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# MEMORANDUM

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Date: November 30, 2017

To: The Honorable Chair and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator *CHH*

Re: **Imposition of Mandatory Drug Fines for Certain Criminal Defendants filing Plea Agreements**

Attached is additional information regarding the issue that received some publicity regarding the imposition of mandatory drug fines not required by Arizona law.

The November 15, 2017 memorandum from the Public Defense Service (PDS) Director indicates for those cases where the imposition be corrected by filing a pleading within a proscribed time period, PDS will pursue correction for approximately 750 cases. Motions are being made by the attorneys representing the 750 defendants to waive the balance of fines due that were improperly imposed.

If you would like more information regarding this matter, please contact me.

CHH/anc

Attachment

c: Ellen Wheeler, Assistant County Administrator  
Kevin Burke, Interim Public Defender  
Dean Brault, Legal Defender  
Wendy Peterson, Deputy Director, Human Resources



PUBLIC DEFENSE SERVICES

# MEMORANDUM

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To: C.H. Huckelberry  
County Administrator

Date: 11/15/2017

From: Lori J. Lefferts  
PDS Director

Re: Drug fine issue

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Arizona law allows sentencing errors to be corrected by filing a pleading with the sentencing judge within a proscribed time period. When the drug fine error was first discovered, attorneys immediately began filing pleadings in individual cases, necessitating a hearing in each case. It became apparent that this process would be burdensome to the court, and all parties. A number of meetings were held involving prosecutors, defense attorneys, and the presiding criminal judge, to negotiate a less burdensome way to proceed with the large volume of litigation looming as a result of the discovery of the error. The goal was to streamline the process. The task was daunting: the number of defendants potentially impacted by the error was in excess of 10,000, in cases spanning nearly 25 years.

At the conclusion of the negotiations, the County Attorney would only agree to streamlining cases in which the defendant was currently on probation (approximately 750 individuals). Further, the County Attorney was only agreeable to a waiver of the *unpaid* balance of the fine imposed, adamantly opposing a refund for payments already made toward the fine. Limited by the restrictions set out by the County Attorney, the defense prepared a motion requesting the waiver of unpaid fine amounts, for each of the 750 defendants. At the court's request, the motions are being processed in batches of 50 defendants, so as to not overwhelm court staff. To date, approximately 500 motions have been filed. The prosecution has filed a response in each case, stating its lack of objection to the request. The court has entered an order in each case granted the defendant's request.

The 750 defendants subject to the agreement described above represent a small percentage of the total number of defendants impacted by the error. The agreement does not include defendants currently serving a prison sentence, who have been improperly ordered to pay a drug fine. Nor does it include the large number of defendants who have completed their sentence, but still owe unpaid fine amounts, which have been converted to civil judgments by the court, and are subject to collection attempts. These cases are left to be handled on a case-by-case basis.

c: The Honorable Chair and Members, Pima County Board of Supervisors  
Ellen Wheeler, Assistant County Administrator