

# FIFTY-EIGHT YEARS AND COUNTING: THE ELUSIVE QUEST TO REFORM ARIZONA'S JUSTICE OF THE PEACE COURTS

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## INTRODUCTION

The justice of the peace courts serve a significant function in the Arizona judicial system. They process approximately 34% of all cases filed each year in the Arizona court system and are often the public's only point of contact with the judiciary.<sup>1</sup> Given their prominence, it is essential that the justice courts be effectively organized and administered, adequately funded, and their judges be well trained and highly qualified. In recent years, the justice courts have struggled to match this ideal. For example, in March 2009, the Administrative Office of the Arizona Supreme Court found that the Globe Regional Court, consisting of Globe's justice and magistrate courts, had numerous case processing inefficiencies and poor financial management practices.<sup>2</sup> This prompted the Arizona Supreme Court to transfer administrative control and day-to-day oversight of the Globe Justice Courts to the Gila County Superior Court.<sup>3</sup> There have been several similar instances over the past ten years.<sup>4</sup> There have also been a number of scandals

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1. 2 ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, THE ARIZONA COURTS: DATA REPORT FOR FY 2009, *available at* <http://supreme.state.az.us/stats/2009Databook.htm>. See appendix I for a county-by-county breakdown of case filings for the past ten years.

2. Globe Regional Court, 2009-35 (2009), *available at* <http://www.azcourts.gov/portals/22/admorder/orders09/2009-35.pdf>. The significant delays in case processing prompted the county attorney to dismiss 178 cases. Suzanne Jacobson, *Top Court Removes Globe Judge*, PAYSON ROUNDUP Apr. 10, 2009.

3. Globe Regional Court, 2009-35.

4. In 1997, the Arizona Supreme Court found that the Flagstaff Justice Court had significant financial and records management problems. Flagstaff Justice Court, 97-44 (1997), *available at* <http://www.azcourts.gov/portals/22/admorder/orders99/pdf97/9744.pdf>. As a result, the court transferred administrative supervision of the Flagstaff Justice Court to the Coconino County Superior Court. *Id.* In 2002, the court ordered all justice courts in Maricopa County be directly administered by the Maricopa County Superior Court. Establishment of the Judicial Oversight Council of the Limited Jurisdiction Courts of Maricopa County, 2002-67 (2002), *available at* <http://www.azcourts.gov/portals/22/admorder/orders02/2002-67.pdf>. In 2005, all clerks at the Wickenburg Municipal Court

involving justices of the peace (JPs) that have resulted in official censure and reprimand.<sup>5</sup>

Controversy surrounding the justice courts is not new.<sup>6</sup> Over the past fifty-eight years, problems in the Arizona justice courts have prompted at least seven different comprehensive studies and proposals for institutional reform.<sup>7</sup> For varying reasons, many of these proposals have never been implemented, and substantial justice court reform remains elusive. The purpose of this Note is to once again draw attention to the justice courts and their need for reform. The Note first provides a broad overview of the institutional features of the justice court system. It then examines the traditional criticisms of these courts and the modern day relevance of these criticisms. Finally, the Note reviews the various efforts to reform the justice courts in Arizona.

## I. THE ARIZONA JUSTICE COURT SYSTEM

The justice courts have been part of Arizona's judicial landscape since 1912.<sup>8</sup> Authorized by the Arizona Constitution<sup>9</sup> and governed by statute,<sup>10</sup> the

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unexpectedly resigned, prompting the Supreme Court to transfer administrative control of this court to the Maricopa County Superior Court. Wickenburg Municipal Court, 2005-40 (2005), available at <http://www.azcourts.gov/portals/22/admorder/orders05/2005-40.pdf>.

5. In 2004, JP Romney was suspended for incompetence and misconduct. A pattern of incidents established that Romney lacked the requisite ability, knowledge, or judgment to consistently and capably discharge duties of office. ARIZ. COMM'N ON JUDICIAL CONDUCT, HANDBOOK 30 (2007) [hereinafter HANDBOOK] (summarizing *In re Romney*, JC-04-0003 (Jun. 29, 2004)), available at [http://supreme.state.az.us/ethics/Handbook/Handbook\\_March\\_2007.pdf](http://supreme.state.az.us/ethics/Handbook/Handbook_March_2007.pdf). Also in 2004, JP Johnson was suspended for ruling in several cases without providing adequate notice, granting summary judgment on his own motion without waiting for a party to request this action, issuing inconsistent rulings in a case involving a claim and counterclaim, and personally loaning money to post a bond. *Id.* (summarizing *In re Johnson*, JC-04-0004 (Aug. 16, 2004)). In 2007, Apache County JP Overson agreed to resign from office after the Commission on Judicial Conduct found that he was incompetent to sit as a judge because he continually failed to give litigants their rights, failed to distinguish between civil and criminal matters, and consistently failed to understand or comply with state law. Amended Stipulated Resolution at 2, *In re Overson*, JC-07-039 (Dec. 28, 2007), available at [http://supreme.state.az.us/ethics/Complaints/2007\\_Complaints/07-039%20Final.pdf](http://supreme.state.az.us/ethics/Complaints/2007_Complaints/07-039%20Final.pdf). In the Amended Stipulated Resolution, the parties agreed that Overson's "actions were primarily the result of a desire to act in the best interest of [his] constituents in a rural, close-knit community in an outlying part of the state." *Id.*

6. For a discussion of problems with the justice courts in the 1950s, see ARIZ. LEGISLATIVE COUNCIL, REPORT ON JUSTICE OF THE PEACE COURTS IN ARIZONA (1958) [hereinafter 1958 REPORT]. For additional reports of JP misconduct dating back to 1980, see HANDBOOK, *supra* note 5.

7. See 1958 REPORT, *supra* note 6; Harold H. Bruff, *Arizona's Inferior Courts*, 1973 LAW & SOC. ORDER 1 (1973); ARIZ. JUDICIAL COORDINATING COMM., THE 1981 ARIZONA JUDICIAL PLAN (1981) [hereinafter 1981 JUDICIAL PLAN]; ARIZ. STATE UNIV. COLL. OF LAW, STUDY OF THE ARIZONA LOWER COURT SYSTEM (1982) [hereinafter 1982 STUDY]; COMM'N ON THE COURTS, THE FUTURE OF ARIZONA COURTS (1989) [hereinafter 1989 COMMISSION REPORT]; and ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, REPORT & RECOMMENDATIONS OF THE COMMITTEE TO STUDY IMPROVEMENTS IN THE LIMITED JURISDICTION COURTS (1995) [hereinafter 1995 COMMITTEE REPORT].

8. See JAMES M. MURPHY, LAWS, COURTS, AND LAWYERS: THROUGH THE YEARS

justice courts initially had jurisdiction over civil matters involving less than \$200 and over misdemeanor criminal matters where the punishment was by fine of less than \$200.<sup>11</sup> As the state has grown, the justice courts have grown, increasing in jurisdiction and expanding to eighty-seven justice courts.<sup>12</sup> This section provides an overview of the institutional characteristics of Arizona's justice courts. It discusses the court's organization, funding, jurisdiction, appeals process, and judges.

#### *A. Court Organization and Funding*

The organization of the justice courts can best be described as decentralized.<sup>13</sup> These courts are organized and administered at the county level. By statute, the board of supervisors in each county is required to divide the county into different justice precincts.<sup>14</sup> The size and number of these precincts are fully within the board of supervisor's discretion.<sup>15</sup> At present, there are eighty-seven precincts and eighty-seven JPs in Arizona.<sup>16</sup> With certain exceptions,<sup>17</sup> each of the eighty-seven precincts operates within their own microcosm, possessing their own budget, administrative structures, and filing systems.

The justice courts are primarily funded at the county level. In recent years, county funding has accounted for approximately 96% of these courts' budgets.<sup>18</sup> The remaining 4% of their budgets comes from state appropriations.<sup>19</sup>

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IN ARIZONA 93 (1970).

9. ARIZ. CONST. art. VI, § 1.

10. ARIZ. REV. STAT. §§ 22-201 to -283 (2009).

11. ARIZ. SUPREME COURT, THE ARIZONA COURTS SUMMARY REPORT: HISTORY, STRUCTURE AND OPERATION 4 (1977). In today's dollars, the \$200 jurisdiction limit would be approximately \$9000. See U.S. Department of Labor, Bureau of Labor and Statistics CPI Inflation Calculator, <http://data.bls.gov/cgi-bin/cpicalc.pl> (last visited, Apr. 8, 2010).

12. ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, 2009 ANNUAL REPORT (2009), available at <http://www.azcourts.gov/2009annualreport/JudiciaryOrganizationalChart.aspx> [hereinafter 2009 ANNUAL REPORT]. The number of precincts by county are as follows: Apache 4; Cochise 6; Coconino 4; Gila 2; Graham 2; Greenlee 2; La Paz 3; Maricopa 25; Mohave 5; Navajo 6; Pima 10; Pinal 8; Santa Cruz 2; Yavapai 5; Yuma 3. *Id.* Appendix I lists the number of precincts per county for each of the last ten years.

13. Bruff, *supra* note 7, at 37.

14. ARIZ. REV. STAT. § 22-101(A) (2009).

15. *Id.* § 11-251(a)(2).

16. 2009 ANNUAL REPORT, *supra* note 12.

17. Pima County, for example, has consolidated all of its justice precincts into one consolidated court. Admin. Supervision of the Justice of the Peace Courts in Pima County, 74-01 (1974).

18. Over the past ten years, state funding of the justice courts has dropped by 50%. In 2000 and 2001, state funds accounted for 8% of justice court funding. See 2 ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, THE ARIZONA COURTS: DATA REPORT FOR FY 2000, 36 (2000), available at [http://supreme.state.az.us/stats/Old\\_Databooks/2000V2All.pdf](http://supreme.state.az.us/stats/Old_Databooks/2000V2All.pdf) [hereinafter 2000 REPORT]; 2 ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, THE ARIZONA COURTS: DATA REPORT FOR FY 2001 36 (2001), available at [http://supreme.state.az.us/stats/Old\\_Databooks/2001V2All.pdf](http://supreme.state.az.us/stats/Old_Databooks/2001V2All.pdf) [hereinafter 2001 REPORT]. In 2002 and 2003, state funding dropped to 7%. See 2 ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, THE ARIZONA COURTS: DATA REPORT FOR FY 2002 36 (2002),

The state's contribution to the justice courts is predominantly dedicated to judicial salaries. By statute, the state is required to fund 40% of the JPs' salaries in counties with populations less than 1.5 million.<sup>20</sup> The state has not always been successful in meeting this mandate. In recent years, the legislature has passed a series of annual session laws that decreased the state's funding obligation.<sup>21</sup> For fiscal year 2010, the legislature reduced the state's share of the JPs' salaries to 19.25%.<sup>22</sup>

### **B. Jurisdiction**

The justice courts operate as limited jurisdiction trial courts within the Arizona judiciary. As such, these courts' criminal jurisdiction is limited to misdemeanors where the penalty is less than \$2500 or less than six months in

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available at [http://supreme.state.az.us/stats/Old\\_Databooks/2002V2All.pdf](http://supreme.state.az.us/stats/Old_Databooks/2002V2All.pdf) [hereinafter 2002 REPORT]; 2 ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, THE ARIZONA COURTS: DATA REPORT FOR FY 2003 36 (2003), available at [http://supreme.state.az.us/stats/Old\\_Databooks/2003V2All.pdf](http://supreme.state.az.us/stats/Old_Databooks/2003V2All.pdf) [hereinafter 2003 REPORT]. In 2004 state funding dropped to 5%. 2 ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, THE ARIZONA COURTS: DATA REPORT FOR FY 2004 36 (2004), available at [http://supreme.state.az.us/stats/Old\\_Databooks/2004V2All.pdf](http://supreme.state.az.us/stats/Old_Databooks/2004V2All.pdf) [hereinafter 2004 REPORT]. For fiscal years 2005, 2006, 2007, state funding was 7%, 6%, and 7% respectively. 2 ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, THE ARIZONA COURTS: DATA REPORT FOR FY 2005 36 (2005), available at [http://supreme.state.az.us/stats/Old\\_Databooks/2005V2All.pdf](http://supreme.state.az.us/stats/Old_Databooks/2005V2All.pdf) [hereinafter 2005 REPORT]; 2 ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, THE ARIZONA COURTS: DATA REPORT FOR FY 2006 22 (2006), available at [http://supreme.state.az.us/stats/Volume2\\_2006/V2Intro.pdf](http://supreme.state.az.us/stats/Volume2_2006/V2Intro.pdf) [hereinafter 2006 REPORT]; 2 ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, THE ARIZONA COURTS: DATA REPORT FOR FY 2007 22 (2007), available at [http://supreme.state.az.us/stats/Volume2\\_2007/LJAll2.pdf](http://supreme.state.az.us/stats/Volume2_2007/LJAll2.pdf) [hereinafter 2007 REPORT]. For 2008 and 2009, state funding has held steady at 4%. 2 ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, THE ARIZONA COURTS: DATA REPORT FOR FY 2008 22 (2008), available at [http://supreme.state.az.us/stats/2008\\_Files/LJAll.pdf](http://supreme.state.az.us/stats/2008_Files/LJAll.pdf) [hereinafter 2008 REPORT]; 2 ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, THE ARIZONA COURTS: DATA REPORT FOR FY 2009 22 (2009), available at <http://supreme.state.az.us/stats/2009Databook.htm> [hereinafter 2009 REPORT].

19. See 2009 REPORT, *supra* note 18, at 22. Over the last ten years, state budget appropriations to the justice courts have predominantly been directed to judicial salaries. In Fiscal Years 2007, 2003, 2002, 2001, and 2000, the justice courts also received a small percentage of funds from appropriations for the Case Processing Assistance Fund; the Alternative Dispute Resolution Fund; and the Judicial College Enhancement Fund. See 2007 REPORT, *supra* note 18, at 14; 2003 REPORT, *supra* note 18, at 9; 2002 REPORT, *supra* note 18, at 9; 2001 REPORT, *supra* note 18, at 9; 2000 REPORT, *supra* note 18, at 9.

20. ARIZ. REV. STAT. § 22-117(b) (2009). In counties with populations of more than 1.5 million, the county is charged with paying 100% of judicial salaries. *Id.*

21. From 2003 to 2009, the legislature passed a series of annual session laws requiring the state to pay only 38.5% of justice of the peace salaries. JOINT LEGISLATIVE BUDGET COMM., FY 2011 BASELINE BOOK 424 (2010).

22. *Id.* The reduction in state funding for FY2010 is most likely attributable to the recent state budget crisis. For a discussion of the state's budget crisis, see Christopher L. Hering, Note, *Playing a Leading Role: How Recent Cases Are Thrusting the Arizona Courts into the State's Budget Drama*, 52 ARIZ. L. REV. 173, 174-78 (2010).

jail.<sup>23</sup> Their civil jurisdiction is limited to three types of cases: claims where the amount involved is less than \$10,000; forcible entry and detainer actions where the amount involved is less than \$10,000;<sup>24</sup> and decriminalized traffic violations.<sup>25</sup> Any civil matter exceeding \$10,000 is the exclusive province of the superior courts.<sup>26</sup>

Since 1912, the civil jurisdictional limits for the justice courts have increased from \$200 to \$10,000. In recent years, there have been efforts to increase the civil jurisdiction of the justice courts to as much as \$30,000.<sup>27</sup>

### C. Appeals

In civil matters where the amount in controversy exceeds \$20, any party to a final judgment has a right to appeal the justice court's decision to the superior court.<sup>28</sup> This appeal is made on the record if there is a transcript of the proceedings. A *de novo* appeal will be granted only if the party requested that a transcript be made of the lower court proceeding and if the superior court finds any transcript produced to be insufficient.<sup>29</sup> For criminal matters, the defendant also has the right to appeal a final judgment of the justice court to the superior court.<sup>30</sup>

After an appeal to superior court, parties have a limited right to appeal to the Court of Appeals or Supreme Court. An appeal may be taken from a final judgment of the superior court if the action "involves the validity of a tax, impost,

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23. ARIZ. REV. STAT. § 22-301(A)(1) (2009).

24. Justice courts exercise concurrent jurisdiction with the superior court in forcible entry and detainer actions when the amount involved is \$10,000 or less. ARIZ. REV. STAT. § 22-301(B) (2009).

25. ARIZ. CONST. art. VI., § 32(C); ARIZ. REV. STAT. § 22-201(A)–(B) (2009).

26. See ARIZ. CONST. art. VI., § 14; ARIZ. REV. STAT. § 12-123 (2009).

27. In 2004 and 2005, Representative Chuck Gray introduced four bills to try to increase the jurisdictional limit for the justice of the peace courts to \$30,000. H.B. 2385, 2nd Reg. Sess., at 1–2 (2004), available at <http://www.azleg.gov/legtext/46leg/2r/bills/hb2385p.pdf>; H.B. 2257, 1st Reg. Sess., at 1–2, available at <http://www.azleg.gov/legtext/47leg/1r/bills/hb2257p.pdf>. In 2004, two other measures sponsored by Senator Jarrett sought to increase the jurisdictional limits to \$20,000. S.B. 1034, 2nd Reg. Sess., at 1–2 (2004) (as introduced), available at <http://www.azleg.gov/legtext/46leg/2r/bills/sb1034p.pdf>; S.C.R. 1008, 2nd Reg. Sess., at 1 (2004), available at <http://www.azleg.gov/legtext/46leg/2r/bills/scr1008p.pdf>. None of these measures gained any traction in the legislature. For a discussion of why states should be cautious in increasing civil jurisdiction limits of justice courts without also increasing the qualification requirements for JPs, see Cathy Lesser Mansfield, *Disorder in the People's Court: Rethinking the Role of Non-Lawyer Judges in Limited Jurisdiction Court Civil Cases*, 29 N.M. L. REV. 119 (1999).

28. ARIZ. REV. STAT. § 22-261(A) (2009).

29. ARIZ. REV. STAT. § 22-261(C) (2009). The Constitutionality of this statute was upheld in *Palmer v. Superior Court of Maricopa County*, 560 P.2d 797, 799 (Ariz. 1977). In that case, Palmer argued that this statute was contrary to the U.S. Supreme Court's decision in *North v. Russell*, 427 U.S. 328 (1976) and that it violated his due process rights. *Palmer*, 560 P.2d at 799. The Arizona Supreme Court was not convinced and did not read *North* to require a *de novo* trial for appeals from non-record courts presided over by non-lawyer judges and held that the statute did not violate Palmer's due process rights. *Id.*

30. ARIZ. REV. STAT. § 22-371 (2009); ARIZ. R. CRIM. P. 30.1.

assessment, toll, municipal fine or statute.”<sup>31</sup> If the appeal does not involve any of these challenges, then there is no right to appeal the judgment of the superior court.<sup>32</sup> A party can, however, seek to invoke the Court of Appeals or the Supreme Court’s special action jurisdiction to review the superior court’s decision.<sup>33</sup>

#### *D. Justices of the Peace*

There are currently eighty-seven JPs in Arizona. These officials are elected through a partisan electoral process for four-year terms.<sup>34</sup> If a vacancy arises before a general election, the county board of supervisors is responsible for appointing a temporary JP.<sup>35</sup>

In Arizona, the qualification requirements for this judicial office are low.<sup>36</sup> By statute, a JP need only be eighteen years old, a resident of the state, an elector of the county, and able to read and write the English language.<sup>37</sup> In practice, most JPs far exceed these minimum requirements. Indeed a large number of the current JPs have obtained some level of post-secondary education, and there are several JPs who have prior work experience in law enforcement.<sup>38</sup> The number of current JPs with legal training is quite low. Out of the eighty-three JPs who provided information, only twenty-seven or 32% have law degrees.<sup>39</sup> The law-

31. ARIZ. REV. STAT. § 22-375(A) (2009).

32. *Id.* § 22-375(C).

33. *See* ARIZ. REV. STAT. § 12-124(B) (2009); ARIZ. R. PRO. SPEC. ACTIONS 1(a); *State v. Superior Court*, 878 P.2d 1381, 1382 (Ariz. Ct. App. 1994).

34. ARIZ. REV. STAT. §§ 22-102, 22-111 (2009).

35. ARIZ. REV. STAT. § 11-213 (2009).

36. The requirements for this office are low in comparison to other judicial offices in the State. A justice of the peace need only be eighteen years old, an Arizona resident, an elector of the county, and literate in the English language. ARIZ. REV. STAT. § 11-402 (2009). A superior court judge must be thirty years of age, of good moral character, admitted to practice law in Arizona, and a resident of Arizona for five years. ARIZ. CONST. art. VI., § 22. The qualifications for municipal court judges are not uniform, as they are established by city or town ordinances where the court is located. The requirements for JP are also low in comparison to the qualification requirements to run for the state legislature. To be elected to the Arizona legislature, a candidate must be a U.S. citizen, an Arizona resident for 3 years, and be at least 25 years old. ARIZ. CONST. art. IV., part 2, § 2.

37. *See* ARIZ. REV. STAT. § 11-402 (2009).

38. This information is based on the justice courts’ websites as well as from contacting the justice courts.

39. This information is based on the justice courts’ websites, the Arizona Bar Association website, and from contacting individual JPs. At the time of publication, education information for four JPs was unconfirmed. The county-by-county breakdown of JPs with law degrees is as follows: Apache County at the time of publication, information for the three JPs was unconfirmed; Cochise County one of six JPs (at the time of publication information for one JP was unconfirmed); Coconino County zero of four JPs; Gila County zero of three JPs; Graham County one of two JPs; Greenlee County zero of two JPs; La Paz County zero of three JPs; Maricopa County six of twenty-five JPs; Mohave County four of five JPs; Navajo County one of six JPs; Pima County seven of ten JPs; Pinal County two of eight JPs; Santa Cruz County one of two JPs; Yavapai County three of six JPs; Yuma County one of three JPs.

trained JPs are highly concentrated in urban counties, with 48% of law-trained JPs presiding in Maricopa and Pima Counties.<sup>40</sup>

## II. COMMON CRITICISMS OF THE JUSTICE COURTS

The institutional characteristics of the justice courts have prompted a lot of criticism over the years.<sup>41</sup> The critiques have been fairly consistent. In Arizona, criticism has focused on three aspects of the justice courts: their place within the trial court system, their judge's qualifications, and their funding. This section explains each of these criticisms and their current application to Arizona's justice courts.

### A. Court Structure

One of the most common criticisms of the justice courts centers on their place within the broader trial court system. In Arizona, the trial court system includes fifteen superior courts, eighty-seven justice courts, and eighty-three municipal courts.<sup>42</sup> Each of these courts is separately funded by the county and the state,<sup>43</sup> and each has unique jurisdiction mandates,<sup>44</sup> judicial selection procedures,<sup>45</sup> and judicial qualification requirements.<sup>46</sup> This multiplicity has

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40. In Maricopa County only 26% of JPs have law degrees, while 70% of Pima County's JPs have law degrees.

41. Indeed, for over a hundred years, scholars, practitioners, and citizens have criticized the justice of the peace system and have tried to facilitate its demise. As early as 1927, scholars were calling this system an "anachronism." See Chester H. Smith, *The Justice of the Peace System in the United States*, 15 CAL. L. REV. 118, 140 (1927); Mansfield, *supra* note 27, at 136–41. Further, a 1975 law review article made the bold hypothesis that there would be no more justice of the peace courts by 1988. James A. Gazell, *A National Perspective on Justices of the Peace and Their Future: Time for an Epitaph?*, 46 MISS. L.J. 795, 813 (1975).

42. 2009 ANNUAL REPORT, *supra* note 12.

43. The superior court receives funds from federal, state, and county sources. About 80% of the superior court funds come from the county. 2009 REPORT, *supra* note 12. The justice of the peace courts receive 96% of their funds from the county and 4% from the state. See *id.* at 22. The municipal courts are 100% funded at the local level. *Id.* at 26.

44. The superior court has exclusive jurisdiction over civil cases involving more than \$10,000, all felonies, proceedings affecting children, all probate matters, dissolutions of marriage, adoptions, and family related matters. ARIZ. CONST. art. VI, § 14. The justice of the peace courts have jurisdiction over civil cases where the dollar amount is less than \$10,000, ARIZ. REV. STAT. § 22-201(B) (2009), and jurisdiction over misdemeanors where the penalty is less than \$2500 or six months in jail. *Id.* § 22-301(A)(1). The municipal courts have exclusive jurisdiction over violations of city ordinances and concurrent jurisdiction with the justices of the peace for violations of state laws committed within city limits. *Id.* § 22-402.

45. In the Pima and Maricopa superior courts, judges are appointed by a non-partisan merit selection committee and are subject to voter removal every four years. ARIZ. CONST. art. VI, § 38(A). In all other counties, the superior court judges are elected in partisan races for four-year terms. ARIZ. CONST. art. VI, §12(A). The justices of the peace in all counties are elected to four-year terms. ARIZ. REV. STAT. § 22-102 (2009). Municipal court judges are selected in the manner provided by the charter or ordinance of the city or town in which they serve. ARIZ. REV. STAT. § 22-403(A) (2009).

prompted complaints that the trial court system is inefficient, confusing, and wasteful.<sup>47</sup>

Roscoe Pound was among the first to make this critique of trial courts. In a 1906 speech to the American Bar Association, Pound argued that the trial court system was archaic in that it maintained too many courts, creating problems of judicial waste and de novo trials.<sup>48</sup> In 1981, U.S. Supreme Court Justice Sandra Day O'Connor noted that Pound's criticism was very apt for the Arizona system.<sup>49</sup> In a speech at a Conference on Lower Court Improvement, Justice O'Connor commented that Arizona's fragmented trial court system "has resulted in needless confusion, and in relatively uncoordinated utilization of court facilities and judicial resources."<sup>50</sup>

A significant example of Arizona's trial court inefficiency is the concurrent jurisdiction that exists between the justice courts and the superior and municipal courts.<sup>51</sup> The justice and superior courts share concurrent jurisdiction over forcible entry and detainer actions where the amount involved is less than \$10,000.<sup>52</sup> The justice and municipal courts share concurrent jurisdiction over misdemeanor state law violations.<sup>53</sup> This jurisdictional overlap makes for a redundant trial court system. In Maricopa County, for example, there are twenty-three municipal courts and twenty-five justice courts—each separately funded and administered—to handle misdemeanor state law violations. This redundancy of trial courts combined with the complex jurisdictional divisions between the superior, justice, and municipal courts,<sup>54</sup> serves as a source of confusion for litigants in selecting the proper forum to bring their case.<sup>55</sup>

To resolve the problems that result from a fragmented trial court system, most reform studies have advocated trial court consolidation and unification.<sup>56</sup> In other words, creating a single district court to handle all trials rather than dividing the task among three separately funded and administered court structures. This would solve the problems posed by the decentralized and uncoordinated

46. See *supra* note 36, for a breakdown of the qualification requirements for the three trial courts.

47. Bruff, *supra* note 7, at 37–41; 1995 COMMITTEE REPORT, *supra* note 7, at 20; Sandra Day O'Connor, Assoc. Justice U.S. Supreme Court, Don't Just Stand There, Keynote Address at Arizona State University Conference on Arizona's Peoples Courts: Proposals for Improvement 1–2 (Nov. 27, 1981), in PAUL G. ULRICH, *THE MAGISTRATES' JUDICIAL INDEPENDENCE HANDBOOK* (1985) [hereinafter O'Connor].

48. Roscoe Pound, *Causes of Popular Dissatisfaction with the Administration of Justice*, reprinted in 46 J. AM. JUD. SOC. 55, 62–65 (1962).

49. O'Connor, *supra* note 47, at 2.

50. *Id.*

51. 1995 COMMITTEE REPORT, *supra* note 7, at 23–25; O'Connor, *supra* note 47, at 4.

52. ARIZ. REV. STAT. § 22-301(B) (2009).

53. ARIZ. REV. STAT. §§ 22-301(A)(1), 22-402(B) (2009).

54. See *supra* note 44 for the jurisdiction divisions between these courts.

55. 1995 COMMITTEE REPORT, *supra* note 7, at 23–25; O'Connor, *supra* note 47, at 4.

56. 1958 REPORT, *supra* note 6, at 89; 1989 COMMISSION REPORT, *supra* note 7, at 9–10; 1995 COMMITTEE REPORT, *supra* note 7, at 20.



administration of the lower courts as well as resolve the problem of concurrent jurisdiction. Every group that has studied the Arizona system has proposed some form of unification or consolidation.<sup>57</sup>

### ***B. Qualification Requirements for JPs***

Another common criticism of the justice court system concerns the qualification requirements for JPs. In a majority of jurisdictions, including Arizona, there is no requirement that JPs have a legal education or be members of the bar.<sup>58</sup> The existence of non-lawyer or “lay” JPs has been a lightning rod for debate for many years.<sup>59</sup> On one side of the debate, numerous groups such as the American Bar Association and the American Judicature Society have called for the abolition of non-lawyer JPs.<sup>60</sup> These groups argue that non-lawyer JPs are anachronistic, especially in light of the increasing complexity of cases that justice courts hear.<sup>61</sup> The disparity in qualification requirements for judges sitting on different trial courts also causes these groups concern.<sup>62</sup> This disparity was questioned as early as 1928, when one scholar argued that “there is no basis in logic or reason for requiring a different standard of qualifications for the officer deciding disputes between two citizens having large sums in controversy and the officer determining disputes between two citizens having but a few dollars in controversy.”<sup>63</sup>

On the other side of the debate, the use of non-lawyer JPs has been defended on many grounds: non-lawyer judges are said to provide greater accessibility to the court system and offer informal, speedy, and efficient adjudication of cases.<sup>64</sup> The use of non-lawyer judges has also been defended where the number of lawyers is insufficient to fill judicial positions and where compensation is not adequate to attract law-trained judges.<sup>65</sup> Non-lawyer JPs in Arizona have been defended on this ground. In 1952, an American Bar Association study of Arizona’s justice courts concluded that it would be impractical to require law-trained JPs as several counties had more justice precincts than they did lawyers.<sup>66</sup>

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57. Part III will discuss these groups’ specific recommendations.

58. ARIZ. REV. STAT. § 11-402 (2009); Mansfield, *supra* note 27, at 141; Allan Ashman & David L. Lee, *Non-Lawyer Judges: The Long Road North*, 53 CHI.-KENT L. REV. 565, 568 (1977).

59. *See id.*

60. Mansfield, *supra* note 27, at 137–39.

61. *Id.*

62. In Arizona, there is a significant disparity in the qualification requirements for judges at the superior, justice, and municipal courts. *See supra* note 36 for these requirements.

63. Smith, *supra* note 41, at 120.

64. Mansfield, *supra* note 27, at 134; 1989 COMMISSION REPORT, *supra* note 7, at 21–22.

65. *Id.*

66. 1958 REPORT, *supra* note 6, at 78–79. For example, Apache County had only four lawyers for seven precincts; Greenlee County had three lawyers for three precincts; Mohave County had seven lawyers for nine precincts; Navajo County had ten lawyers for

The debate over non-lawyer JPs came to a head in 1976 when the U.S. Supreme Court considered their constitutionality in *North v. Russell*.<sup>67</sup> In *North*, Judge Russell, a “lay” presiding judge, convicted Lonnie North for driving while intoxicated.<sup>68</sup> North argued that this trial violated his due process and equal protection rights.<sup>69</sup> The U.S. Supreme Court rejected this argument and held that an accused is not denied due process when tried before a non-lawyer judge, so long as the accused has the right to appeal with a de novo trial before a law-trained judge.<sup>70</sup>

While the constitutionality of non-lawyer JPs has been sustained, their continuation remains controversial.<sup>71</sup> Ultimately, most studies of Arizona’s justice courts have not recommended eliminating non-lawyer JPs from the bench, as these judges’ contributions to the court system are found to be valuable. Rather, the studies have recommended increasing the statutory requirements for JPs by some degree short of requiring admittance to the bar.<sup>72</sup>

### C. Funding

Justice court financing has been a point of contention for years. When these courts were initially organized in the United States, their judges were essentially “fee-paid officers.”<sup>73</sup> This meant that a JP would receive his compensation from the litigant who brought the case before him or from the defendant who was brought into court.<sup>74</sup> Scholars lambasted this fee system. They argued that it created a conflict of interest for judges, as they would only receive compensation if they disposed of the case in a specific manner.<sup>75</sup> The U.S.

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seven precincts. *Id.* This defense may be losing steam as the number of lawyers per county has increased over the past fifty years. According to the Arizona State Bar website, it appears that the number of attorneys in rural areas has increased such that the number of attorneys currently exceeds the number of justice precincts in each county. The counties with the lowest number of attorneys include: Apache with forty-four attorneys for four precincts; Graham with thirty-three attorneys for two precincts; Greenlee with seven attorneys for two precincts; and La Paz with thirty-two attorneys for three precincts. Arizona State Bar Website, Find a Lawyer, <http://www.azbar.org/LegalResources/findlawyer.cfm> (last visited April 1, 2010).

67. 427 U.S. 328, 329 (1976).

68. *Id.* at 329–30.

69. *Id.* at 332.

70. *Id.* at 339.

71. Justice Stewart’s dissent in *North* has provided fodder for those who still question the validity of non-lawyer judges. See Ashman & Lee, *supra* note 58, at 576–80. Justice Stewart believed that a trial before a “lay” judge that results in imprisonment is “constitutionally intolerable” in that it deprives the accused of his right to effective assistance of counsel and due process. *North*, 427 U.S. at 340 (Stewart, J., dissenting). Further, Justice Stewart commented “there can be no meaningful constitutional difference between a trial that is fundamentally unfair because of the judge’s possible bias, and one that is fundamentally unfair because of the judge’s ignorance of the law.” *Id.* at 345.

72. The studies’ recommendations will be discussed in Part III.

73. Smith, *supra* note 41, at 120.

74. *Id.*

75. *Id.*; ARIZONA ACADEMY, 22ND ARIZONA TOWN HALL ON THE ADEQUACY OF ARIZONA’S COURT SYSTEM 120–21 (1973). Another problem with the fee system was that it

Supreme Court ultimately agreed with these scholars in *Tumey v. Ohio*.<sup>76</sup> There the Court held that it violated due process for a judge to hear a case where he had a direct and substantial pecuniary interest in convicting or deciding for a party.<sup>77</sup>

While the unconstitutional fee system has faded into the past,<sup>78</sup> the decentralized manner of financing the justice courts has prompted criticism and calls for reform.<sup>79</sup> In Arizona, counties are charged with financing the justice courts.<sup>80</sup> Generally, each county has complete discretion regarding justice court funding. The only limit on a county's funding decision is state imposed judicial salary requirements.<sup>81</sup>

The county-by-county funding of the justice courts has been criticized for further fragmenting an already decentralized court system.<sup>82</sup> As Appendix I shows, the county-by-county funding of the justice courts has varied widely over the past ten years. This variation not only reflects differences in the financial conditions of each county but also reflects policy differences among the counties regarding the appropriate level of support for the justice courts. Some counties, such as Graham and Greenlee, have a tendency to spend more to maintain their justice courts than they collect in revenue.<sup>83</sup> The majority of counties, however, spend substantially less on these courts than they collect in revenue. La Paz County, for example, has had a triple digit return in revenue over its expenses for each of the last ten years.<sup>84</sup> The fact that a majority of these courts take in substantially more revenue than their expenses has prompted cries that these courts dispense "cash register justice."<sup>85</sup> A 1995 study of lower court funding, however, warns that it is inappropriate to view these courts as revenue generating enterprises because a large portion of their revenues is not "owned" by the courts, in the sense that it is

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often caused JPs to compete for cases to collect their fee. Mansfield, *supra* note 27, at 135.

76. 273 U.S. 510 (1927).

77. *Id.* at 523.

78. Arizona justice courts were never funded by the fee system, as this mechanism of funding has been prohibited by statute since 1912. ARIZONA ACADEMY, *supra* note 78, at 120. For a further discussion on due process challenges that result from funding disparities, see Lisa R. Pruitt & Beth A. Colgan, *Justice Deserts: Spatial Inequality and Local Funding of Indigent Defense*, 52 ARIZ. L. REV. 219 (2010).

79. Bruff, *supra* note 7, at 40; 1989 COMMISSION REPORT, *supra* note 7, at 99–100; 1995 COMMITTEE REPORT, *supra* note 7, app. H, at 2.

80. ARIZ. REV. STAT. § 22-117(A) (2009). The state is only responsible for contributing a specific percentage of money for judicial salaries.

81. *Id.* § 22-125 (2009).

82. See ARIZONA ACADEMY, *supra* note 78, at 121–22; 1989 COMMISSION REPORT, *supra* note 7, at 100–01.

83. See Appendix I. The significant disparity between expenditure and revenue in these counties could also be attributed to other problems in the justice courts, such as fine or fee collection practices. The disparity could also be a result of economies of scale problems in rural counties.

84. See Appendix I.

85. O'Connor, *supra* note 47, at 7; 1995 COMMITTEE REPORT, *supra* note 7, app. H, at 2. See also Edythe Jensen, *JP Having Success with Group-Therapy Justice*, ARIZ. REPUBLIC, Jul. 2, 2008, at 6 (stating that "in today's tough economic times for government, Justice Court fines for traffic violations and misdemeanor crimes are cash cows for Maricopa County.").

not captured solely for their use.<sup>86</sup> Rather, most of the revenue these courts collect flows out of the court system to other municipal, county, or state agencies.<sup>87</sup>

Decentralized funding has also created disparities among justice courts.<sup>88</sup> In particular, the quality of physical facilities and the amount of personnel and administrative support differs from one precinct to another.<sup>89</sup> One proposed solution to address inequities in the justice courts is statewide financing. At least two studies have argued for some form of statewide funding for these courts.<sup>90</sup>

### III. REVIEW OF REFORM EFFORTS IN ARIZONA

Since 1952, problems in Arizona's justice courts have prompted numerous studies. Each study has advanced extensive recommendations to change the justice court system. For various reasons, however, reform seems to be an impossible dream, as these recommendations have failed to produce tangible results. This section begins by discussing four studies'<sup>91</sup> recommendations for reform, and what results, if any, they produced. It then proceeds to review the recent efforts by the Arizona Supreme Court to reform the justice courts through the exercise of its administrative supervisory power.

#### A. Reports & Recommendations

##### 1. 1952 Study Regarding Traffic Issues Relating to the Courts

In 1952, the American Bar Association performed an extensive study of Arizona's justice and municipal courts and offered recommendations for how to improve these courts.<sup>92</sup> This study served as an important foundation for future efforts to reform the justice courts. In 1958, a staff report by the Arizona

86. 1995 COMMITTEE REPORT, *supra* note 7, app. H, at 2-3.

87. *Id.*

88. Bruff, *supra* note 7, at 38-39; 1989 COMMISSION REPORT, *supra* note 7, at 99-100; 1995 COMMITTEE REPORT, *supra* note 7, app. H, at 3.

89. See 1989 COMMISSION REPORT, *supra* note 7, at 99-100; ARIZONA ACADEMY, *supra* note 82, at 121. In 1952, the American Bar Association conducted a survey of the justice courts and discovered great variances in the type of court facilities. The survey found that there were a number of justices who held court in their homes, and even one Greenlee County justice who was only available at his place of work—a garbage truck. 1958 REPORT, *supra* note 6, at 122. Twenty years later, a field study revealed justice court facilities that ranged from those described by researchers as “a modern, large city facility” with a “formal and dignified courtroom,” to “a school desk in a corner of the police office.” ARIZONA ACADEMY, *supra* note 78, at 121.

90. Part III explores these proposals.

91. There were at least three other studies performed of the justice of the peace courts during the last fifty-eight years. These include: Bruff, *supra* note 7; 1981 JUDICIAL PLAN, *supra* note 7; 1982 STUDY, *supra* note 7. Because these reports did not provide substantially different recommendations from the reports discussed in this section, they are not discussed in this section. These reports, like the ones discussed in this section, failed to prompt any significant structural change in the justice court system.

92. 1958 REPORT, *supra* note 6, at 16.

Legislative Council reprinted this study in its entirety and used it to inform the legislature of deficiencies in the justice courts.<sup>93</sup>

The 1952 study proposed a substantial reorganization of the lower court system. Specifically, the study suggested eliminating all municipal courts in every county except Maricopa and Pima counties and transferring their jurisdiction to the justice courts.<sup>94</sup> In Maricopa and Pima counties, the report recommended eliminating all municipal courts and as many justice courts as possible, replacing them with a unified trial court with countywide jurisdiction.<sup>95</sup>

The report also suggested changing the judicial selection process and improving judicial qualification requirements. First, to increase the pool of candidates for office, the report proposed increasing the judges' compensation and extending the term of office to six years.<sup>96</sup> Second, the report proposed creating a non-partisan selection process to fill JP positions.<sup>97</sup> Next, the report recommended increasing qualification requirements so that candidates would be required to be either members of the bar or pass a qualifying examination.<sup>98</sup> The report also was concerned with training; it recommended that a justice of the peace manual be prepared and given to each new JP.<sup>99</sup>

Finally, the report provided several ideas to try to fully integrate the justice courts into the statewide court system. Specifically, the report recommended that uniform statewide procedures and dockets be established<sup>100</sup> and suggested that justice courts be subject to the Arizona Supreme Court's supervision and control.<sup>101</sup>

The major structural reform recommendations of this report were not acted on. Some of its other recommendations, however, were eventually implemented. For example, the report's call for improved judicial salaries was answered in 1958 when the legislature passed a bill providing more adequate compensation for judicial officers.<sup>102</sup> Further, the 1960 Modern Courts Amendment to the Arizona Constitution partially implemented the report's recommendation for integrating the justice courts into the state judiciary.<sup>103</sup> This amendment to article six of the Arizona Constitution declared that all Arizona courts, including the justice courts, are integrated into one judicial department.<sup>104</sup> Further, the amendment specifically vested the Arizona Supreme Court with administrative supervisory powers over all courts in the state.<sup>105</sup> The final

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93. *Id.*

94. *Id.* at 89.

95. *Id.*

96. *Id.* at 94.

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.* at 92.

101. *Id.* at 95.

102. *Id.* at 107.

103. ARIZ. CONST. art. VI, § 1. For further discussion of the Modern Courts Amendment, see Heinz R. Hink, *Judicial Reform in Arizona*, 6 ARIZ. L. REV. 13 (1964).

104. ARIZ. CONST. art. VI, § 1.

105. ARIZ. CONST. art. VI, § 3.

recommendation to be implemented was the justice of the peace manual, which was prepared by the University of Arizona College of Law in 1962.<sup>106</sup>

### 2. 1974 Statewide Study on Courts of Limited Jurisdiction

In 1974, the Arizona Supreme Court appointed a special statewide committee under the direction of Sandra Day O'Connor—then a Superior Court Judge in Maricopa County—to study the lower court system.<sup>107</sup> This committee did not publish a general report; rather, it drafted legislation and submitted it to the state legislature in 1975.<sup>108</sup> This legislation proposed abolishing the justice court system by constitutional amendment and establishing a new district court in each county.<sup>109</sup> This district court would have two classes of judges.<sup>110</sup> One class would not be required to be lawyers, and these judges would have jurisdiction over traffic violations and misdemeanor offenses.<sup>111</sup> The second class would be required to be attorneys and would have jurisdiction of civil matters up to \$5000.<sup>112</sup> Ultimately, this proposed bill stalled in committee and has never since been acted on.<sup>113</sup>

### 3. 1989 Commission on the Courts Report

In 1988, Arizona Supreme Court Chief Justice Frank X. Gordon, Jr., appointed a thirty-four-member Commission on the Courts to prepare specific recommendations and strategies for improving the court system.<sup>114</sup> The Commission's final report in 1989 put forth several recommendations to reform the justice courts. The most significant proposal would eliminate the justice and municipal courts and consolidate all trial court activity into one county-level district court.<sup>115</sup> The caseload would be divided at the district court between two levels of judges in rural counties and three levels of judges in metropolitan areas.<sup>116</sup>

The Commission also proposed improving the statutory qualification requirements for each court level.<sup>117</sup> For district court judges assigned to limited jurisdiction dockets, the Commission would require candidates to be at least twenty-five years old, have good moral character, a high school diploma or its equivalent, and at least two years of college education or equivalent training.<sup>118</sup> In addition to these requirements, the Commission recommended yearly training programs for limited jurisdiction non-lawyer judges.<sup>119</sup> The Commission also

106. SUPREME COURT OF ARIZ., ARIZONA MANUAL FOR JUSTICE COURTS (1962).

107. O'Connor, *supra* note 47, at 4.

108. *Id.*

109. 1995 COMMITTEE REPORT, *supra* note 7, at 5.

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.*

114. 1989 COMMISSION REPORT, *supra* note 7, at 1.

115. *Id.* at 6–9.

116. *Id.* Each level of judge would have distinct jurisdictional assignments. *Id.*

117. *Id.* at 20–22.

118. *Id.* at 22.

119. *Id.*

proposed changing the selection process for judges, suggesting that the merit selection system currently used for the superior courts in Maricopa and Pima counties apply to all judges in the state.<sup>120</sup>

Finally, the Commission recommended that the entire court system be centrally funded by the state in order to create a more uniform and equal court system.<sup>121</sup> The Commission did not provide specific guidelines for how to transition to statewide funding but simply recommended further study and a tentative target date of 1995 to implement this goal.<sup>122</sup>

With the exception of judicial training,<sup>123</sup> these recommendations were never implemented. The commission's study did, however, serve as an important building block for a report conducted six years later.

#### *4. 1995 Report of the Committee to Study Improvements in the Limited Jurisdiction Courts*

On September 7, 1994, Arizona Supreme Court Chief Justice Stanley Feldman, appointed the Committee to Study Improvements in Limited Jurisdiction Courts.<sup>124</sup> The Committee's designated goal was to develop a plan for operating, staffing, and funding limited jurisdiction courts.<sup>125</sup> In 1995, the Committee issued a final report, which proposed several major structural reforms for the justice courts. First, the Committee recommended coordinating and consolidating the justice and municipal courts.<sup>126</sup> Second, the Committee recommended eliminating the jurisdictional overlap between the justice and municipal courts with the goal of transforming these courts into more uniform state trial courts.<sup>127</sup> The third proposal involved increasing judicial qualification requirements to mandate that each limited jurisdiction judge be at least thirty years old; of good moral character with no prior felony convictions; have a college education; and pass a basic legal competency test.<sup>128</sup> The Committee also recommended changing the JP selection procedure by eliminating partisan elections and appointing non-partisan merit selection panels to select JPs.<sup>129</sup> Finally, the Committee suggested that all Arizona courts be funded by the state in order to help create a more unified court system.<sup>130</sup> Ultimately, the Committee's proposals were never implemented.

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120. *Id.* at 26–27.

121. *Id.* at 99–101.

122. In 1993, the Supreme Court issued Administrative Order 93-19, requiring mandatory judicial education on ethical and professional responsibilities. 1995 COMMITTEE REPORT, *supra* note 7, at 9.

123. 1995 COMMITTEE REPORT, *supra* note 7, at 1.

124. *Id.*

125. *Id.*

126. *Id.* at 20–22. Specifically, the Committee proposed providing each county's superior court presiding judge the authority to oversee the justice courts and to re-allocate judicial resources among the lower trial courts. *Id.*

127. *Id.* at 23–25.

128. *Id.* at 26–27.

129. *Id.* at 31–33.

130. *Id.* at 44–47.

### *B. Reform in Action*

The cracks in the justice of the peace system have started to show in recent years as significant reform efforts have stalled.<sup>131</sup> This has prompted the Arizona Supreme Court to play a more active role in supervising<sup>132</sup> and regulating the justice courts. For example, the Court has exercised its constitutional administrative authority to address the need for improved JP training.<sup>133</sup> Beginning in 2002, the Supreme Court instituted New Judge Orientation for all judges in courts of limited jurisdiction.<sup>134</sup> This training program lasts for three weeks and includes comprehensive written and performance assessments.<sup>135</sup>

More significantly, the Arizona Supreme Court has ordered certain justice courts to be directly administered by county superior courts. The Supreme Court has ordered consolidation in several instances and for a variety of reasons.<sup>136</sup> The most recent and most notable example of this was in 2002, when Chief Justice Charles Jones transferred administrative control of all Maricopa County Justice Courts to the Presiding Judge of the Maricopa County Superior Court.<sup>137</sup>

The 2002 Administrative Order came as the result of several years of corruption and management scandals in the Maricopa County Justice Courts. Reviews by the Arizona Supreme Court found that the justice court's dockets were backlogged, hundreds of thousands of fines went uncollected, and legal guidelines for managing cases were being ignored.<sup>138</sup> The Arizona Supreme Court ultimately concluded that the existing decentralized governance structure was "not adequate to manage effectively twenty-three justice of the peace courts."<sup>139</sup> The Court ordered the Maricopa County Superior Court Presiding Judge to take

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131. See *supra* notes 4 & 5 discussing recent problems in the justice courts that have required the Supreme Court's administrative oversight and discussing JP controversies.

132. At present, the Supreme Court conducts "Court Operational Review Evaluations" (CORE) of the justice courts to determine whether they are complying with applicable statutes, ordinances, rules, orders, and standards and if they are fulfilling their judicial responsibilities. Ariz. Supreme Court, Operational Reviews, <http://www.azcourts.gov/courtservices/CourtOperationsUnit/OperationalReviewsCORE.aspx>. (last visited Apr. 11, 2010).

133. Establishing the Limited Jurisdiction Court New Judge Orientation Planning Committee, 2002-86 (2002), available at <http://www.azcourts.gov/portals/22/admorder/orders02/2002-86.pdf>.

134. ARIZ. SUPREME COURT, ADMIN. OFFICE OF THE COURTS, 2003 REPORT OF THE ARIZONA JUDICIAL BRANCH 10 (2003), available at <http://supreme.state.az.us/report2003/030304Report.pdf>.

135. *Id.*

136. See *supra* note 4 and accompanying text.

137. Establishment of the Judicial Oversight Council of the Limited Jurisdiction Courts of Maricopa County, 2002-67 (2002), available at <http://www.azcourts.gov/portals/22/admorder/orders02/2002-67.pdf>.

138. *Id.*; Pat Flannery, *Reports of Justice Court Corruption Resulted in Reforms*, ARIZ. REPUBLIC, Mar. 13, 2006, at B9.

139. Establishment of the Judicial Oversight Council of the Limited Jurisdiction Courts of Maricopa County, 2002-67 (2002), available at <http://www.azcourts.gov/portals/22/admorder/orders02/2002-67.pdf>.



administrative control over the justice courts and mandated that a judicial oversight council be established to develop and implement policies and procedures to manage the justice courts.<sup>140</sup>

This transfer of administrative control did not sit well with Maricopa County JPs. Many fought the reforms and argued that the changes left them powerless in their own offices.<sup>141</sup> Some JPs lobbied the legislature and the Arizona Supreme Court to regain control over their courts.<sup>142</sup> Despite the JPs' complaints, court consolidation helped make the justice courts more efficient. Through the efforts of the judicial oversight council and the superior court, the Maricopa County Justice Courts were able to develop a more uniform case processing system, increase their revenue collections, and standardize their administrative support services.<sup>143</sup>

Maricopa County Justice Court centralization was short lived. In 2006, the Arizona Supreme Court began to transfer administrative authority back to the individual justice precincts.<sup>144</sup> The decentralized nature of the Arizona justice court system will likely require the state Supreme Court to continue playing an active role in supervising the justice courts. Indeed, in the absence of significant institutional reform through legislation or constitutional amendment, ad hoc regulation by the Arizona Supreme Court remains the only solution to resolve problems that arise in the justice courts.

## CONCLUSION

Significant justice court reform has been elusive in Arizona. Over fifty-eight years of study efforts have produced scores of recommendations but few substantial results. As a consequence, the justice court system remains highly decentralized, subject to inefficient administration, and retains outdated qualification requirements for its judges. The lack of significant reform has required the Arizona Supreme Court to step in from time to time to resolve some

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140. Establishment of the Judicial Oversight Council of the Limited Jurisdiction Courts of Maricopa County, 2002-67 (2002), available at <http://www.azcourts.gov/portals/22/admorder/orders02/2002-67.pdf>.

141. Presiding Maricopa County JP Quentin Tolby commented on the effects of the administrative order, "The things they did to us, they didn't do to everybody else" in other counties. "I have no control over my staff, . . . (and) I can't even go out and tell my chief clerk to do anything." Pat Flannery, *High Court Weighs Less JP Oversight: Some Fear Return of Corruption*, ARIZ. REPUBLIC, Mar. 13, 2006, at B1.

142. *Id.* In 2006, Representative Russell Pearce responded to these demands by introducing legislation that would allow JPs to appoint their own clerks, take control of daily operations in their courts, and restore some of their budgetary powers. This legislation proved unnecessary as the Supreme Court returned some administrative control back to the justice courts that same year. *Id.*

143. Establishment of Governance and Administrative Structure for the Justice of the Peace Courts in Maricopa County, 2006-56 (2006), available at <http://www.azcourts.gov/portals/22/admorder/orders06/2006-56.pdf>.

144. *Id.* In 2008, the Supreme Court issued another Administrative Order, transferring even greater control back to the justice courts. Establishment of Governance and Administrative Structure for the Justice of the Peace Courts in Maricopa County, 2008-59 (2008) available at <http://www.azcourts.gov/portals/22/admorder/orders08/2008-59.pdf>.

of the problems that result from this decentralized court system. This trend is likely to continue if no significant changes are made. In the words of Justice Sandra Day O'Connor, "Arizona has studied the problem long enough."<sup>145</sup> After fifty-eight years of study, it is time for the state to "buckle down and finish the job it has begun with [its] court system."<sup>146</sup>

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145. O'Connor, *supra* note 47, at 9.

146. *Id.*

## APPENDIX

1999–2004 Justice of the Peace Court Expenditure,  
by County<sup>147</sup>

County	1999	2000	2001	2002	2003	2004
Apache	665,699	687,893	696,500	642,915	591,749	592,085
Cochise	1,287,850	1,420,204	1,418,205	1,698,559	1,566,326	1,490,639
Coconino	1,202,677	1,469,334	1,698,559	1,502,553	1,532,622	1,432,209
Gila	689,759	699,981	713,556	770,671	767,439	692,229
Graham	251,608	279,948	307,900	330,310	362,362	400,889
Greenlee	189,389	189,568	202,511	201,805	232,596	234,125
La Paz	559,528	626,112	663,087	702,921	737,256	692,152
Maricopa	12,970,105	16,217,098	16,500,644	15,999,040	16,413,500	15,522,685
Mohave	1,254,526	1,400,309	1,590,230	1,541,566	1,641,945	1,727,270
Navajo	948,900	978,451	1,028,130	1,113,710	1,190,122	1,285,310
Pima	4,213,212	4,732,630	4,717,180	4,792,448	5,300,654	5,509,722
Pinal	1,743,411	2,141,107	2,210,597	2,232,880	2,434,947	2,638,428
Santa Cruz	389,880	428,063	462,394	561,574	566,999	528,445
Yavapai	1,259,102	1,326,027	1,500,457	1,545,678	1,603,590	1,677,386
Yuma	945,087	977,551	1,003,839	1,076,952	1,323,888	2,506,803

147. See sources cited, *supra* note 18.

**2005–2009 Justice of the Peace Court Expenditure,  
by County<sup>148</sup>**

<b>County</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
<b>Apache</b>	564,392	707,834	844,210	807,226	651,644
<b>Cochise</b>	1,821,644	1,963,760	2,185,486	2,231,426	2,131,689
<b>Coconino</b>	1,561,207	1,774,360	1,932,841	2,155,355	2,172,818
<b>Gila</b>	821,591	1,698,559	1,071,347	1,098,019	1,140,461
<b>Graham</b>	435,432	514,402	938,253	717,026	717,709
<b>Greenlee</b>	223,690	145,883	236,154	250,006	269,598
<b>La Paz</b>	772,881	891,965	1,063,484	1,084,672	1,237,602
<b>Maricopa</b>	16,288,767	16,791,659	15,732,040	16,630,497	19,089,257
<b>Mohave</b>	1,907,268	2,049,713	2,896,461	2,939,957	2,516,515
<b>Navajo</b>	1,433,031	1,317,754	1,480,081	1,691,107	1,755,366
<b>Pima</b>	5,769,545	6,825,762	7,391,675	8,190,766	7,886,963
<b>Pinal</b>	2,844,632	2,451,667	2,470,852	2,900,421	2,882,452
<b>Santa Cruz</b>	528,445	650,844	747,697	888,029	722,473
<b>Yavapai</b>	1,685,943	1,872,889	2,080,022	2,183,625	2,244,551
<b>Yuma</b>	1,437,805	1,509,284	1,667,176	1,837,303	1,973,345

148. See sources cited, *supra* note 18.

**1999–2004 Justice of the Peace Court Revenue,  
by County<sup>149</sup>**

<b>County</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
<b>Apache</b>	886,530	735,582	763,908	780,452	932,195	1,003,481
<b>Cochise</b>	3,142,265	3,373,719	3,539,175	3,946,261	4,401,242	4,912,006
<b>Coconino</b>	1,887,625	2,102,613	3,946,261	2,317,841	2,310,338	2,600,082
<b>Gila</b>	1,078,634	1,140,758	1,203,761	1,293,418	1,107,726	1,168,384
<b>Graham</b>	292,027	401,747	436,391	439,411	456,897	470,967
<b>Greenlee</b>	133,965	91,068	110,082	94,554	77,649	106,048
<b>La Paz</b>	1,453,848	1,728,754	1,734,886	1,634,109	2,055,371	2,584,811
<b>Maricopa</b>	18,026,754	20,926,248	21,231,207	23,037,465	25,355,095	27,712,043
<b>Mohave</b>	2,875,800	3,146,721	3,189,725	3,591,567	3,964,677	4,965,112
<b>Navajo</b>	1,606,846	1,523,439	1,718,513	1,918,268	1,643,216	1,864,927
<b>Pima</b>	5,693,341	6,297,439	6,973,025	7,063,087	8,140,338	7,878,739
<b>Pinal</b>	2,738,867	2,938,178	3,325,860	3,475,492	3,130,821	3,620,953
<b>Santa Cruz</b>	740,307	831,245	978,749	882,683	1,091,070	1,235,232
<b>Yavapai</b>	1,949,211	2,341,270	2,691,262	2,646,593	2,534,980	2,543,972
<b>Yuma</b>	1,977,880	2,063,116	1,972,766	1,837,905	2,120,802	2,227,747

149. See sources cited, *supra* note 18.

**2005–2009 Justice of the Peace Court Revenue,  
by County<sup>150</sup>**

County	2005	2006	2007	2008	2009
Apache	564,392	707,834	844,210	807,226	651,644
Cochise	1,821,644	1,963,760	2,185,486	2,231,426	2,131,689
Coconino	1,561,207	1,774,360	1,932,841	2,155,355	2,172,818
Gila	821,591	1,698,559	1,071,347	1,098,019	1,140,461
Graham	435,432	514,402	938,253	717,026	717,709
Greenlee	223,690	145,883	236,154	250,006	269,598
La Paz	772,881	891,965	1,063,484	1,084,672	1,237,602
Maricopa	16,288,767	16,791,659	15,732,040	16,630,497	19,089,257
Mohave	1,907,268	2,049,713	2,896,461	2,939,957	2,516,515
Navajo	1,433,031	1,317,754	1,480,081	1,691,107	1,755,366
Pima	5,769,545	6,825,762	7,391,675	8,190,766	7,886,963
Pinal	2,844,632	2,451,667	2,470,852	2,900,421	2,882,452
Santa Cruz	528,445	650,844	747,697	888,029	722,473
Yavapai	1,685,943	1,872,889	2,080,022	2,183,625	2,244,551
Yuma	1,437,805	1,509,284	1,667,176	1,837,303	1,973,345

150. See sources cited, *supra* note 18.

**1999–2004 Justice of the Peace Court Return,  
by County<sup>151</sup>**

County	1999	2000	2001	2002	2003	2004
Apache	33%	6%	10%	21%	58%	69%
Cochise	144%	138%	150%	132%	181%	230%
Coconino	57%	43%	132%	54%	51%	82%
Gila	56%	63%	69%	68%	44%	69%
Graham	16%	44%	42%	33%	26%	17%
Greenlee	-29%	-52%	-46%	-53%	-67%	-55%
La Paz	160%	176%	162%	132%	179%	273%
Maricopa	39%	29%	29%	44%	54%	79%
Mohave	129%	125%	101%	133%	141%	187%
Navajo	69%	56%	67%	72%	38%	45%
Pima	35%	33%	48%	47%	54%	43%
Pinal	57%	37%	50%	56%	29%	37%
Santa Cruz	90%	94%	112%	57%	92%	134%
Yavapai	55%	77%	79%	71%	58%	52%
Yuma	109%	111%	97%	71%	60%	-11%

151. See sources cited, *supra* note 18.

**2005–2009 Justice of the Peace Court Return,  
by County<sup>152</sup>**

County	2005	2006	2007	2008	2009
Apache	78%	62%	45%	64%	119%
Cochise	181%	202%	163%	171%	213%
Coconino	85%	104%	104%	82%	79%
Gila	40%	132%	26%	21%	51%
Graham	4%	16%	-23%	6%	-2%
Greenlee	-59%	-47%	-17%	36%	0%
La Paz	274%	380%	345%	364%	349%
Maricopa	89%	103%	131%	139%	184%
Mohave	161%	135%	88%	135%	197%
Navajo	37%	100%	128%	103%	112%
Pima	57%	48%	35%	29%	69%
Pinal	50%	89%	84%	99%	130%
Santa Cruz	134%	72%	101%	31%	110%
Yavapai	61%	88%	117%	112%	125%
Yuma	82%	118%	136%	165%	144%

152. See sources cited, *supra* note 18.



**1999–2004 Number of Precincts,  
by County<sup>153</sup>**

County	1999	2000	2001	2002	2003	2004
Apache	4	4	4	4	4	4
Cochise	6	6	6	6	6	6
Coconino	4	4	4	4	4	4
Gila	2	2	2	2	2	2
Graham	2	2	2	2	2	2
Greenlee	2	2	2	2	2	2
La Paz	3	3	3	3	3	3
Maricopa	23	23	23	23	23	23
Mohave	5	5	5	5	5	5
Navajo	6	6	6	6	6	6
Pima	9	9	8	8	8	10
Pinal	8	8	8	8	8	8
Santa Cruz	2	2	2	2	2	2
Yavapai	5	5	5	5	5	5
Yuma	3	3	3	3	3	3

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153. See sources cited, *supra* note 18.

**2005–2009 Number of Precincts,  
by County<sup>154</sup>**

County	2005	2006	2007	2008	2009
Apache	4	4	4	4	4
Cochise	6	6	6	6	6
Coconino	4	4	4	4	4
Gila	2	2	2	2	2
Graham	2	2	2	2	2
Greenlee	2	2	2	2	2
La Paz	3	3	3	3	3
Maricopa	23	23	23	25	25
Mohave	5	5	5	5	5
Navajo	6	6	6	6	6
Pima	10	10	10	10	10
Pinal	8	8	8	8	8
Santa Cruz	2	2	2	2	2
Yavapai	5	5	5	5	5
Yuma	3	3	3	3	3

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154. See sources cited, *supra* note 18.

**1999–2004 Number of Cases Filed,  
by County<sup>155</sup>**

County	1999	2000	2001	2002	2003	2004
Apache	11,131	9848	9754	9858	9030	9559
Cochise	42,558	48,319	51,243	51,681	51,654	46,150
Coconino	27,814	31,455	51,681	31,951	29,692	28,771
Gila	14,169	18,052	16,166	18,603	14,372	15,186
Graham	4749	6242	5953	6748	5968	5819
Greenlee	2274	2288	2660	2502	1893	1584
La Paz	14,879	18,194	16,516	15,557	14,791	16,945
Maricopa	311,371	332,128	335,016	351,278	355,170	348,040
Mohave	37,626	39,334	39,504	39,903	43,998	49,008
Navajo	30,588	25,214	25,177	25,282	22,762	24,526
Pima	192,032	200,804	199,951	208,794	200,990	189,106
Pinal	33,358	43,190	47,226	42,282	40,300	44,475
Santa Cruz	8066	9613	12,528	11,212	10,954	10,496
Yavapai	32,506	39,631	46,591	40,629	38,143	36,914
Yuma	25,548	24,400	22,597	20,660	22,696	22,142

155. See sources cited, *supra* note 18.

**2005–2009 Number of Cases Filed,  
by County<sup>156</sup>**

County	2005	2006	2007	2008	2009
Apache	8215	10,771	9913	9302	9125
Cochise	43,008	46,623	44,386	44,573	42,286
Coconino	24,514	28,489	27,462	25,601	26,992
Gila	15,927	15,681	14,337	12,777	16,390
Graham	5610	5688	7878	6880	6341
Greenlee	1279	1810	3058	3067	2171
La Paz	15,864	19,066	23,236	24,981	22,464
Maricopa	375,970	374,560	406,251	425,865	439,080
Mohave	46,483	44,723	46,864	46,946	46,113
Navajo	21,276	31,937	34,264	29,108	29,821
Pima	186,581	185,682	178,754	160,386	154,456
Pinal	46,415	43,779	44,607	54,195	54,772
Santa Cruz	9951	9430	9924	10,613	11,511
Yavapai	34,369	41,340	41,140	40,387	44,277
Yuma	21,389	26,141	26,012	29,311	29,356

156. See sources cited, *supra* note 18.