

IMPROVING THE EFFECTIVENESS OF COURT ORDERS ENFORCEMENT IN
AVONDALE CITY COURT



Institute for Court Management ICM
Fellows Program
2014-2015 Court Project Phase
May 2015

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ACKNOWLEDGMENTS

Throughout my tenure with the Avondale City Court, I've experienced two decades worth of time gaining valuable insight to the intricacies and work experiences in the day-to-day operations that go on in the limited jurisdiction city court system. I felt challenged on a personal level and by several of my colleagues to participate and contribute to the ICM - Fellows program.

I had my reservations and I candidly put it out there – my first inclination is I'm not fully convinced I have something noteworthy I could talk about that merits mentioning and more so contributing that *something* that is tangible and of worth to my colleagues and peers. As I sit in my office processing all of this, I see myself going back to twenty years' worth of time spent in the judicial system and marvel at the opportunity to have such experiences – valuable lessons learned, the shortfalls and the successes that has made it worthwhile working in the capacity that I am now. I realize I have poured a lifetime into the Avondale City Court and have something worth writing about.

I read in the ICM Fellows Program the project should be about something relevant to the court and which could be used in other courts. Check. I realized at this precise moment that now is the time to do something about it. I now faced what I desired to do all along and had been seeing all this time. It's time. I shouldn't ignore it. Decision made. I chose to no longer ignore it.

With that being said, I want to thank the City of Avondale for providing the opportunity to improve my education and allowing me to participate in the ICM- Fellow's Program.

A special gratitude to the City Manager's Office - David Fitzhugh and Gina Montes; former City Judge, Richard T. Lynch and current Presiding Judge, Craig L. Jennings for the support and encouragement in believing in me to see this project come to fruition.

Thank you Dan Straub for your encouraging words and vast patience with my antics. Thank you for believing in my ability to complete the project even when I could not.

A special acknowledgement goes to the Court Services Division at the AOC, the judges, court administrators and court staff from the eleven Arizona courts that helped realize this project by providing their time, knowledge, expertise, and information on the subject matter.

Thank you Alyssa, Nicole and Monica for believing in your momma and for giving me the encouragement and support to 'go for it'; for your patience while I was working long hours on weekdays and weekends throughout the duration of this project.

A special thank you to my Mother – Ana Meraz, my five brothers and two sisters, to myself for accomplishing what I believed to be the impossible and last but not least - to my heavenly Father who made it all possible.

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Improving the Effectiveness of Court Orders Enforcement in Avondale City Court

Abril Ruiz-Ortega

ABSTRACT

The Avondale City Court has a problem. The Administrative Office of the Courts (AOC) conducted an operation review and the auditors think the court does not have a proper process to enforce its orders. The Avondale City Court is a court of limited jurisdiction in Maricopa County located in Avondale, Arizona. The Avondale City Court is ranked 12th in total cases filed in Maricopa County (Statistics 2013 Data Report) and hears the following case types:

- Civil Traffic Tickets
- Criminal Misdemeanors (Including Criminal Traffic Cases)
- Orders of Protection
- Injunctions against Harassment
- Cases Involving the Avondale City Property Maintenance Code, Sanitation Code and Fire Code
- Parking Tickets

Enforcement of monetary court obligations is important to all levels of the judicial branch for the satisfaction of monetary obligations and helps sustain local and state programs that depend on the revenue generated from the payment of financial sanctions. Enforcement and diversion compliance with alcohol screening and treatment orders is an essential part of due process and helps maintain the accountability and integrity of cases filed. Enforcement of court orders provides necessary access to justice.

This report was compiled to look at improving the effectiveness of court orders enforcement in Avondale City Court.

The findings from the operational review undertaken by the Administrative Office of the Court indicated that the court does not have an adequate process for the enforcement of monetary court-ordered obligations for mandatory fines, fees, assessments, and surcharges and has not adequately enforced compliance with alcohol screening and treatment orders.

This project addresses two findings of the AOC in addition to the following research questions:

1. Are there significant differences in effectiveness among the comparison courts?
2. What causes those differences?
3. Can those factors be reliably addressed in the context of the Avondale City Court?

Several methods used in this project included: (1) distributing a survey to those courts that have recently received an operational review audit to catalogue their experience – five municipal courts audited the same year as Avondale City Court were of specific interest for comparison purposes; (2) conducting two telephonic interviews of AOC and court staff; (3) conducting site visits and in-person interviews with court staff from five limited jurisdiction courts; and (4) observing procedures used in the five municipal courts that were of particular interest.

The survey responses and literature reviewed suggested several common themes among the courts' responses. Survey respondents indicated a high deficiency in enforcement of monetary court obligations for mandatory fines, fees, assessments, and surcharges and diversion compliance with alcohol and treatment orders. Survey respondents indicated that not all courts have a specific and dedicated enforcement unit

and that not all courts have the same level of court staff tasked with entering the compliance or non-compliance information on court-ordered diversion with alcohol screening at treatment order. The manual process is generally inefficient.

Based on information received from the interviews ministerial duties assigned to staff aided in the court's ability to achieve compliance. In those courts with judicial involvement, the process was more complex. Courts that were slower to obtain compliance did not have staff dedicated to the enforcement of orders, thereby slowing the process; proper automation of processes improved performance. Information further suggests that inadequate statewide training, education, and guidance on best practices for order enforcement persists. All of the courts surveyed noted improvements were implemented to increase compliance. Finally, information collected indicated that both the courts and the AOC view enforcement of orders as an important court function.

The following recommendations are made based on the findings noted above:

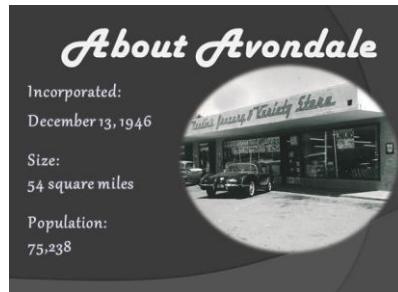
- Minimize judicial involvement in what is essentially a ministerial function.
- Simplify work processes, explore the possibility of implementing improvements made by comparison courts and implement a process for continuously sharing solutions.
- Provide all limited jurisdiction courts with automation similar to that of the Tempe Municipal Court.
- AOC manuals should be periodically updated and accompanied by training for assigned court staff.

Introduction

The Avondale City Court has a problem. The Administrative Office of the Courts (AOC) conducted an operation review and the auditors think the court does not have a proper process to enforce its orders. The Avondale City Court is a court of limited jurisdiction in Maricopa County located in Avondale, Arizona. The Avondale City Court is ranked 12th in total cases filed in Maricopa County (Statistics 2013 Data Report) and hears the following case types:

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Figure 1. About Avondale



Background and Organization

Arizona historical background.

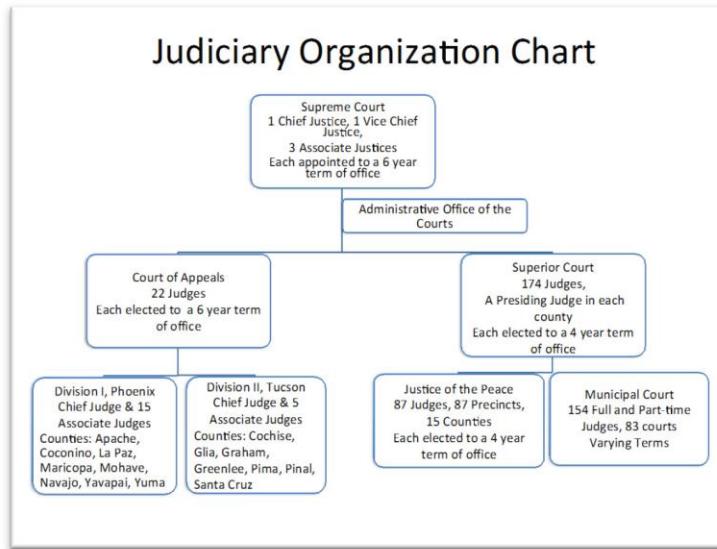
On December 9, 1910, Article VI of Arizona's Constitution created the judicial system and the Arizona Legislature established police (municipal) courts for each incorporated cities and towns three years after. By 1960 the Modern Courts Amendment was approved by the voters, which gave the Arizona Supreme Court

Administrative supervision over all courts of the state and the authority to make rules governing all procedural matters in any court as well as authorizing the creation of the court of appeals.

Three levels in today's court system.

There are three levels in the Arizona court system: (1) the limited jurisdiction which comprises of justice and municipal or city courts, (2) the general jurisdiction court which is Superior Court and (3) the appellate court which has two divisions. In the State of Arizona, there are five Supreme Court Judges who are appointed by the Governor, each elected to serve a six-year term. In Maricopa County, there are twenty-three Municipal (or city) courts and seventy-five Full and Part-time Judges with varying terms.

Figure 2. The Arizona Court System:



Municipal Courts

The Avondale City Court is one of 23 municipal courts in Maricopa County in the State of Arizona. It wasn't until 1913 the Arizona Legislature established police courts

(municipal court for each of the state's incorporated cities and towns). (Azcourtsgov - Arizona Judicial Branch, n.d.) City courts are non-record courts. Most keep a record of court proceedings although not required to do so.

Figure 3. Arizona Municipal Courts

Municipal Courts 154 Full- and Part-time Judges, varying terms					
	Judges	Courts		Judges	Courts
Apache	3	3	Mohave	5	4
Cochise	5	5	Navajo	4	4
Coconino	5	4	Pima	17	5
Gila	7	6	Pinal	9	9
Graham	3	3	Santa Cruz	2	2
Greenlee	1	1	Yavapai	12	9
LaPaz	2	2	Yuma	5	4
Maricopa	75	23			

Although city courts are considered non-record courts, the justice, integrity, efficiency and transparency of case processing are at the top of every judge and court administrator's core values. Many people think courts are such a mystery and complex in nature. They are fearful when they have to make a court appearance. They do not know what to expect. Streamlining and creating user-friendly processes for limited jurisdiction courts help in taking away such notions.

Terms You Need to Know

There are certain court related process terms that are important in the Limited Jurisdiction Courts and applicable for the specific purposes of this research paper. Six

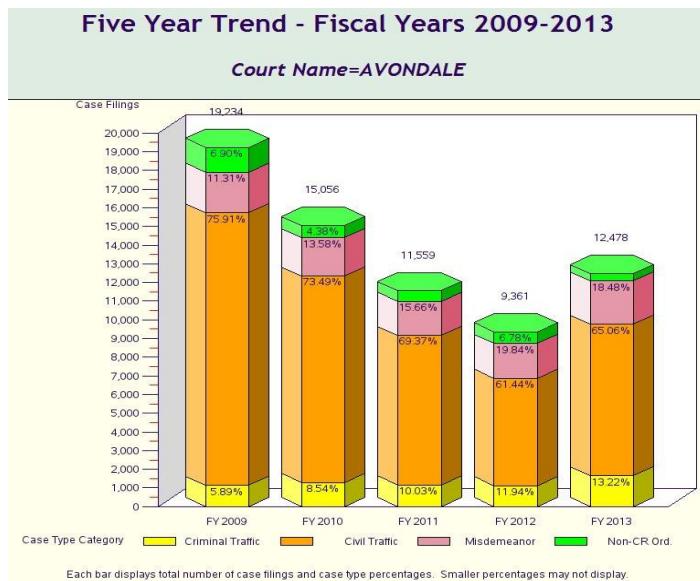
of them are listed below for reference.

- **Initial Appearance (IA):** First appearance in court by the defendant in a criminal case. Under federal case law, an arrested person must appear before a judicial officer to be advised of charges and rights, including the right to have an attorney. At this time, a public defender would be appointed if the defendant couldn't afford to hire counsel. Bond may be set. (Avondale AZ - Official Website, 2014)
- **Arraignment:** Criminal proceeding in which the defendant, in open court, must answer criminal charges by entering a plea of guilty or not guilty. Defendant either must be represented by a lawyer or waive his/her right to legal counsel. (Avondale AZ - Official Website, 2014)
- **Misdemeanor:** A classification for offenses which are less serious than felonies; a misdemeanor is punishable by a sentence other than being placed in the custody of the Department of Corrections. (Avondale AZ - Official Website, 2014)
- **Post-adjudication:** Activities occurring after a judicial decision or sentencing.
- **Non-compliance:** A defendant's status after not complying with sentencing requirements.
- **Order to Show Cause:** A court order requiring the defendant to appear in court to and show cause why the defendant should be held in contempt of court for his/her failure to comply with court order.

The Avondale City Court is one of several limited jurisdiction courts in Arizona that is solely and locally funded by its respective city. Avondale City Court's mission statement is "To serve the public by administering the law, rendering decisions fairly and promptly with courtesy and respect to all." (City Court, 2014) The court has a total of thirteen court employees, including one City Judge, one Court Administrator, one Court Security Officer, a Supervisor, a Senior Court Clerk, two Court Clerk III's, two Court Clerk II's and four Court Clerk I's.

Figure 4 illustrates the Avondale City Court's total caseload filings by case types during the most recent five-year period.

Figure 4. Five Year Trend – FY 09-13



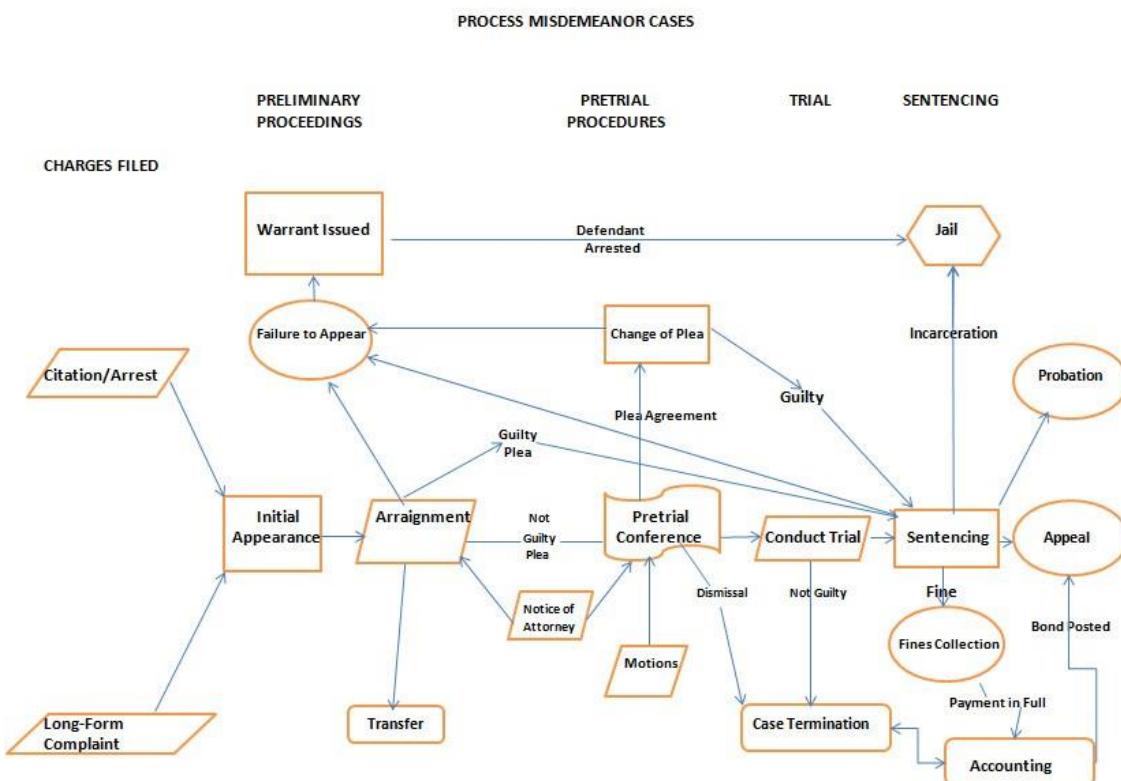
Prior to the operational review, the court's business practice in monitoring cases ordered to pay a fine, confinement, and diversion was to process calendar cases as follows:

- Payment orders set on a weekly/monthly basis,
- Confinement orders set out on a monthly basis,
- Diversion programs with alcohol screening and treatment set out 90 days and reviewed monthly

The Process

A typical Wednesday morning's criminal misdemeanor docket follows the process described in Figure 5.

Figure 5. The Misdemeanor Process



A complaint is filed with the court and the defendant appears on the court date.

The defendant is arraigned and visits the city prosecutor. The defendant accepts a plea agreement offered by the city prosecutor and is seen by the Judge in the courtroom. A plea of guilty is entered on a driving under the influence (DUI) charge.

The defendant is ordered to ten days jail; nine days suspended upon successful completion of a court approved alcohol/drug screening diversion program and any counseling/education/classes as recommended by screening; unsupervised probation and ordered to pay a fine of \$1600.

The defendant goes back to the courtroom clerk to receive a copy of the court proceedings. If the fine cannot be paid in full a financial questionnaire is provided to the

defendant to fill out to receive a payment plan. The defendant is directed to return the form to the collections clerk. The diversion agency is available to conduct the screening assessment for the diversion program the defendant is ordered to complete. The financial questionnaire is given to the collections clerk; the defendant signs it and is given his copy of the monthly payment plan. The case is placed on the payment calendar according to the payment plan ordered.

Throughout the course of the day's docket, the courtroom clerk records each case according to the judgment and sentencing order. A case may have one or all-sentencing components: fine, confinement, diversion and probation. Those applicable to each case is entered in the case management system. The case is scheduled on the diversion calendar and ("tickled") ninety days out from the sentencing date. This is done to enable the court to process any non-compliance cases and get the defendant to return to court through an Order to Show Cause, receive a second order and eventually comply prior to the ninety days ending.

Of course, non-compliance may occur during this ninety day window. The defendant does not contact the diversion agency to schedule an appointment for screening and treatment or fails to appear for the scheduled appointment. The court then receives a screening summary indicating the failed attempts to contact the defendant.

The clerk docketts the non-compliance in the case management system and forwards the case to the clerk tasked with preparing and forwarding the case for the judge to review. Based on the judicial review the judge will mandate an Order to Show

cause and returns the case to the clerk who then generates the order, mails the defendant a copy and registers the case for a future court date.

If the defendant is placed in a treatment program the diversion agency sends the court a screening summary report indicating the type of treatment. The clerk logs an entry in the case management system noting that the court received the summary report. The case is not pulled since it is in good standing and compliant. The final step occurs when the court receives notice of the defendant's compliance in the treatment program.

The Operational Review

Article 6, Section 3, of the Arizona Constitution gives the Supreme Court administrative supervision of all courts in the state. By directive of the Chief Justice, the Administrative Office of the Court's through its Court Operations Unit conducts operational review evaluations of Arizona's courts. Any court may be selected for review for the following reasons: (1) a request by the judge, (2) a reported issue, (3) and or because one has not been previously performed on the court. Court operational reviews are conducted in which Administration, Case Management and Financial Management are evaluated on both the General and Limited Jurisdiction Courts to ensure courts are in compliance with the applicable rules and regulations.

Auditors from the AOC in a routine operational review of the Avondale City Court found the following: The court needs to enforce alcohol screening and treatment orders and to timely enforce monetary court-ordered obligations for mandatory fines, fees, assessments, and surcharges.

A *Court Compliance Report* listing the description of the court action taken to address the findings and recommendations of the auditors was submitted by the Avondale City Court as follows:

“The court needs to improve with respect to timely enforcing monetary court-ordered obligations for mandatory fines, fees, assessments, and surcharges. Analysis of the case files revealed delays in the court action in five of eleven (45%) applicable cases reviewed in which court action was necessary.” (Mendoza, Avondale City Court - Court Operational Review Evaluation, 2013)

- **AOC Recommendation:** The court should take action within 30 days of non-compliance in cases where payments have been missed (or are less than the contracted amount), as recommended by best business practice. Specifically, the court should shorten its grace period and run the tickle calendar weekly forwarding those non-compliant cases to the judge no less than two weeks later.” (Mendoza, Court Compliance Report - Avondale City Court, 2013)
- **Court Action:** An action plan is currently in development to implement this recommendation. The court now pulls the fine payment due calendar and forwards delinquent cases for judicial review prior to the 30th day.

The Court created a delinquent notice to assist in addressing the recommendation provided above. It did not prove to be effective. The implementation of this step kept other key tasks from being completed thereby affecting the efficiency and time standards for the remaining tasks. Implementing the delinquent notice proved to be counterproductive to the overall goal.

"The court needs to improve with respect to enforcing compliance with alcohol screening and treatment orders.

"...In four of five (80%) applicable cases reviewed in which defendants were non-compliant with orders for alcohol screening, the court was untimely in taking action within 30 days of non-compliance. Specifically delays ranged from 31 to 91 days. Additionally, in three of five (60%) applicable cases reviewed where defendants were non-compliant with alcohol treatment, delays ranged from 15 to 31 days. "(Mendoza, Avondale City Court - Court Operational Review Evaluation, 2013)

- **AOC Recommendation:** The court should take action within 30 days of non-compliance in cases in which the defendant is non-compliant with alcohol screening or treatment, as recommended by best business practice.
- **Court Action:** Action is now taken within 15 days of non-compliance in cases in which the defendant is non-compliant with alcohol screening or treatment." (Mendoza, Court Compliance Report - Avondale City Court, 2013)

The findings from the operational review undertaken by the Administrative Office of the Courts indicated that the court does not have an adequate process for the enforcement of monetary court-ordered obligations for mandatory fines, fees, assessments, and surcharges and has not adequately enforced compliance with alcohol screening and treatment orders.

Upon searching the available statewide guidelines, training or material on processing post-adjudicated criminal cases, no information could be found prior to the

Best Business Practices provided by the AOC dated 2012 which states, “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.” (Administrative Office of the Courts, 2014) The *Court Operational Review Common Findings in Limited Jurisdiction Courts* under COURT ORDERED ENFORCEMENT states,

“Monetary Enforcement/Timeliness – Timely enforcement action is not consistently taken in instances of defendant non-compliance with the orders to pay established amounts at established intervals. In an effort to maintain the integrity of the court and the orders it issues, best business practice suggests that the court enforce instances of non-compliance within 30 days.

Monitoring Compliance/Non-compliance – Compliance and/or non-compliance with non-monetary court-ordered obligations, such as alcohol screening/treatment, the Mothers Against Drunk Driving (MADD) Victim Impact Panel, and community restitution, are not consistently monitored. Since best business practice suggests that courts enforce non- compliance with court orders within 30 days, courts should implement processes for monitoring court orders so that timely action can be taken.” (Courts, 2014)

Training material provided to the court as early as October 22, 2002 does not address any form or process or practice on post-adjudication matters.

The Misdemeanor & Felony Rules and Procedures material only provides information on how to process a criminal case from post-adjudication to sentencing but does not provide guidelines or addresses non-compliance with sentencing components.

Aspects of Court Organization Related to the Enforcement of Orders in the Avondale City Court

There are four elements relative to the way the Avondale City Court is organized and managed that contributes to the existing issues with enforcement of orders. They are as follows: Staffing, Organization, Personnel, and Court Automation.

Staffing and Organization

The court consists of one full time city judge and pro tem judges on an on call basis. Many limited jurisdiction courts refer to a court as a “City Court” or a “Municipal Court” but they are one and the same. It is merely a matter of preference.

“Many incorporated cities or towns have a municipal court, also known as a city court or magistrate court. Municipal courts have criminal jurisdiction over misdemeanor crimes and petty offenses committed in their city or town. They have jurisdiction with justice courts over violations of state law committed within their city or town limits. (City Courts, 2014)

Municipal court judges (magistrates) hear misdemeanor criminal traffic cases up to class one misdemeanors such as driving under the influence of alcohol, hit-and-run and reckless driving where no serious injuries occur. They hear moving and non-moving civil traffic violations, violations of city ordinances and codes such as noise violations, building code violations and parking. The civil matters heard and filed in the Avondale City Court are search warrants, and petitions for the issuance of Orders of Protection and Injunctions against Harassment. No civil lawsuits between citizens or felony charges can be filed in a City or Municipal Court. The Avondale City Charter has an Ordinance that establishes the qualifications of a City Judge, Deputy Judge, Pro Tempore Judges, and Civil Traffic Hearing Officer. Some cities do not require municipal court judges to be attorneys although most courts do.

City or town councils appoint their judges, except in Yuma, where municipal court judges are elected. Judges serve terms set by city or town council; their terms must be

at least two years. Judges have court clerks who provide clerical assistance and schedule cases. In larger cities, the judges may also have court administrators.” (City Courts, 2014)

“The City Court utilizes judges pro tempore (‘Pro Tems’) as backup and temporary judicial officers to ensure prompt coverage for both routine and unexpected occurrences in conducting court calendars and proceedings. The Pro Tem names nominated constitute a roster of qualified candidates upon which the Court can draw to ensure temporary and on call judge coverage.” (City of Scottsdale, 2014)

The Avondale City Court’s Court Administrator serves as the executive officer of the court, administers all the non-judicial functions of the court and directly supervises the court supervisor, senior court clerk and the court security officer. The clerk I’s – III’s are under the direct supervision of the court supervisor.

Personnel

The court has oversight by the City of Avondale Human Resources Division with respect to personnel policies and procedures. Job descriptions exist for all court staff positions. There are three divisions in the court structure which consist of Clerk I’s that are entry level, Clerk II’s who primarily adjudicate traffic cases and Clerk III’s who primarily adjudicate civil and criminal misdemeanor cases. At some point all court staff with the exception of the court security officer are involved in case processing.

Court Automation

The court's case management system is known as AZTEC. This is a statewide system with the exception of a few courts in Maricopa County, which for various reasons have stand-alone systems and/or the in-house infrastructure to host their own IT staff. Avondale City Court processed all court operations manually until September of 1997 when the court went live with FACTS the automated system, which later became AZTEC. All cases and steps of case processing are automated and must be entered into AZTEC. However, AZTEC has its challenges. It is an antiquated system and is not up meeting the demand for swift and timely access to today's court system. Case processing takes significant staff time. The citation and court proceedings tied to each case must be entered in multiple screens. The system is limited in reports it can generate due to the kind and amount of data stored. Most limited jurisdiction city courts that use AZTEC face similar issues.

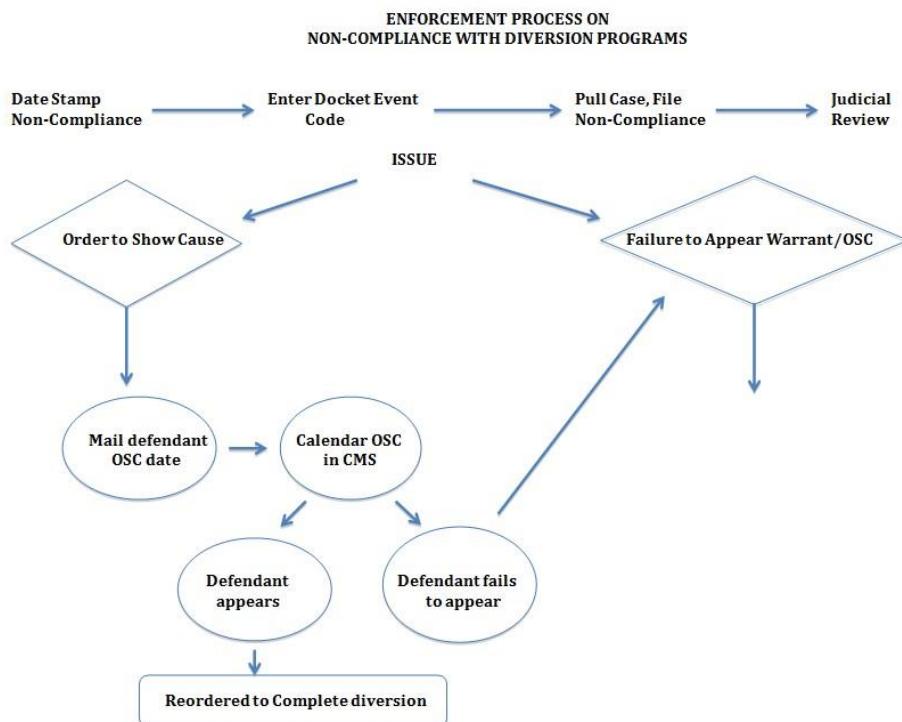
Janet Cornell, previous Court Administrator for the Scottsdale City Court addressed part of this issue by stating, "It is this difference in role, funding, and authorities that lead to challenges and opportunities for limited-jurisdiction courts to excel in operation and performance." (Cornell, 2012) Although limited jurisdictions are smaller than the general jurisdiction courts, they have a high volume direct customer interaction but not always the up to date technology to meet the customer service demand.

Current Enforcement Methods

The Avondale City Court has two Court Clerk III's tasked with running the diversion reports and checking each case status to ensure the court is enforcing compliance with the diversion programs in a timely manner. The court has one collections clerk assigned to monitor and enforce all current payment orders.

Figure 6 illustrates the work process for enforcement of court orders.

Figure 6. Enforcement Process with Diversion Programs



Ensuring public trust and confidence in the judiciary is paramount. Transparency and having the adequate resources and staffing allow courts to accomplish these goals. Most courts have implemented *Trial Court Performance Measures* known as CourTools provided by the National Center for State Courts. “Accounting for fines, fees, and

restitution is a core operational activity of all courts with misdemeanor jurisdiction.”
(NCSC, National Center for State Courts, 2005)

Purpose of this Project

The primary focus and purpose of this project is to assess the effectiveness of the Avondale’s City Court’s court order enforcement in holding defendants accountable for their post adjudication court orders as it relates to the operational review results mentioned above.

Even if enforcement is a problem in Avondale it may be that enforcement is a much bigger issue and a statewide problem. Other courts were surveyed to see how they handled this and what their performance numbers are. This study examines and assesses what the findings and recommendations are for other courts that experience an operational review. This project provides the opportunity to make an informed decision about court operations based on actual data regarding the effectiveness of the enforcement of court orders. It determines if the court can improve its current practice in comparison to other courts. The results identify options for improving the effectiveness of the enforcement of court orders in the Avondale City Court.

This project addressed the two findings of the AOC in addition to the following research questions:

1. Are there significant differences in effectiveness among the comparison courts?
2. What causes those differences?
3. Can those factors be reliably addressed in the context of the Avondale City Court?

One of the many challenges Avondale City Court faces as a smaller court is the minimal interaction and networking opportunities with other courts in other jurisdictions and counties throughout the state. Court staff is able to attend conferences promoted by the Arizona Courts Association on an annual basis. The Court Administrator has the opportunity to belong to professional associations such as the Limited Jurisdiction Courts Administrators Association. But resources have been scarce and all Arizona courts have experienced budget cuts. Some of the smaller limited jurisdiction courts transitioned from a rural to urban area during the housing-market boom in 2005.

Adding to the dilemma is the recent economic downturn experienced on a nationwide level several years ago. Many courts are still trying to recover from budget cuts, a reduced workforce and even changing court business hours. In response to the State of Arizona financial crises, Supreme Court Administrative Order No. 2009-88 was filed on August of 2009 extending the reduction of continuing judicial education and training requirements established in the Arizona Code of Judicial Administration (ACJA) Section 1-302 for all employees in the Judicial Branch, except judicial officers, slashing the Committee on Judicial Education and Training (COJET) requirements in half - a reduction from 16 hours to 8 hours, through calendar year 2010. (L.R.D., 2013; Birch) Since then, the economic downturn has improved and the co-jet credits are now back up to 16 per calendar year.

Literature Review

Leonard R. Sayles observed that “Efficiency is not everyone working hard: rather it is having each job’s output fit the next stage’s requirement. Put another way, efficiency is the maintenance of a continuing rhythm of jobs flowing from one to another.” (Sayles, 1990) If you focus on process you will find there are many different ways of doing things.

Some courts have chosen to treat certain processes as administrative and not in the court’s purview. Take for example, Phoenix Municipal Court. The City of Phoenix has taken this approach with parking violations. Their city code permits parking violations to be settled administratively in lieu of court proceedings. The total of the civil sanctions plus State mandated surcharges are paid to the City Treasurer. The code acknowledges the powers of the court by including in a subsection of the code, “This section does not alter or amend the jurisdiction of the City Court under Section 36-156.1 or any other provision of the law.” (City of Phoenix, Arizona, n.d.)

Doing things right is paramount to the success and the integrity of a business. The customer is happy, the company is happy – everyone is happy. Without sound policies and practices in place a business will cease to exist. No organization whether in the private or public sector can be open for business without a set of guidelines or processes in place prior to opening for business. There have to be sets of rules or guidelines to assist each person in performing what they are hired to do. This philosophy is inherent to the success of business. Courts are subject to the same expectation from the public, media, stakeholders and society as a whole.

But at some point in the process what makes sense now no longer functions when the organization begins to grow and experience new problems. Troubleshooting and looking for updated methods help an organization move beyond business as usual when management looks for new methods and processes to be implemented. Changes in culture, expectations, technology and in the case of courts, the law, mean that it is no longer enough to continue to do things as they've always been done.

Courts Authority to Enforce Court Orders

To what extent should court orders be enforced at the city court level and how much can or should be delegated as part of an administrative function? The responsibility has fallen on the courts and it often seems that they are not doing a very good job. Should we be looking at our existing process and is it time given the data results from operational reviews that show we should look at other alternatives? Should this function be decriminalized? As noted by Julie Dybas, “Judges view the fine-collection problem as the responsibility of the offender and not court administration and administrators dislike the role of bill collector. These views result in less *than adequate collection of court ordered financial obligations.*” (Dybas) When and at what point do we look at other options to address this issue?

The Supreme Court of Louisiana stated, “[C]lerks of court should not be made tax collectors for our state, nor should the threshold to our justice system be used as a toll booth to collect money for random programs created by the legislature.” (Hall, 2011) Another point to consider is, “On the criminal side, court leaders have a responsibility to ensure that judicial orders are followed, but also to ensure that the system is not

overloaded with unreasonable financial obligations to fund other governmental services." (Hall, 2011)

Workload Assessments

Roger K. Warren, former President of the National Center for State Courts penned a letter with the following main point relative to this project:

- *"The concept of caseload management.* The National Center has been instrumental in identifying the case as the essential work unit, and caseload management as the essential business, of the courts – and in showing courts that they have the power and the responsibility to reduce delay and to ensure timely, as well as just, results." (NCSC, Purposes and Responsibilities of Courts Participant Guide)

Court management must ensure there are adequate staffing levels to ensure timely disposition of cases. Backlog will occur if cases are not processed in a timely manner and the confidence in the court's ability to provide justice to each individual and to each individual case is compromised.

The Arizona AOC published a Best Business Practices Manual in 2012 as a guide for courts to follow. Although the manual identifies recommended court practices deemed to be "best business practices", they are suggested and are not required. The standard for Court Ordered Enforcement states, "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." (Administrative Office of the Courts, 2014)

Measures and Data Use

What tools are available for courts at all levels to be able to measure the daily input and outputs of processing cases on a daily basis? There is no cookie cutter one size fits

all solution. Every court is different. Several variables influence courts both externally and internally and help shape and navigate policies and procedures set in place for court staff with the hopes of providing individual justice on each individual case.

The National Center for State Courts provides a set of tools called CourTools for courts to measure performance in different areas such relevant to this project such as:

Measure 3: Time to Disposition,

Measure 4: Age of Active Pending Caseload,

Measure 6: Reliability and Integrity of Case Files, and,

Measure 7: Collection of Monetary Penalties, the most applicable for the specific purposes of this research paper.

CourTools

In criminal cases, court leaders have a responsibility not only to ensure that judicial orders are enforced, *i.e.*, fees and fines are collected, but also to ensure that the system does not impose unreasonable financial obligations assessed to fund other governmental services. (Hall)

Historical Data

One of the most common methods of determining workload and performance standards is the use of historical data. The detail of the standards set will depend in large part on the information available. (Lawson, 1980) If it's the court's job to enforce court orders and if it is not doing a good job at it, what needs to be done to see that

enforcement happens? Is there a potential pilot for a statewide reform in how this is done? The data collection perhaps will describe what this all means.

Methods

The focus of this project is to assess the effectiveness of the Avondale City Court's court order enforcement in holding defendants accountable for their post adjudication court orders. Several methods used in this project included: (1) distributing a survey to those courts that have recently received an operational review audit to catalogue their experience – five municipal courts audited the same year as Avondale City Court were of specific interest for comparison purposes; (2) conducting two telephonic interviews of AOC and court staff; (3) conducting site visits and in-person interviews with court staff from five limited jurisdiction courts; and (4) observing procedures used in the five municipal courts that were of particular interest.

Survey

The survey used was sent by email to twenty courts from a list provided by the AOC. Instructions were provided through the email including an attachment of the survey. The email was circulated to the Presiding Judge and Court Administrator of each court. The survey was sent out on September 22, 2014 requesting the questionnaire to be filled out and returned by September 26, 2014. Of twenty courts surveyed, twelve courts responded and completed the survey. An overall response rate of 60 percent was eventually achieved. Although the turnaround timeframe was relatively short, 50 percent of the total surveys were filled out and returned within it. A friendly email reminder was sent out on October 14, 2014 to the courts who did not respond and an additional 10 percent response was received within three weeks.

The data was coded to generate the following information: complexity of court enforcement process, judicial involvement, administrative and staff involvement, and

automation. The focus was eventually narrowed down to five courts similar to Avondale City Court who were audited within the same period and had similar findings. An email was sent to the five courts requesting a site visit to follow up on the questionnaire, conduct interviews with key staff, and observe court practices. See Appendix A for the survey. The five courts are Buckeye Municipal Court, El Mirage City Court, Peoria Municipal Court, Glendale City Court, and Tempe Municipal Court. See Appendix B for survey results.

Interviews

Interviews were held with several stakeholders to aid in the research of this project. Two key separate telephone interviews were conducted. The first interview was conducted with Marretta Mathes, an Operational Review Specialist at the Administrative Office of the Courts (AOC) who assisted in identifying the standards and measures used on non-monetary and monetary court orders when performing operational reviews. Tempe Municipal Court was given as an example of a perfect court or one of the best courts to model. The second telephone interview was conducted with Don Jacobson, a Fellows Program graduate who is also the Court Administrator of Flagstaff Municipal Court. He had previously written about appropriate organization for the enforcement of orders and so his insight was particularly useful. Mr. Jacobson assisted in providing key information regarding court processes.

Face to face interviews were conducted with key staff from the five respective courts selected. The on-site visits helped to gain knowledge and perspective from all professional levels and to obtain feedback on court order enforcement of monetary court obligations and diversion compliance.

Direct Court Observations

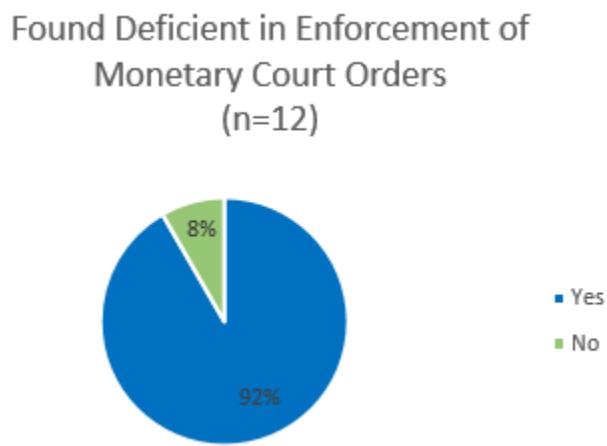
The purpose of the court observations was to simply see how staff processes the tasks being performed and completed as stated in the policies and procedures. Are they doing what the policies say they should?

Observations were made of court staff tasked with processing payment orders and orders to show cause for non-compliance on monetary court obligations and diversion programs after the interviews were concluded with each court representative. Most office staff have workstations away from public view while others assist at the front counter or in the courtroom. While some office staff members collect fines and process payment orders, others are primarily tasked with issuing payment orders and orders to show cause on non-compliance cases.

Findings

Finding 1: Survey respondents indicate a high deficiency in enforcement of monetary court obligations for mandatory fines, fees, assessments, and surcharges.

Table 1. Deficient in Enforcement of Monetary Court Orders



Analysis of the survey results indicates that 92 percent of the respondents were found deficient in enforcement of monetary court orders. Tempe Municipal Court was the only court not found deficient in this standard. The majority of the courts had additional comments such as:

- “The Court was asked to take enforcement action within 30 days of non-compliance with court ordered payment plans, rather than the reported practice of 45 days delinquency.”
- “The court should monitor payment plans and take action within 30 days of a missed payment.” And,

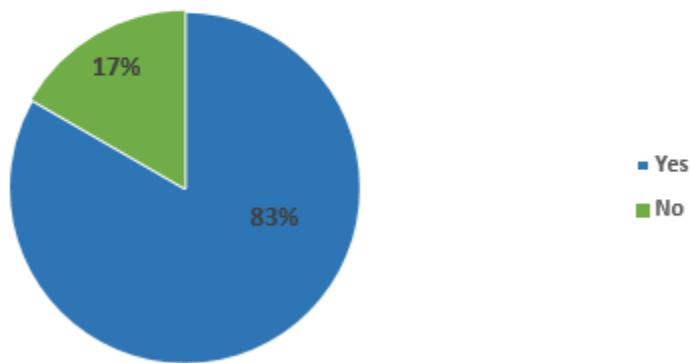
- “The Collection Enforcement Unit did not take action within 30 days when the defendant missed one or more payments.”

Only two courts reported that they took no action in payment plan or in accordance with their policy.

Finding 2: Survey respondents indicate a high deficiency in enforcement of diversion compliance with alcohol and treatment orders.

Table 2. Deficient in Enforcement of Alcohol Screening & Treatment

**Found Deficient in Enforcement of Diversion Compliance
- Alcohol Screening & Treatment
(n=12)**



Analysis of the survey results indicates a similar response rate to the first finding with the exception of Tempe Municipal Court and Glendale City Court. Both courts were found to be compliant on this standard.

Glendale City Court reported that if the defendant violates the order they get a notice relatively quickly. The case managers update the court system via electronic notifications and meet with the presiding judge every two weeks to go over the status on cases. Defendants are also told to come in after their missed court date.

In the Tempe Municipal Court, the case management system is linked with the city's social services department and to agencies which provide alcohol screening and treatment programs. The defendant attends the alcohol screening and treatment program which the agency reports to social services. They in turn report it to THEMIS Tempe's Case Management System (CMS). Non-compliances are also reported and sent to a queue in the case management system. Using this system the clerk generates an Order to Show Cause to the defendant to appear within two weeks.

Finding 3: Survey respondents indicate not all courts have a specific and dedicated enforcement unit.

Buckeye Municipal court has one Court Clerk III who is a dedicated Fines Enforcement Manager. Glendale City Court has two Pay by Phone employees that take payments by phone and call delinquent cases plus two Glendale Police Warrant Officers that look for Failure to Pay Fine Warrants. Show Low has a collection department that tracks and enforces collection of court's financials but no dedicated unit for enforcement of non-financial obligations. Flagstaff Justice Court has a Collections Enforcement Unit that is dedicated solely to the task of monitoring and enforcing the financial obligations of court orders. The Town of Camp Verde Municipal Court has a 'Post adjudicated' desk and the clerks main focus is to monitor all court orders and follow procedure for those cases that are not fulfilling their obligation to the court. Yuma Municipal Court's enforcement unit is called the Judicial Enforcement Unit (JEU). Six of the courts surveyed responded 'No' to the question relative to having a dedicated enforcement unit.

Finding 4: Survey respondents indicate not all courts have the same enforcement approach on payment orders.

All the courts surveyed described their courts process for enforcement of monetary court-ordered obligations. Buckeye City Court breaks larger fine amounts into 12 equal monthly payments. Smaller fines are set on a minimum amount due of \$50 or more. The goal is to try to get the smaller fines paid within 3 to 6 months.

The court sends a collection notice for the late payment after the case is 30 days delinquent in Peoria. If the past due amount is not paid after the collection notice, a failure to pay warrant is issued and the case is entered into the fines/fees and restitution enforcement program (FARE) established to collect delinquent court ordered restitution, fines, fees, and surcharges. (Court, 2015) The court's policy is to suspend any balance \$20 or under as per the court's over/under policy.

Tempe Municipal Court issues a summons to appear – Order to Show Cause (OSC) hearing for an outstanding criminal or criminal traffic financial obligation when the defendant does not comply with a judicial order or the payment terms are outstanding. Noncompliance with payment terms for an outstanding “Civil traffic fine/fee” will proceed to “default” status/judgment. It is interesting to note that in Tempe the scheduled payments and pay in full orders are systemically monitored by their case management system, THEMIS based on the due dates. OSC’s and defaults are systemically generated by THEMIS when a defendant does not follow their payment contract or if the defendant failed to appear as ordered. Further comment states, “If the defendant fails to make their scheduled payment within seven calendar days of the payment due date on a structured payment plan the systemic batch process will terminate the payment

contract and issue an OSC for criminal fines/fees and default civil traffic fines/fees. When a defendant fails to appear to Financial Services or pay an Order to Pay in Full the systemic batch process will issue an OSC for criminal fines/fees and impose a default judgment for civil fines/fees within 24-hours of the failure to appear to Financial Services or pay."

Glendale City Court's comments state that they believe their court enforcement has improved in many ways. They have Auto Credit Card payments that are on file for defendants on a payment plan. The credit card information is automatically billed for the next scheduled payments. Glendale is currently working on text messaging and email notifications to defendants that are on payment plans. A text reminds the defendant of an upcoming payment and the email will notify of a missed payment. Civil traffic cases are entered into the FARE collection program after seven days if the defendant fails to appear. Glendale is also looking to add Credit Card checks at the window.

El Mirage City Court implemented a review policy when a payment is missed. The court will take action on case by entering it into FARE if two consecutive payments are missed.

Finding 5: Survey respondents indicate not all courts have the same enforcement approach on court-ordered diversion compliance with alcohol screening and treatment order.

Buckeye Municipal Court's judge issues an Order to Show Cause (OSC) requiring the defendant to appear when the defendant is non-compliant. They may be held in contempt or re-ordered into counseling.

Peoria is emailed by the agencies if the defendant is on probation. The prosecutors initiate action for diversion cases.

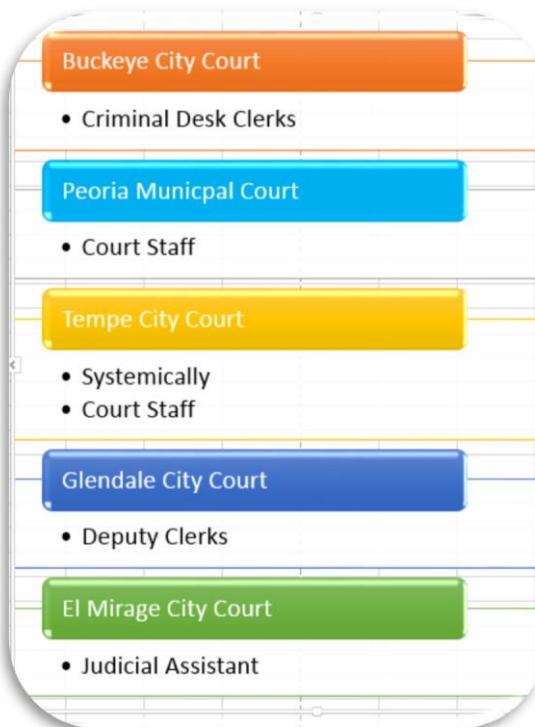
In the Tempe Municipal Court, Tempe Social Services monitors compliance and/or non-compliance. Notification is sent to the court via an electronic file loaded into Tempe's case management system, THEMIS. Compliance records are automatically dismissed if all requirements are met, exceptions and non-compliance records are placed in a work queue in THEMIS to be reviewed by staff and the appropriate court date scheduled. Diversion programs are scheduled for Pre-Trial Conferences and other orders such as screening and jail are scheduled for Order to Show Cause (OSC) hearings.

Treatment Court has been a difficult docket for Glendale. Glendale responded that defendants do not show up for court dates and they spend "a lot of time recreating information when the defendant comes into court as a walk in". A "walk in" is a defendant who appears in court and does not have a set court date.

EI Mirage City Court responded they are retraining staff regarding proper docketing of compliance and non-compliance.

Finding 6: Survey respondents indicate not all courts have the same level of court staff tasked with entering the compliance or non-compliance information on court-ordered diversion with alcohol screening and treatment order.

Table 3. If you have an automated system, who is tasked with entering the compliance or non-compliance information?



All five courts had different responses with staffing levels that range from general court staff to Judicial Assistants and Deputy Clerks who are tasked with entering the information in the court automated system. The exception, of course, is the Tempe Municipal Court whose compliance records are entered systemically and automatically dismissed. Tempe court staff review the non-compliance records and then schedule the appropriate court dates.

Finding 7: The manual process is generally inefficient.

After receiving non-compliance letter from Prosecutor, Program Provider, Probation Officer the Clerk does the following:

- Manually docket each non-compliance event in the automated system;
- Clerk forwards the files to the judge for judicial review and ruling to issue the Order to Show Cause
- Schedule each Order to Show Cause Hearing – print, calendar and docket in the automated system;
- If an extension is granted by the Judge, manually docket each extension event.

The survey results indicate that ninety-two percent of the courts surveyed failed the audit with respect to being deficient in enforcement of monetary court obligations for mandatory fines fees, assessments, and surcharges. Only one court passed. Eighty-three percent of the courts surveyed failed the audit with respect to being deficient in enforcement of diversion compliance with alcohol screening and treatment orders. Two courts passed. The manual process takes time and that time adds up to process each individual case.

Conclusions and Recommendations

Conclusion 1: Varying, sometimes too much, judicial involvement. The results of the interviews conducted show that the ministerial duties assigned to staff aided in the court's ability to achieve compliance. The ability for court staff to initiate a tier step process previously approved by the judge to send out letters and issue Orders to Show Cause allowed courts to come into compliance. The tendency for a judge to want to see the case file before an order is issued increases the time staff needs to process the orders. In some courts the judges want to see everything.

Recommendation 1: Minimize judicial involvement in what is essentially a ministerial function. The more judicial officers are directly involved, the slower the process tends to go. Since there are often only one or two judicial officers in a jurisdiction, they become a de facto bottleneck in the process. If AOC time standards are to be met, judicial officers should delegate authority for all but the most exceptional cases to the clerical staff to avoid unnecessary delay.

Conclusion 2: Complexity of work processes. In those courts with judicial involvement, the process was more complex. The court receives the notice of non-compliance, pulls the case, records the non-compliance and looks up the case status in the case management system and prints a case summary to attach to the court file and sends the case to the judge for review. If the judge orders an Order to Show Cause the clerk prepares an Order to Show Cause, mails a copy to the defendant and then updates the case information in the system. If the defendant fails to appear on the Order to Show Cause, the clerk will update the information on the system and then

follows the same steps mentioned above for the judge to review. This process has several manual steps and takes a while to do. During the court interviews some court's processes were not complex and more simplified. Staff did not have to send each case to the judge for review. The court has a tier step model in place where the judge delegates ministerial duties to the staff in the initial stages of non-compliance cases and eliminates the additional step of judicial review.

Recommendation 2: Simplify the work processes. Although each court should reengineer its work processes to best meet its needs, the Arizona AOC should update the suggested workflow process for enforcement of orders to determine what steps in the process may be delegated to staff.

Conclusion 3: Proper automation improves performance. The Avondale City Court currently have a system but some tasks require doing things manually. In Tempe their automation helps systematically produce the required forms within certain days of being outstanding.

Recommendation 3.1: Provide all limited jurisdiction courts with automation similar to that of the Tempe Municipal Court. For the Avondale City Court, this would mean updating the AZTEC automated system to enhance features. Tempe's court system is linked with agencies and has electronic files loaded into their case management system.

Recommendation 3.2: Hire a Technical Specialist for the Avondale City Court. The Avondale City Court and other city and justice courts will benefit from having a Technical Specialist to create and run reports, reducing staff time necessary for manual processes in compiling the information on a case by case basis, pulling the files, then

giving them to the judge for judicial review and finally then conducting a second review of all cases before an action is completed. This would reduce the staff time needed in processing repetitive tasks that can be more efficiently handled through electronic files automatically loaded into the case management system.

Conclusion 4: The slower courts do not have staff dedicated to the enforcement of orders, thereby slowing the process. The survey results concluded that fifty percent of the courts do not have a dedicated enforcement staff for monetary court orders or diversion compliance with alcohol screening and treatment orders.

Recommendation 4: Assign responsibility for monitoring and follow-up of orders enforcement to a dedicated staff member in every court. Based on the outcome of the Avondale City Court's operational review, the management team combined the tasks identified as deficiencies to explore the possibility of creating a position and to request a full time position in the following fiscal year budget. At the conclusion of this project a temporary position has been approved to specifically complete these tasks and bringing the court into compliance with the recommendations provided in the operational review.

Conclusion 5: There is inadequate statewide training, education, guidance on best practices for order enforcement. Currently there is no statewide training provided to courts on AZTEC to assist courts in complying with best business practices courts are to follow. If AOC standards are expected to be met, training material addressing how to achieve compliance with antiquated and limited functionality the current system offers is a necessity. The operational reviews identify findings and

recommendations about what should be done, but do not provide tools for achieving compliance in the deficiency found.

Recommendation 5: AOC manuals should be periodically updated and accompanied by training for assigned court staff. The wording used to determine whether courts are in compliance or non-compliance the word “within” was key. If the automated system doesn’t have the capacity to provide courts a vehicle to come into compliance within the 30 days requirement, then perhaps another alternative would be to determine whether the measure is reasonable or not. The standards used should be carefully considered and perhaps changed to allow courts to come into compliance more reasonably. The AOC should form a committee to update performance criteria and provide training material to achieve this recommendation.

Conclusion 6: Improvements were made by all the courts surveyed. Not all courts have the same capabilities as the larger courts like Tempe. Nor are all court processes a cookie cutter, one size fits all. Courts do not now communicate or exchange solutions with each other and evaluate implementing processes that are appropriate for their court size and volume.

Recommendation 6: Explore the possibilities of implementing the following improvements courts have made and implement a process for continuously sharing solutions.

- Buckeye issues Failure to Appear warrants within 24 to 48 hours. Warrants for failure to comply are also timely issued pursuant to the court collection practice.

- Peoria set up an email address for court documents to be received and the agencies now email the compliance and non-compliance to the court which they state is more efficient and timely.
- Tempe works closely with the Tempe Social Services Department to improve the process to help reduce manual processing.
- Glendale's presiding judge orders judges to be more aggressive with collecting the \$75 warrant fee for not showing up to Treatment Court. This process has helped reduce Glendale's no-shows.
- El Mirage instituted a bi-weekly reporting of compliance/non-compliance cases, with a thirty calendar "tickler" of pending cases.

Conclusion 7: Courts and the AOC view enforcement of orders as a court

function. Almost one hundred percent of the courts surveyed agree that enforcement of orders is a court function. Glendale initially answered it was a law enforcement option, but after the interview stated that it is more a court function. The only exception was Peoria, believing that it is a prosecutor function if cases are on probation.

Recommendation 7: Courts should accept the responsibility for the enforcement of all orders. There is an Administrative Order issued in 2002 by former Chief Justice Jones which gives a background as to why it is the courts responsibility to enforce court orders. Marretta Mathes noted that it is a shared responsibility, "It is everyone working together. The court issuing an Order (Judicial); Legislature enacting the Failure to Pay Statute- § 13-810 [Arizona Revised Statute (A.R.S.)]; and Prosecutor monitoring Probation cases (Executive). The hard labor is done by the court...constant communication by the three is key...constant effort from everyone so that things don't fall apart."

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Appendices

Appendix A

Court Order Enforcement Questionnaire

I am requesting your assistance in completing the questionnaire below regarding specific court enforcement processing policies and practices. The focus of this project is to assess the effectiveness of the Avondale City Court's court order enforcement in holding defendants accountable for their post adjudication court orders. The answers to the questions will aid me in the research.

- 1 Did the Court Operational Review find you deficient in enforcement of monetary court obligations for mandatory fines, fees, assessments, and surcharges? If you answered "yes" list the specific findings.

D Yes

D No

Additional Comments:

- 2 Did the Court Operational Review find you deficient in enforcement of diversion compliance with alcohol screening and treatment orders? If you answered "yes" list the specifics of the findings.

D Yes

D No

Additional Comments:

- 3 Does your court have a specific and dedicated enforcement unit?

D Yes

D No

Additional Comments:

- 4 Describe your court's process for enforcement of monetary court-ordered obligations for mandatory fines, fees, assessments and surcharges.

- 5 Describe your court's process for enforcement of court-ordered diversion compliance with alcohol and treatment orders.

- 6 What improvements has your court made?

- 7 Does your court view enforcement of court orders as a court function or a prosecutor function?

D Court function

D Prosecutor function

D Law Enforcement function

D Other:

Additional Comments:

- 8 Does your court have a calendared court time to see defendants about court orders?
- D Yes
- D No
- Additional Comments:
- 9 Are court orders entered into your automated case management system?
- D Yes
- D No
- Additional Comments:
- 10 If you have an automated case management system, who is tasked with entering the compliance or non-compliance information?

Appendix B

Survey Results

	Court Order Enforcement Questionnaire																					
	Survey Filled		Q1		Q2		Q3		Q4		Q5		Q6		Q7		Q8		Q9		Q10	
	Yes	No	Yes	No	Yes	No	Yes	No							C	P	L	O	Yes	No	Yes	No
Bisbee Justice Court	X																					
Flagstaff Justice Court	X		X		X		X								X		X		X			
Fredonia Municipal Court	X																					
Williams Justice	X		X		X				X						X		X		X			
Williams City Court	X		X		X				X						X		X		X			
Hayden Municipal Court	X																					
Safford Justice Court	X																					
Duncan Justice Court	X																					
El Mirage City Court	X		X		X				X						X		X		X			
Parker Municipal Court	X																					
Parker Justice Court	X																					
Show Low Justice Court	X		X		X		X								X		X		X			
Tucson City Court	X		X		X				X						X			X	X			
Yuma Municipal Court	X		X		X		X								X		X		X			
Camp Verde Municipal Court	X		X		X		X								X		X		X			
Quartzsite Magistrate Court	X																					
Tempe Municipal Court	X			X		X		X							X		X		X			
Peoria Municipal Court	X		X		X				X						X	X	X		X			
Buckeye City Court	X		X		X		X								X		X		X			
Glendale City Court	X		X				X	X							X		X		X			
TOTALS	12	8	11	1	10	2	6	6							12	1	0	0	11	1	12	0

*Note: Q4, Q5, Q6, and Q10 are written responses.