

Fill The Gap

Annual Report 2006



*Court Services Division
Administrative Office of the Courts
Arizona Supreme Court*

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ARIZONA SUPREME COURT FILL THE GAP

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CRIMINAL CASE REENGINEERING

Introduction

Pursuant to A.R.S. § 12-102.01 (D), the Supreme Court reports annually “to the governor, the legislature, each county board of supervisors, the Joint Legislative Budget Committee and the Arizona Criminal Justice Commission on the progress of criminal case processing projects and the enforcement of court orders, including the collection of court ordered fees, fines, penalties, sanctions and forfeitures.” Per A.R.S. § 12-102.02 (D) the Supreme Court also reports annually on the expenditure of fund monies for the prior fiscal year and the progress made in improving criminal case processing.

For years, federal, state and local governments made substantial investments in placing more police officers on the street and building more prisons. These efforts sought to increase public safety, but also created a backlog in the rest of the criminal justice system. In essence, funding targeted the front and back of the criminal justice system, creating a “gap”. Funding for those entities in the “gap” did not keep pace. The Fill The Gap initiative was intended to address this problem. In 1997 the Administrative Office of the Courts (AOC) convened a work group of stakeholders (superior court, clerk of superior court, justice courts, county attorney, public defender and indigent defense counsel) in the criminal justice system to develop a strategy to secure funding from the legislature to fund the “gap.” The funding that resulted from this initiative has and continues to aid in the progress of accomplishing a number of improvements in criminal case processing throughout Arizona.

Changes in Court Rules and Statutes Impact Case Processing

Supreme Court ordered Rule 8.2, Rules of Criminal Procedure, effective December 1, 2002 establishes timelines for processing criminal cases as follows: 1) For in-custody defendants, the time to disposition is 150 days from initial appearance to the date of arraignment; 2) For out-of-custody defendants, the time to disposition is 180 days from the date of arraignment; and 3) If the case is categorized as complex, time to disposition is within 270 days from arraignment for those defendants charged with first degree murder in other than capital cases, offenses requiring consideration of evidence gained from wiretaps, electronic or oral communication, or complex cases determined by written factual finding by the court.

In June 2002, the U.S. Supreme Court issued a ruling in the case of *Ring v. Arizona* that declared Arizona's death penalty statute unconstitutional on the grounds that sentencing by a judge, rather than a jury, violated the Sixth Amendment. A special session of the legislature amended A.R.S. § 13-703 to conform Arizona law to the *Ring* // mandate. The amended sentencing procedure provides that the jury serving during the guilt phase of the trial also serves as the trier of fact during the sentencing phase. Subsequently, the Arizona Supreme Court again modified Rule 8.2 to allow courts eighteen (18) months to dispose of cases where the state is seeking the death penalty.

Funding Sources

A.R.S. § 41-2421, enacted in 1999, created three main funding sources for Fill The Gap efforts: a general fund appropriation; a seven percent Fill The Gap surcharge; and a five percent set-aside of funds retained by local courts when revenues exceed the 1998 benchmark. The general fund appropriation and the surcharge earmarked for the courts are deposited in the State Aid to the Courts Fund pursuant to A.R.S. § 12-102.02, and are administered by the AOC. The five percent set-aside of funds collected by the courts is kept and administered locally for county court use. Funds earmarked for the public defender/indigent defense counsel and county attorney are distributed through the Arizona Criminal Justice Commission (ACJC). It should be noted that counties with populations exceeding 500,000 (Maricopa and Pima) were not eligible for general fund appropriations in FY05 and FY06.

The Fill the Gap expenditures for FY06 included \$418,500 in general fund appropriation and \$2,445,100 from the State Aid to the Courts Fund. This money was disbursed to the counties that submitted their Fill the Gap application to the Supreme Court.

Court Statistics

As the population of the state continues to increase, the rise in case filings persists. Efforts to identify and implement improvements that allow the courts to address the additional workload are essential.

Chart 1 (all counties except Maricopa, Pima) and Chart 2¹ (Maricopa, Pima and Total for Arizona) shows the clearance rates by county. The clearance rate is the percentage of criminal case terminations as related to new criminal case filings. The higher the clearance rate, the better the court's criminal case terminations are keeping pace with the number of new filings. The FY06 statewide clearance rate increased to 93.1% from 92.8% in FY05, showing a slight improvement in processing criminal cases from filing to termination statewide. Note that increases in filings provide more challenges to achieving high clearance rates.

¹ These charts are split into two separate illustrations because of the disparity in the number of cases for rural counties vs. filings in Maricopa and Pima Counties.

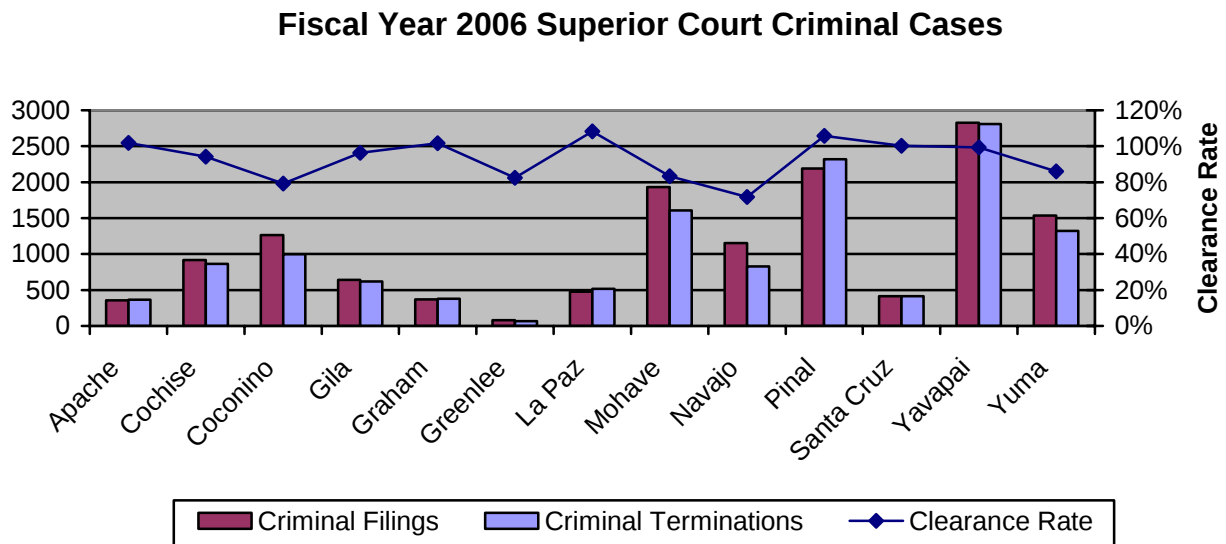


Chart 1 – Criminal Filings, Terminations and Clearance Rate for all counties except Maricopa and Pima.

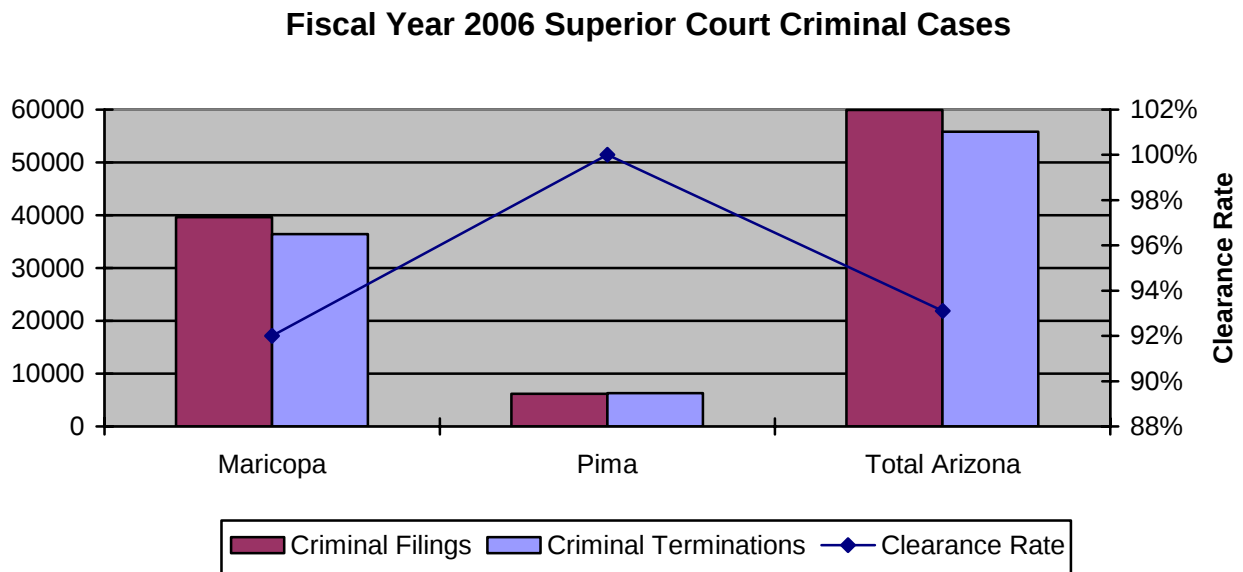


Chart 2 – Criminal Filings, Terminations and Clearance Rate for Maricopa, Pima and Total Arizona.

Source: AOC General Jurisdiction Fiscal Year 2006 Data Report

Chart 3 compares statewide Superior Court felony filings and terminations in FY06 to FY05. Felony filings increased by 6.4% and felony terminations increased by 4.0% in FY06.

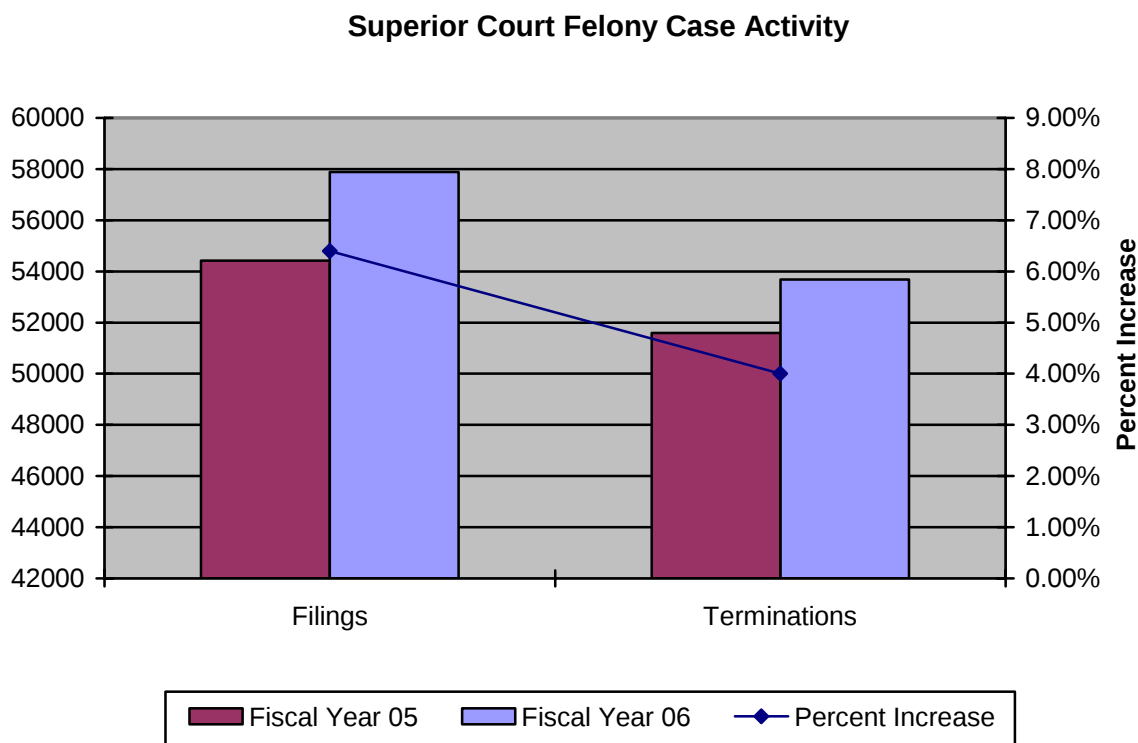


Chart 3 – Superior Court Felony Case Activity FY06 vs. FY05

Source: AOC General Jurisdiction Fiscal Year 2005 and 2006 Data Reports

County Project Overview

As defined by statute, the purpose of the State Aid to the Courts Fund is to provide state aid to the Superior Court, including the Clerk of the Superior Court and the Justice Courts in each county for the processing of criminal cases.

Within each county the presiding judge of the Superior Court, the Clerk of the Court and the presiding Justice of the Peace must develop a plan, in coordination with the chairman of the county Board of Supervisors or their designee that is submitted to the AOC. The proposed plan details how the funds will be used, how the plan will assist the county in improving criminal case processing and how each court entity will use the funds.

Counties may apply to use the funds for any purpose that improves criminal caseflow. Solutions in each county are different due to varying constraints such as funding, caseload size, staffing, geographic constraints and interaction with local criminal justice agencies. Some of the smaller counties have chosen to allow funds to build over time, as the one-year appropriation in these jurisdictions is too small to implement meaningful changes.

The following is a list of accomplishments for the counties receiving Fill The Gap funds.

Apache County

The Apache County Superior Court identified a problem with the timeliness of processing cases due to an increase in the overall number of cases and the proportion of cases that went to trial. Although, the population in Apache County has grown enough to support a second division, during FY06, they operated with just one division. Funding was not available to create the new division. In order to alleviate the caseload and trial calendar, Apache County Superior Court requested Fill The Gap funding to partially fund a part-time Judge Pro Tempore position. This has permitted the court to process cases in a more timely manner. In FY06, 65% percent of criminal cases were disposed within 180 days and 38% were disposed within 100 days. In comparison to FY05, it's an overall increase of two percent.

Cochise County

Cochise County has found that ongoing data review along with early case management are critical to managing their caseload. In FY06, Fill The Gap funds supported a superior court Judge Pro Tempore and dedicated staff to manage the front end of the felony case processing system. The court continues to emphasize timely conferences to ensure exchange of discovery between parties and trial dates set at the earliest possible stage with the goal of prompting the parties to discuss pleas and to ensure meaningful court events. Sixty percent of criminal cases were disposed within 180 days and 30% were disposed within 100 days.

Coconino County

Coconino County identifies that a majority of the cases filed are alcohol and drug related and the use of specialty courts have been seen to expedite processing in particular case types as well as reduce recidivism in some studies. In FY06, Fill The Gap funds were used to continue to operate DUI and Drug specialty courts. The DUI/Drug Court attempts to expedite case processing of alcohol and drug related cases in Superior Court and Justice Court. Intensive treatment, judicial oversight, alcohol/drug urinalysis tests, probation supervision, and support group attendance are required. Cases are regularly staffed to monitor compliance or non-compliance. During FY06, 113 defendants were sentenced to the DUI/drug court program; 37 graduated. The percent of passing urinalysis/breath tests was 94% of the 5,739 tests conducted during the year. The percent of participants re-arrested on similar charges while still involved with the program was 11%. Coconino County had 78% of all criminal cases disposed within 180 days and 51.3% were disposed of within 100 days.

Graham County

Graham County continues to improve criminal case processing by adding judicial resources. The superior court received funding for a Judge Pro Tempore to handle a docket comprised of juvenile and most of the domestic case load as well as criminal cases that were a conflict with the only Superior Court Judge to the county. This has allowed the court to increase productivity and simplify workflow. In FY06, 76.6% of criminal cases were disposed within 180 days and 45.6% were disposed within 100 days.

Greenlee County

Cases in Greenlee County were falling behind due to a lack of staff time to file and docket cases. The court had determined that a document imaging system would save time and alleviate some of the workload involved in pulling files. Resources would be shifted to process criminal cases in the courtroom and assisting at the counter. However, due to the lack of time available from staff to scan documents into the new system, additional help was required in the initial stages of the project to achieve the long term goal. The clerk of the superior court received funding for a part-time clerk to scan documents into the system. Utilizing a part-time clerk has been instrumental to providing timelier service and better accessibility to court information and improving criminal case processing. According to Greenlee County, 60.7% of the cases were disposed of within 100 days and 88.5% of the cases were disposed within 180 days.

La Paz County

La Paz County found that space constraints were negatively impacting case processing. The lack of space prevented storage, work surface, and space for defendants and members of the public to enter the court building. Fiscal Year 2002, the specific needs for more space were for the Probation Department, Court space for witnesses, defendants and law enforcement, document imaging center and a Court Training Facility. The superior court and clerk of the superior court received funds to support new construction for building a judicial complex. This expansion improved case processing by: providing an adequate and safe environment for the Probation Department employees and visitors to the Department, separating physical location of the Public Defender and County Attorney which separates witnesses, defendants and law enforcement and minimizes fear and harassment, providing room for a new electronic document imaging project and self service center and providing a new Court Training Center which could be utilized by the future Field Trainer who will provide uniform and consistent training for all La Paz County courts. On average, La Paz County disposed 74.8% of their criminal cases in 180 days and 46.6% in 100 days.

Maricopa County

Maricopa continues to focus on a number of specific areas of caseflow management. An examination of Maricopa's courts indicated areas that could be re-tooled to make the entire system more effective. Primarily, Maricopa focuses on improving existing processing through analysis followed by centralizing or specializing specific processes and improved technology. Fill The Gap funds have played a vital role in the application and evolution of improved processes and technology.

Continued Improvements to Existing Processes

- In March of 2005, the court implemented a program to encourage pleas in cases with class four, five and six indicted cases. In FY06, the focus of this program continues to ensure that discovery has been exchanged early, a plea offer has been made, and that this offer has been discussed with the client.
- The County Attorney files a complaint, but indicates its intent to pursue a supervening indictment through the Grand Jury. If the Grand Jury fails to hand down an indictment in a timely manner, the complaint remains active but without a future court date, (an "orphan complaint"). Court administration now aggressively monitors these complaints, and asks the County Attorney for a determination while taking the complaints to a commissioner for quick resolution. Now, most orphan complaints are resolved within 30 days.
- *Case Transfer*- helps locate judges who are available to try cases on short notice. Maximizing judicial resources requires the Court to "multi-book" scheduled trials for trial judges. With an average 1.4 percent trial rate, most trials settle prior to the scheduled date. Occasionally, a division ends up with more scheduled trials on its calendar than a single judge can handle in a given week. To make the most of judicial resources, maintain trial time standards set by rule, and spread trials to other open divisions, judges place cases scheduled for trial into *Case Transfer*- so they can be placed with other available judges.

Centralized and Specialized Processing

- Regional processing centers provide central processing of appearances under the jurisdiction of justice courts including preliminary hearings, pleas and felony arraignments. The three centers have processed over 23,000 of the 39,000 filings the court received last year.
- The Early Disposition Court was assigned over 11,000 drug cases. Drug related offenses account for about 30 percent of all filings. The facility resolves most non-violent drug court cases, welfare fraud and spousal support fugitive matters.
- The Court continues to support a variety of specialty courts including the DUI Court, the Adult Drug Court, Family Drug Court, Juvenile Drug Court, the Juvenile Transferred Offender Program, and the Mental Health Court (now part of the Mental Health Department).

Improved Technology

- An Assign-Attorney Module that automatically updates the court case management system iCIS with assigned trial attorneys have helped eliminate scheduling conflicts which can result in continuances. This has been further improved by the addition of an electronic version of the alphabetical inmate list which helps identify those that have been in custody for longer periods of time. Calendars can be prioritized by those that are custody.
- The Minute Entry Electronic Distribution System (MEEDS) and the OnBase imaging application work together to allow automated distribution of electronic minute entries which previously had to be routed manually to necessary

individuals throughout the court system. In FY06, electronic distribution of MEEDS and the OnBase application increased by 69% over the previous fiscal year. The MEEDS eWarrant initiative was also completed, affording electronic issuance of Bench Warrants and Quash Warrants.

- The clerk's office has expanded electronic filing of court documents to include 17 trial divisions, with monthly filings approaching 4,000.00 documents. E-filing has streamlined the processing of cases by reducing data-entry errors and lines at the counter for filing documents.
- Expansion of the use of electronic audio/video recording as the official court record continues to spread throughout the courts. In addition, the court continues to expand the use of videoconferencing in courtrooms. This saves the court time and transportation costs with transporting individuals from the Sheriff's office.

Mohave County

An increasing population in Mohave County has resulted in an increase in their case filings specifically in complex criminal cases and high-profile cases. As a result there continues to be more demand on limited judicial resources. Fill The Gap funding was used to pay for two contract security guards for Mohave County Superior Court in Kingman, a portion of the salary for the AZTEC Field Trainer plus operating costs and two courtroom clerks for the Clerk of the Court. This improved workflow has increased the ability of the court to complete and process cases in a timely manner. According to Mohave's Criminal Case Aging Report, 88% of the criminal cases were disposed within 180 days and 50% were disposed of within 100 days.

Navajo County

Navajo County improves caseload with a reduction of case-processing times. The court received funds for a Judge Pro Tempore, IA Masters, Interpreter and a Caseload Manager. The Navajo County courts' proposals have focused mainly on the use of personnel to manage and accommodate caseload and to improve criminal case-processing time to disposition. The goal has been to reduce continuances with interpreter assistance, utilize the Caseload Manager to provide data tools to assist judges in decision-making on pending cases, early case disposition with the Initial Appearance Masters, ensure timely case processing with Judge Pro Tempore coverage. They have attempted, through Fill The Gap, to expedite case processing by reducing the length of time during and between court events. In FY06, 75% of the criminal cases were disposed within 180 days and 52% were disposed in 100 days.

Pima County

Pima County continues to improve technology with data sharing to expedite criminal cases. The superior court, clerk of the superior court and justice courts received funds for staff and equipment necessary to continue the Criminal Case Reduction and Process Improvement Projects. The Pima County courts' proposals have focused mainly on the use of technology and other resources to facilitate and accommodate data sharing, which has also led to the expedition of processing criminal cases. The intent has been to eliminate redundant activities, ensure timely notification of grand jury indictments to detention personnel and defendants, streamline pre-sentence processing

and minute entry distribution, and to provide timely criminal case disposition and reporting. They have attempted, through Fill The Gap, to expedite case processing by reducing the length of time required for events that occur outside of the courtroom thus reducing the amount of time between court events. Seventy-nine percent of the criminal cases were disposed within 180 days and 50% were disposed in 100 days. What follows is a status of projects funded by Fill The Gap in FY06.

Pima County continues to improve on criminal case processing by focusing on a multi-faceted approach with workflow.

- The Pro Tempore Judicial Division adjudicated 457 criminal cases, expediting the time to disposition. The average cases disposed per Judge in the Arizona Supreme Court in Pima County is 432.
- Maintaining Staffing Levels related to caseload at the PTS Intake Unit Project of the Superior Court is critical to the success of early case resolution. Three additional positions were funded through Fill The Gap. This has helped the unit provide required information to the court by established deadlines for arrestees, conducting background investigations and submitting recommendation reports.
- The Superior Court in Pima County purchased and installed a video link with Fill The Gap funds. The court is in the process of developing protocols with the county jail for the use of the link to interview in-custody defendants. This will reduce time and costs of transporting defendants.
- This fiscal year the AZTEC field trainer spent over 1,935.25 hours training court staff to use the AZTEC Case Management System. The training ensures consistency in data entry across courts resulting in quality data and management reports.
- The Probation Fine/Fee/Assessment Billing project has continued to successfully allow for accurate and timely payments of court-ordered fines, fees and assessments. The number of supervised and unsupervised probationers making timely payments continues to increase. Probationers are billed monthly as a reminder of their obligations. The total outstanding and past due collections for this category continues to decrease since instituting this program.
- The Consolidated Justice Court Technical Programming Support Project continued funding from the Fill The Gap for a full time programmer analyst. In fiscal year 06, the Programmer Analyst was able to assist in the program which allows the court to create almost "instant" warrants rather than the previous process of producing via a "batch" process. In addition, participate in a multi-agency program has begun with the intent of allowing data sharing among local justice and law enforcement agencies.

- The Consolidated Justice Court Adult Probation Supervision project consists of two adult probation officers who supervise justice court defendants convicted of DUI, extreme DUI and domestic violence offenses. The two officers supervised 366 cases in FY06.
- The Case/Document Processing/Imaging Center from the Clerk of the Court continues to reduce wait times and continuances by efficiently distributing, imaging and docketing criminal cases, resulting in minute entry distribution, without adding personnel or incurring additional hardware costs.
- The Green Valley Justice Court Video project utilized Fill The Gap funds in FY 06 to maintain the video system and to continue funding personnel who coordinate with jail personnel in the preparation and processing of these cases. This has saved the County thousands of dollars in defendant transportation costs. Costs were saved on transportation costs for 254 defendants in FY06.
- The Green Valley Justice Court used Fill The Gap funds to purchase a digital, audio recording system in FY05. This year they used Fill the Gap funds to pay for technical support that has enhanced the quality of the recording process.
- The Green Valley Justice Court also used Fill The Gap funds to supplement an existing position to serve as a case management specialist. This position assists the court administrator in identifying areas of criminal case processing that require improvement. In addition, the Case Management Specialist produces statistical reports and processes receivables and payables that relate to enforcement of the court's aggressive criminal misdemeanor and traffic fine collection.
- The Consolidated Justice Courts Pretrial Services project received funding to staff a position for a new program in Justice Court which focused on those defendants charged with a misdemeanor DUI who had outstanding warrants. This program was implemented in February 2005. In FY06, there were 1,313 cases assigned and 1,285 of them were closed thereby reducing backlog. Of the closed cases, 530 (41.2%) were closed by the defendant surrendering to the court.
- The Consolidated Justice Courts added one full-time Litigation Support Specialist to handle incoming criminal and criminal traffic telephone inquiries. The work of this position has improved overall criminal caseflow by providing better communication on case-specific information.

Pinal County

Pinal County continues to feel the impact of rapid population growth. Their pending case backlog grows and time to bring felony case processing has been difficult to manage. Pinal County has experienced a 5% increase in population. The current criminal bench received approval for a new 8th Division which went into effect December 19, 2005.

Fiscal Year 06 Fill The Gap funds were used to add a Judge Pro Tempore and Judicial Assistant to the Superior Court to assist in the reduction of backlog by reducing case processing times. Eight-nine percent of the criminal cases were disposed of within 180 days and 43.8% in 100 days.

Santa Cruz

Santa Cruz County received funding to pay a portion of the salary for a Judge Pro Tempore for the purpose of hearing cases with which the other Superior Court Judges have declared a conflict. In FY06, 79.2% of the criminal cases were disposed of within 180 days and 51.7% within 100 days.

Yavapai County

Yavapai County identified a need to continue the post-adjudication drug court. A part time pro tempore division and a Caseflow Manager were needed to achieve this goal. The superior court received continuation funding for the voluntary, post-adjudication drug court program for non-violent adult offenders who have pled to a second offense for possession of drugs. There were 46 participants and 28 graduates in FY06. The Caseflow Manager position compiles, analyzes, and reports data used to manage cases to improve criminal case processing. Eighty-nine percent of the criminal cases were disposed within 180 days and 72% were disposed within 100 days.

Yuma County

Yuma County identified a need to continue their caseflow management project. The superior court, the clerk of the superior court and justice courts received funds to continue implementation of their caseflow management project. The court reported that the AZTEC calendaring module was being used for case calendaring and relied upon by other criminal justice entities for accuracy. Statistics for case reassignments were collected and maintained to track change of judge, recusal of judge and administrative assignments. Judges were provided with pending case aging statistics on their daily criminal calendars. Seventy-three percent of the criminal cases were disposed within 180 days and 46% were disposed of within 100 days.

Collections Efforts

In FY06, statewide court revenues including Superior, Justice and Municipal Courts increased by 13.7%, or \$39 million while total case filings increased by 0.5 %. The FY06 revenues of \$323.2 million represent a \$ 253.2 million increase over the \$70 million benchmark established in FY 1988. Superior court restitution collections increased by 13.6 % to \$17,010,096 in FY06 from \$14,979,835 in FY05.

Key to the statewide collection efforts are the Fines/Fees and Restitution Enforcement (FARE) and the Debt Setoff (DSO) programs. Both are essential to the progress being made in enforcing compliance with court orders.

During FY 2003, the FARE program was established to increase compliance with court orders, specifically focusing on collections efforts. The AOC contracted with Affiliated Computer Services State and Local Solutions (ACS S&L) to provide various collection options to Arizona courts. Collection services presently offered by ACS S&L Include:

two reminder notices, electronic skip tracing, interactive voice recording (IVR) and Internet based (web) payment options, collection notices, credit bureau reporting, wage garnishment if approved by the court and assignment to the Debt Setoff Program and/or the Motor Vehicle Division's Traffic Ticket Enforcement Assistance Program (TTEAP). Defendants whose cases have been referred to TTEAP are not able to register their vehicle until their court obligations are satisfied.

As a result of FARE, a total of \$30,524,800 was collected on backlog cases in FY06. The average payment was \$207 with many of the cases dating back to the mid-to-late 1980's. Over \$5.4 million was collected via the web or interactive voice line. There were 93,685 vehicle registration holds placed and 39,875 releases due to payment. In FY06, an additional 30 courts were added to the FARE program bringing the total participating in the program to 60. See below for the total courts by county:

Cochise	3
Coconino	6
Graham	6
La Paz	4
Maricopa	14
Mohave	1
Navajo	11
Pima	5
Pinal	4
Yavapai	<u>6</u>
	60

The Debt Setoff (DSO) program was established in 1992 to hold offenders accountable for financial obligations owed, to assist in the enforcement of court orders, and to increase collections in the Arizona court system. The agency (such as the court, probation department or county attorney office) provides the name, social security number and the full amount of the debt, to the DSO program and if a debt claim matches with a taxpayer's refund or lottery winning, an intercept will occur. During CY 2004 there were 160 (agency) participants in the Arizona Supreme Court's DSO program. During CY 2005, the DSO program had 47,668 tax and lottery interceptions, an increase of 17.6% from CY 2004. During CY 2005, DSO revenue was \$5,543,500, an increase of 20.1%. Note that this information is tracked by calendar year in keeping with the tax year.

Conclusion

The role of courts is to swiftly and fairly resolve cases. To achieve this goal, courts must increase efficiency and meet expectations of court users. One of the ways to accomplish these goals is by re-engineering case processing so that cases are resolved more quickly. Arizona citizens have the right to an adequately funded system that employs modern technology to process cases and communicate information, protects the rights of victims, ensures that self-represented litigants have meaningful access to the courts, and is open and available to all members of the public. In keeping with the Chief Justice's Strategic Agenda, the AOC and participating counties continue to work

toward establishing programs that aid courts in implementing solutions to further improve caseload processing and enforcement of court orders. As shown by the achievements in many counties, funding for these projects have significantly improved criminal case processing in Arizona. These improvements assist in bettering Arizona's entire justice system. Although progress has been made, courts continue to struggle with increased criminal caseloads and limited available funds. Caseload reengineering is a continuous and iterative process of improvement. A continued commitment to case delay reduction strategies is important to overcome obstacles such as increasing caseloads. The achievements made so far in Arizona mark significant progress towards achieving swift, fair justice for Arizona's citizens.