

8. THE JUDICIARY AND COURTS

Part of a Statewide Integrated System azcourts.gov

The court system in Pima County is part of a statewide integrated system, as provided for in the Arizona Constitution. This system includes a Supreme Court, Court of Appeals, superior courts (courts of general jurisdiction) and of record (proceeding must be recorded), and inferior courts of limited jurisdiction and not of record. Currently there are two types of courts inferior to the superior court; the justice of the peace courts and the city magistrate courts.

Types of Courts

The Arizona Supreme Court

The highest judicial body in the state is the Arizona Supreme Court. Composed of five justices, its jurisdiction encompasses appeals from lower courts. These are mainly cases from the appeals court, but capital cases are appealed directly from superior courts. The court may choose or refuse to hear all appeals except for a capital punishment case. The Arizona Supreme Court also has original jurisdiction over suits against state officials and suits between counties.

Supreme Court judges serve staggered six-year terms. They are appointed according to a merit-based system (see below under Selection of Judges). The chief justice is chosen from among supreme court justices by the others for a term of five years.

The Court of Appeals

There are two divisions of the appeals courts in the State of Arizona. One is in Phoenix with sixteen judges, and the other is in Tucson with six judges. The Court of Appeals handles appeals from the superior court, the tax court and the Industrial Commission, as well as unemployment compensation cases. It does not conduct trials or consider evidence in hearings. It may return a case to trial court to retry if it determines a procedure or decision was not in compliance with law. Cases are heard by a three-judge panel, but only two judges are needed to agree for an official court ruling. Judges are selected in the same way under the merit system as Supreme Court justices and must stand for a retention election every four years.

The Superior Court in Pima County sc.pima.gov

The Superior Court, a general jurisdiction court, is the state's major trial court and handles criminal felonies (murder, armed robberies, rape, assault, and so forth), as well as civil cases (private claims over \$5,000, family law matters, probate, juvenile and mental health cases). Additionally, the court handles appeals from limited jurisdictional courts – justice of the peace courts and municipal courts.

While the Superior Court is a state court, each county has its own division and pays one-half of the judges' salaries and most of the court costs. The courts are known, therefore, as county courts and exercise a degree of independence. At present there are more than one hundred superior court judges statewide. Pima County has thirty retained judges who are appointed by the governor as part of the merit selection process.

Judges pro tempore (three), commissioners (eighteen), and hearing officers (two) are appointed and serve at the pleasure of the presiding judge to help with the large caseload. Judges pro tempore

(temporary or short term) and retained judges preside over jury trials in criminal, civil matters and juvenile matters. Commissioners generally hear civil or criminal matters that do not require a jury. Hearing officers preside over routine matters, one in civil cases and one in criminal.

Pima County Superior Court is divided into five different benches dealing with five different areas of law: the criminal bench, civil bench, juvenile bench, family law bench and probate bench. The juvenile bench, more commonly known as juvenile court, adjudicates juvenile delinquency, dependency, severances, and mental health cases in Pima County. The court oversees youth detention services, child and family services (adoptions, abused and neglected children, and dependency matters), and all juvenile probation services.

Consolidated Justice Court jp.pima.gov

Also known as justice of the peace courts (JPs), these courts are county courts. Although the courts represent ten districts in Pima County, eight are “consolidated” into one location in downtown Tucson, with one in Ajo and one in Green Valley. There are ten justices of the peace elected for four year terms in Pima County.

JP courts handle traffic violations and minor crimes (misdemeanors). They also have concurrent jurisdiction with superior courts over civil cases where the amount in controversy is under \$10,000. JP courts are more streamlined because their procedures are less formal, and proceedings need not be recorded. Expanding their jurisdiction over these cases can expedite cases through the system. JP courts handle preliminary hearings that precede felony trials held in superior court (an alternative to a grand jury) and issue search warrants and other types of judicial orders. JP judges are not required to have law degrees. This comes from the history of courts on the frontier in the old Arizona Territory when common sense was considered enough to handle small cases. The judges serve for four years and are elected by popular vote.

Municipal Court

In Arizona, each incorporated city and town is required by state law to have a city court (variously known as city, municipal, or magistrate court). The number of magistrates varies with the size of the city or town and is decided by the mayor and council of each city or town. Mayors and councils appoint these judges. For example, Tucson has ten full-time magistrates, two limited special magistrates, and other special magistrates that try a variety of cases. In Tucson, magistrates serve terms of four years. In addition to these, there are municipal courts in Marana, Oro Valley, Sahuarita and South Tucson, each with its own judge.

These courts handle traffic violations and minor crimes (“misdemeanors”) that occur within city limits, as well as violations of city ordinances and codes. They authorize search warrants and issue injunctions in domestic violence and harassment cases. City courts do not handle private lawsuits between citizens as do JP Courts. Municipal courts process more cases than any other courts in Arizona.

Administration of the Courts

Courts at all levels need administration to assist with the legal process: scheduling of cases, arranging for interpreters, following up with fines and probation, and so on, and with the budgeting, personnel, and other office business. The Chief Justice of the Supreme Court serves as

chief administrator for all courts in the state. He/she is assisted by a clerk of the Superior Court and the presiding judge in each county. And by Justice of the Peace districts of Pima County administrative offices or divisions at each level of the court system.

Clerk of the Superior Court **cosc.pima.gov**

As established by the Arizona Constitution, each county elects by popular vote a clerk of the superior court. The clerk is the official record keeper for the court and collects fines, fees, bonds, and restitution. The clerk of the court's office is the first stop in initiating any Superior Court proceeding regarding family guardianship and conservatorship and juvenile court. The clerk also maintains judicial documents, including findings in adoption, dependency, severance, and delinquency actions.

The Presiding Judge **sc.pima.gov**

A presiding judge in each county is selected by the Supreme Court from among the current superior court judges to work as a representative of the chief justice in each county. The presiding judge oversees court administration, prepares the Superior Court budget and names commissioners and temporary judges. He/she also exercises some authority over all the other courts in the county, including justice and municipal courts. There is a presiding judge for County justice courts and a presiding magistrate for larger cities, such as Tucson.

Administrative Divisions

There are also court administration divisions or offices (single staff in smaller cities and towns), in each jurisdiction handle administrative duties related to the courts. For strictly judicial functions these offices coordinate that with the presiding judge of the Superior Court and the clerk of the Superior Court. They also coordinate with the Board of Supervisors or in cities or towns, with mayors and councils regarding administrative functions such as finances or human resources.

Superior Court Management Team

The team is composed of the presiding judges of Superior Court and Juvenile Court, the associate presiding judge of Superior Court, the court administrators of Superior and Juvenile Court, the deputy court administrator of Superior Court, the clerk of the court, and the chief adult probation officer. The team meets regularly to address issues and policies of mutual concern, including overseeing the judicial merit system, which provides a uniform and equitable system of personnel administration.

Other Superior Court Related Programs

Adult Probation **sc.pima.gov** - **Adult Probation**

Supervises convicted defendants who are eligible for diversion from prison.

Jury Commissioner **sc.pima.gov** - **Jury Commissioner**

Summons and screens jurors for trials held at Pima County Superior Court, Tucson City Court, Pima Consolidated Justice Courts and county and state grand juries.

Interpreter

Provides interpreting and translation services to superior and justice court divisions and departments. American Sign Language interpreters are also provided when necessary for jurors.

Law Library **sc.pima.gov** - **Law Library**

Provides access to legal information and is open to all citizens of Pima County although borrowing privileges are restricted to judges, court personnel, and licensed Pima County attorneys. Also provides self-help assistance for self-represented litigants.

Pretrial and Bail Services

Screens persons arrested for crimes and makes recommendations to judicial officers regarding conditions of release from custody pending court appearances.

The Family Center of the Conciliation Court **sc.pima - Conciliation Court**

Provides mediation and counseling services for those considering divorce, for resolving child custody issues, and for resolving other parenting disputes outside of the courtroom.

Calendar Services **sc.pima Online Court Calendar**

Provides the calendar for all matters heard at the court on a daily basis. Staff monitors cases to ensure they processed efficiently and in a timely manner.

Constables **sc.pima Constables**

Are responsible as officers of the justice courts, for serving papers; they are elected by partisan popular vote within each justice court precinct.

Indigent Defense

Composed of the Public Defender's Office, the Legal Defender's Office, and court appointed counsel. These lawyers are responsible for representing indigent defendants.

Public Fiduciary **webcms.pima.gov**

Provides conservatorship, guardians, or personal representatives for individuals in need of them, burials for indigent persons, and other related matters assigned by the Supreme Court.

Fines, Fees, and Restitution Program (FARE) – Municipal Court **jp.pima.gov**

Outsources select parts of the collection process for fines and penalties to a private agency in order to reduce routine non-judicial functions.

Case search is available at azcourts.gov/

Judges and Juries

Selection of Judges

Supreme Court justices, state appeals court judges, together with judges on the superior court in Maricopa, Pima and Pinal counties, are selected through a merit-based system passed by the voters in Pima and Maricopa counties in 1974. Previously it was done as the rest of the state with judges chosen in contested elections.

Judicial Nominating Commissions **azcourts.gov**

Whenever there is a vacancy in Pima County Superior Court, new judges are selected from recommendations made by nominating commissions. A judicial nominating commission is established under the auspices of the Arizona Supreme Court. There are four nominating commissions in Arizona; one nominates candidates for the Supreme Court and appellate courts; one nominates candidates for superior courts in Maricopa County; one nominates candidates for superior courts in Pima County, and one nominates candidates for superior courts in Pinal County. Each commission must nominate at least three candidates per vacancy, no more than two of whom may be of the same political party. The governor chooses from this list. On each nominating commission (including Pima County) there are sixteen members: ten public members, five attorneys, and the chief justice (or his/her designee), who serves as chairperson. Sitting justices and judges of the appellate and Maricopa, Pima and Pinal superior court stand for a retention

election every four years; voters indicate by a yes or no vote whether to retain the judge for another term. A judge who does not receive a majority of votes cast must leave the bench.

Arizona Commission on Judicial Performance Review (JPR) azcourts.gov

Since 1993, a statewide commission, the Arizona Commission on Judicial Performance Review (JPR), establishes performance standards for judges and evaluates judges on whether or not they meet those standards. Its thirty members include eighteen public members, six attorneys, and six judges. The commission is required by law to inform the public of its findings in a publicity pamphlet so that voters are informed.

Election of Justices of the Peace (JPs)

Justices of the peace are elected to office in regularly contested partisan elections. Also elected are superior court judges in counties other than Pima, Pinal and Maricopa. These elections are nonpartisan.

Magistrate Selection

Municipal or city court judges are selected by the city or town councils.

Removal of Judges

Justices or judges in general jurisdiction courts (superior courts and above) may be removed in three ways:

- Impeachment by the legislature;
- Recall of the people by ballot; and,
- Recommendation of the Commission on Judicial Conduct or with municipal magistrates by the mayor and councils.

Juries

Generally, any person charged with a criminal offense or any party to a civil case has the right to a jury trial. There are two types of juries: the grand jury and the trial jury. The jury commissioner, under the superior courts, selects juries for all levels of courts.

- **Grand Juries.** No felony trial may be held without an initial determination that there is probable cause from a grand jury or following a preliminary hearing by a justice court. Grand juries are made up of citizens who have been randomly summoned to serve. They consider whether sufficient evidence exists to justify a full criminal trial. The case is then referred to a superior court for prosecution by the county or dismissed. Grand juries have twelve to nineteen members; nine constitute a quorum needed for a decision.
- **Trial Juries.** Trial juries may serve in superior court, justice court or city court.

Superior Court Juries

- Juries hearing cases calling for a death sentence or at least thirty years imprisonment require twelve members and a unanimous decision.
- Juries hearing all other felony cases require eight members, and a unanimous verdict.
- In civil cases, juries have ;8 members and 6 must agree on a verdict, unless the parties agree otherwise.

Justice Court Juries

- These juries may be requested by a defendant or prosecutor in a criminal case. They consist of six members and verdicts must be unanimous.
- In civil cases, the juries are comprised of six members and all but one must agree.

Municipal Court Juries

- Municipal court juries consist of six members, and their decisions must be unanimous.
- Municipal court juries hear many DUI (driving under the influence) and prostitution cases.

Jury Duty

The county jury roster for the selection of jurors of all courts contains the name of residents taken from the list of licensed drivers and registered voters. Jurors must be at least eighteen years of age and meet all the following qualifications:

- United States citizen;
- Pima county resident;
- Never been convicted of a felony, unless the juror's civil rights have been restored; and,
- Not currently adjudicated mentally incompetent.

Several times a year the procedures below are followed:

- Names of prospective jurors are drawn; no one is called more than once a year;
- A summons for jury service is mailed with date, time, place, and group number indicated;
- A phone number, time and web site address are supplied so that potential jurors may check for postponements; and,
- Failure to appear for jury duty is subject to penalty by law; service does not exceed one trial (trials are usually three to five days long), and per diem pay and mileage compensation are provided.

In Arizona a person summoned to jury service, upon application in writing to the court, may be excused for the following reasons:

- Medical condition;
- Unable to understand the English language;
- Extreme physical or financial hardship;
- Peace officer employed by the State of Arizona;
- Seventy-five years of age or older;
- Full-time caregiver with no available substitutes; and/or
- Military service member deployed outside of Arizona.

Requests to be excused from jury service are rarely granted. A juror who has been selected to serve on a jury in Arizona is not required to serve again for one year.