

Question number eleven: What is the extradition criteria on warrants issued out of your court?

Responses to question number eleven:

Avondale will extradite only within Maricopa County. Chandler, replied that they were unsure, as extradition is a police department function. Glendale City Court has requested policy and procedure guidelines from the Glendale Police Department on extradition criteria. Glendale Police Department General Orders for Laws of Arrest do not specify protocol for extradition arrests. Scottsdale noted that the extradition criteria for Scottsdale City Court misdemeanor warrants are within Maricopa County unless otherwise requested by law enforcement and/or ordered by a judge. Tempe noted that they will pick up prisoners from Maricopa County Sheriff's Office Jails only and will not extradite.

Question number twelve: What agency transports defendants arrested on warrants issued out of your court?

Responses to question number twelve:

The Avondale Police Department transports for Avondale. Chandler stated that depending on where they are Chandler Police Department. Glendale Police Department's Detention Facility conducts transportation of defendants arrested locally on warrants issued out of Glendale City Court. The majority of defendants arrested on Scottsdale City Court warrants are transported by the Scottsdale Police Department. There have been a few limited occasions when the Department of Public Safety conducts a warrant sweep and brings defendants to the court.

Appendix D



Administrative Office of the Courts
Court Services Division
1501 W. Washington
Phoenix, Arizona 85007

Best Business Practices

The information in this manual identifies the recommended court practices which are deemed Best Business Practices. Recommendations identified are not required; however, suggested based on analysis of the court processes

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BEST BUSINESS PRACTICES

COURT ORDERED ENFORCEMENT:

- ◆ The court should take enforcement action (Letters, OSC, Warrant, etc.) as soon as possible, however, no later than 30 days from date of non-compliance.

CRIMINAL – ADVISEMENT OF RIGHTS

- ◆ The court should ensure all guilty plea advisements are documented on the Guilty Plea Proceedings Form pursuant to Rule 41, ARCrP (Form 19).
- ◆ The court should address the issue of attorney fees with the defendant in cases where counsel is appointed.

ADMINISTRATIVE – DATA CLEAN UP REPORTS

- ◆ The court should review and make corrections to the cases identified on the Domestic Violence Exception Report, MVD rejects, and DPS rejects on a daily basis.

CIVIL TRAFFIC – DEFAULTS

- ◆ Civil traffic defaults should be entered within 30 days from the failure to appear date.

DOCKETING

- ◆ The court should document the date that the Final Disposition Report (FDR) was sent to DPS (or the date the Abstract was sent to MVD).
- ◆ The court should reflect the date the warrant was issued (signed) on the docket.

DISPOSITION REPORTING

- ◆ The court should report all dispositions to MVD within 10 days.

CRIMINAL – WARRANTS

- ◆ The court should issue warrants within two business days of ordering the warrant.

BEST BUSINESS PRACTICES

FINANCIAL - DISBURSEMENT

- ◆ Restitution payments that are ordered pursuant to A.R.S §§13-603 and 13-804 should be held by the court pending the outcome of an appeal.

FINANCIAL - RECONCILIATION

- ◆ The court should ensure reconciliation adjustments are researched and resolved within 60 days.

RECORDS DESTRUCTION

- ◆ When a case file is eligible for destruction, the court should take proper precautions to protect the privacy of the individuals identified in the case file and destroy the case file by shredding, burning, or pulverizing the physical case file. Electronic images of case file documents should be deleted from all places in which they reside, including servers and hard drives. Additionally, the court should keep a list, containing minimal case information, e.g., case number, party name, destruction date, which captures all of the case files that are destroyed, so the court will know that a case file has been destroyed and that the case file has not been merely misplaced or never existed.
- ◆ At the direction of the Arizona State Library, Archives and Public Records (A.S.L.A.P.R.), limited jurisdiction courts do not need to notify A.S.L.A.P.R. of records designated for destruction. Any report or certificate of records destruction maintained by the court pursuant to earlier records retention policy, should be retained permanently, pursuant to A.C.J.A. § 4-302(2)(C)(I).