



MEMORANDUM

Date: September 15, 2021

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

From: C.H. Huckelberry
County Administrator 

Re: **Response to Memorandum from Judge Taylor dated September 13, 2021**

Background

Justice of the Peace Douglas Taylor sent the attached memorandum to the Board of Supervisors concerning several issues related to Justice Precinct reprecincting, which is on the Board's September 21 meeting agenda. Judge Taylor continues to question the justification for eliminating Justice Precinct 5 and alleges the recommendation to do so is purely political. My prior memorandums to the Board address these issues and are again summarized herein.

Backlog of Justice Court Cases

On July 29, 2021, I requested data from Consolidated Justice Court Administrator Teresa Underwood to better understand the backlog of cases faced by the Court as it was a concern raised by Judge Taylor, previously. Ms. Underwood responded to my request on August 5, 2021. She reported that there were 14 jury trials, 98 bench trials, and 26 evidentiary hearings pending court-wide. She noted that many DUI's and misdemeanor cases are currently outside the Administrative Office of the Courts (AOC) time standards for adjudicating cases, which may be due to various factors, including the number of continuances granted. In looking back at the statistics submitted over the years, this Court has never been in compliance with the AOC time standards. This is not a COVID anomaly.

While the Court reports 909 DUI's with a pending court date, very few go to trial. For example, in July 2021, the Court reported 303 DUI cases were adjudicated. Of those, 220 were dismissed, 82 took a plea, and only one went to trial.

Concerning civil cases, Ms. Underwood responded, "We have a very minimal workload for regular civil cases with only 2 pending jury trials and 9 pending bench trials."

Ms. Underwood further explained that "the court's clearance rate is typically a good indication of whether or not we are accumulating a backlog in a specific area. Clearance rates that are 100% or more suggest the JP is disposing more cases than the number of

filed cases, thus no backlog.” She reported that from March 2020 through June 2021, “both civil and DUIs have actually had more terminations than filings and thus their clearance rate is above 100%.”

Based on Ms. Underwood’s response, it is evident that there is no significant backlog. The fact that this is the same data reported monthly to the Arizona Supreme Court, I saw no need to make a similar data request to individual Judges.

Purpose for Hiring Evictions Pro Tem Judge

Currently, the County is funding a full-time pro tem that is dedicated to hearing eviction cases. Ron Newman was hired primarily because of complaints regarding significant inconsistencies in how eviction hearings were being handled from one judge to another. Having one judge assigned would eliminate the inconsistencies among the judges. Mr. Newman has extensive experience in eviction law and has served on the court as the evictions pro tem for several years. His presence will, of course, be helpful in managing the anticipated spike in eviction hearings. However, the actual impetus for retaining this pro tem was to provide efficiency and consistency across evictions hearings.

Political Basis for Reprecincting

Again, Judge Taylor asserts that his precinct is being targeted, but this time he states it is because he is a Republican. This is completely false. Justice Precinct 5 is the ONLY precinct in Consolidated Justice Court that can be eliminated at this time since it is the only precinct where the Judge and Constable’s terms in office are aligned to expire at the same time in 2022. The two map options before the Board would assign the majority of the area currently in JP5 to JP1 and JP7, both of whom are currently served by Republican judges. The area that would be assigned to JP8, a Democratic Judge, has the effect of actually making JP8 more of a competitive precinct. The data for both map options shows that the percent of registered Democrats would be reduced, and the percent of registered Republicans increased.

Post Pandemic Case Filings

Judge Taylor asserts that case filings and JP activity logs during the pandemic are nothing more than a once-per-century anomaly. I completely agree, and that is why we reviewed case filings and judicial productivity credit data dating back to 2010, as well as a variety of other measures of workload. We fully acknowledged that none of these measures is perfect and have been willing to consider additional measures, as demonstrated by our request for and review of case backlog data. More recently, Assistant County Administrator Mark Napier was provided with and reviewed additional productivity data from one of the judges. Nevertheless, when all of these indicators and measures are viewed in their entirety, it still remains clear that the workload of this court does not support the need for 8 full-time judges.

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My recommendations to the Board for the September 21 meeting stand. I recommend JP5 be eliminated and the Board approve one of the two reprecincting options.

CHH/nf

Attachment

c: The Honorable Jeffery Bergin, Presiding Judge, Pima County Superior Court
The Honorable Michael Stevenson, Presiding Constable
Jan Leshner, Chief Deputy County Administrator
Teresa Underwood, Court Administrator, Pima County Consolidated Justice Court
Roxanne Skinner, Green Valley Justice Court Administrator
Brad Nelson, Elections Director
Nicole Fyffe, Executive Assistant to the County Administrator
Diana Durazo, Special Projects Manager, Pima County Administrator's Office
Lisa Royal, Executive Assistant to Deputy County Administrator

INTEROFFICE MEMORANDUM

TO: REX SCOTT, PIMA COUNTY SUPERVISOR, PRECINCT 1
MATT HEINZ, PIMA COUNTY SUPERVISOR, PRECINCT 2
SHARON BRONSON, CHAIR, PIMA COUNTY SUPERVISOR, PCT. 3
STEVE CHRISTY, PIMA COUNTY SUPERVISOR, PRECINCT 4
ADELITA GRIJALVA, VICE CHAIR, PIMA COUNTY SUPERVISOR, PCT. 5

FROM: HON. DOUGLAS W. TAYLOR, SR., JUSTICE OF THE PEACE, PCCJC

SUBJECT: BACKLOGGED IN-PERSON CRIMINAL MATTERS

DATE: SEPTEMBER 13, 2021

Esteemed Ladies and Gentlemen of The Pima County Board of Supervisors:

IN-PERSON TRIAL/HEARING BACKLOG

A memorandum advocating Justice Court reprecincting dated 9/21/2021 was distributed by county administration last week. Therein, among other things, county administration intimated the following to this esteemed Board: *“in response to a statement by Judge Taylor that the court was facing a growing backlog of cases, we also reviewed data provided by the Consolidated Justice Court Administrator for pending jury trials, evidentiary hearings and in-person bench trials. This data does not support Judge Taylor’s assertion of a growing backlog. In fact, the clearance rate exceeds 100 percent in all but one category that was at 97 percent.”* No specific description of what “data” was purportedly gathered or considered is stated, aside from “the clearance rate.”

Once again county administration utilizes irrelevant raw data to attempt to substantiate an erroneous factual claim that fits county administration’s narrative, and furthers its targeted political agenda. The overall case clearance rate data simply describes the number of **cases filed** versus **cases disposed of** in a narrowly-tailored period of time. Importantly, this data includes archived case dismissals (*those 10 -- 25+ years old in warrant status that are dismissed and cleared from open file archives*). Of late, many of the judges have had the time and opportunity to pull from archives, assess, and dismiss a great number of these archived cases. Thus it is not at all surprising that the case clearance rate data would reflect what it reflects. But, that does not in any sense mean that this data provides any useful

information regarding the issue of individual in-person trial/hearing case backlogs. It does not, at all.

It is also interesting to note that, to my knowledge, none of the JPs (who actually have access to information critical to shedding light on in-person trial/hearing backlog numbers) were even so much as asked by administration about any data regarding in-person trial/hearing backlogs. This oversight is likely not by accident. If the JPs themselves would have simply been asked that key question, an accurate answer to the question could have been researched, developed, and provided to court and county administration, and ultimately to this Board.

County administration suggests in the 9/21/2021 memo that the “data” does not support my assertion of a growing in-person trial/evidentiary hearing backlog. Again, the particular “data” which administration *chooses* to utilize to ostensibly support this factual assertion is immaterial to the issue. And no genuine effort was made by court or county administration to obtain the facts necessary to answer the actual question. The **only** way to obtain the information critical to an understanding of the actual number of backlogged in-person trials/hearings is by going through each file individually. It is clear and obvious that neither court nor county administration did so. I, however, have recently endeavored to do so.

In Precinct 5 alone there are currently **20** backlogged in-person DUI jury trials; ***17** backlogged criminal in-person bench trials; and, ***4** backlogged in-person evidentiary hearings. (**This data is incomplete. As of this date I have pulled from archives and analyzed only about 350 of the more than 1000 non-DUI criminal files currently assigned to my precinct. It is very likely that the number of backlogged in-person trials/hearings in precinct 5 alone is greater than the above-stated numbers*).

Of course, there are 8 JP precincts. It is likely that there are similar numbers of backlogged in-person trials/hearings in the other 7 precincts due to COVID. Had court or county administration requested this information from the JPs, it could have been properly researched, compiled, and submitted. They did not.

To place this issue into the proper context, it is currently estimated that DUI jury trials will take between 1 and 3 days *each* to complete due to COVID restrictions and precautions. This is of course in addition to current and

future filings and matters before the court. The many backlogged cases will thus take an immense time to clear via in-person trial/hearing.

HIRED *PRO TEMPORE* JUDGE(S)

In the memo, administration argues that “*the Consolidated Justice Court Judges’ workload is substantially lower than is necessary to justify eight full-time judges, as well as the additional paid and voluntary positions assigned to hear many of their cases.*” I respectfully urge each of you folks to ask yourselves: **If** there is supposedly not enough work for 8 JPs, then **why** is it necessary or appropriate for administration to hire an additional judge, or judges, *pro tempore*, as administration has already done (at virtually the same cost to the county)?

I would respectfully suggest that the answer to this question is obvious: Control and political advantage. County administration has virtually unfettered control over any *pro tem* judge it chooses to hire. Elected judges answer to the voters. It is not an issue of not enough work. If it were, no *pro tem* judges would be necessary. County administration nevertheless believed it necessary to hire at least one full time *pro tem* judge this past June to help with the evictions workload. This definitively establishes that the move to eliminate one JP is simply part of an agenda, and that the argument that there is not enough work for 8 JPs is merely the narrative developed to support that agenda.

Moreover, the fact that former Democrat JP Paula Aboud was integral to the preparation of the proposed reprecincting maps shows that this proposal is a political move. It is no secret that former Judge Aboud personally likes me. And the elimination of precinct 5 means one fewer Republican JP precinct. It is unknown whether former JP Aboud intends to run for election in the future. If she were to run in one of the affected precincts, her previous input into and involvement with the reprecincting proposal could prove at best politically awkward. In any event, disenfranchising the voters of a currently heavily Republican precinct 5 by eliminating it entirely in favor of any of the proposals suggested by county administration are politically obvious, irrespective of the putative narrative provided.

INCREASED FILINGS POST-PANDEMIC

Administration further argues in its memo that “*there is no evidence that the Court will be overwhelmed with a significant increase in filings*”

postpandemic.” There is also no evidence to suggest that the Court will **not** be overwhelmed with a significant increase in filings post-pandemic. Moreover, common sense suggests that case filings will return to a relative normal once the pandemic ultimately abates. Case filing numbers and JP activity logs during the period of the pandemic are nothing more than a once-per-century anomaly.

LACK OF NECESSITY

As county administration candidly admits, “*the Board is not required to eliminate a Justice Court precinct.*” And that is one of the key points to be made. This JP precinct elimination proposal is not required. It is sought out in furtherance of an agenda. There is scant evidentiary support provided in furtherance of the proposal. And the primary argument made in its favor is unsupported by math or logic.

I humbly ask the members of this esteemed Board to please consider the adverse impact this JP elimination proposal would have upon the concepts of genuine, unfettered access to justice, and to the ethical, professional, and impartial administration of justice, in contrast to the questionable narrative stated in support of it. Thank you.

Respectfully,

/s/

Hon. Douglas W. Taylor, Sr.
Justice of the Peace, Precinct 5
Pima County Consolidated Justice Courts