

TUCSON CITY COURT DUI CASE MANAGEMENT PLAN

Pursuant to Arizona Supreme Court Administrative Order 2006-38, the following case management plan has been adopted by the Tucson City Court and approved by the Presiding Judge of the Pima County Superior Court for the purpose of processing misdemeanor DUI cases in the Tucson City Court from October 1, 2008 through June 30, 2009.

Background:

In June 2005, a DUI Case Processing Committee was established and charged with examining DUI cases from filing through sentencing, with particular emphasis on the processing of cases once they reach the Court. The committee examined the entire Arizona criminal justice system as it relates to DUI cases and recommended specific improvements to Court processes, rules and statutes. In December of 2007 the Arizona Judicial Council approved the implementation of DUI Case Processing Program statewide.

Program Goal:

It is the goal of this program to resolve 85 percent of DUI cases within 120 days from the date of filing, resolve 93 percent within 180 days from the date of filing and have less than 7 percent of all active pending no older than 180 days from date of filing.

Local DUI Case Processing Committee:

The Tucson City Court will establish a Local DUI Case Processing Committee that will include representatives of the Court, prosecutors, defense counsel, law enforcement agencies, and the Court's probation division to assist in the implementation of the plan and facilitate the resolution of issues that may prevent achieving the stated goals. This committee will meet monthly starting in September 2008 and transition to quarterly meetings when appropriate. Tucson City Court will pursue cooperation and coordination with any other similar committee(s) in Pima County when appropriate.

The Committee shall meet as stated above to update the plan as needed and to identify and implement procedures that:

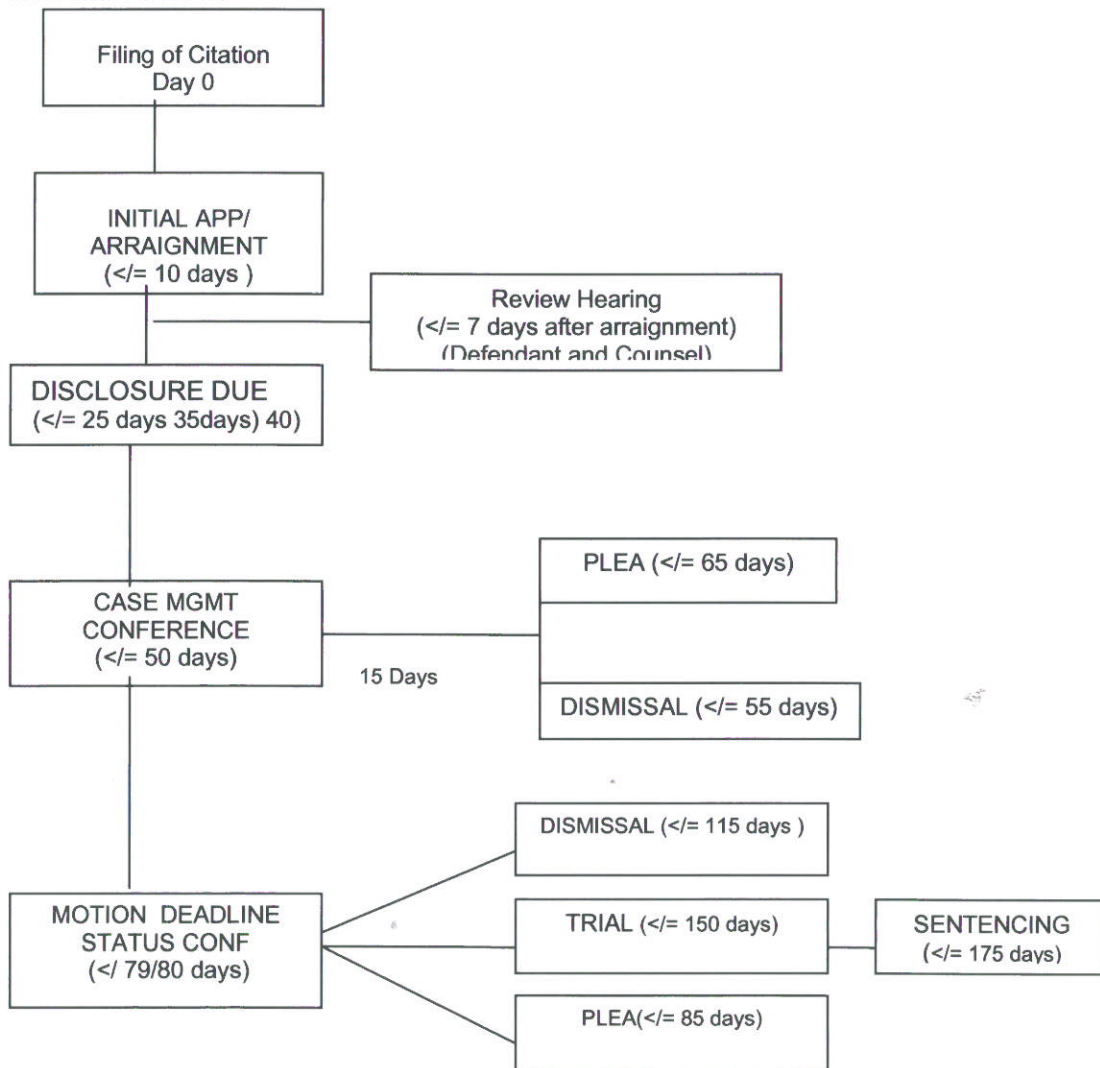
- 1) Accelerate the completion of pre-filing documentation,
- 2) Ensure that fingerprints are taken at the time of the offense or establish a time and place that fingerprints can be taken,
- 3) Address complaints that are rejected by the Court as untimely filed,

- 4) Consider potential benefits of adding discovery information to the Arizona Traffic Ticket and Complaint.

Complaints filed more than 10 calendar days after the date the complaint was issued may be rejected by the Court as untimely. All complaints filed by law enforcement officers more than 10 calendar days after the date the complaint was issued will be tracked by officer and agency and reported to the Committee for review. The Committee will address the issue of any pattern of late filing.

Case Management Plan:

All DUI cases filed in the Tucson City Court will be processed as depicted in the flowchart below:



Filing of Complaint:

The original complaint shall be filed with the Court within ten (10) calendar days from the date the complaint was issued to the defendant. Failure to file timely may result in rejection of the complaint by the Court.

Initial Appearance/Arraignment: (Day 10)

1. In addition to the procedures required in the Arizona Rules of Criminal Procedure (AZRCrP) for all defendants, any unrepresented defendant will be scheduled to be screened by the Public Services Division within two (2) days to determine whether or not the defendant qualifies for appointed counsel.
2. If appropriate, counsel shall be appointed within 5 days from the Initial Appearance/Arraignment. At the time of appointment, a review hearing will be set for the following week. Defendant and counsel must be present at the review hearing to exchange contact information and schedule an appointment to meet and go over disclosure and options in advance of the Case Management Conference.
3. A Case Management Conference will be scheduled within 40 days of the Initial Appearance/Arraignment or within 40 days of the filing of an attorney's Notice of Appearance that resulted in the waiver of Initial Appearance/Arraignment.
4. The parties and attorneys shall be advised that:
 - a) All dates shall be considered firm dates,
 - b) Attendance at the Case Management Conference is mandatory for the defendants and attorneys unless extraordinary circumstances exist.
 - c) Attorneys shall have their schedules and those of their clients and witnesses available at all Court events for the purpose of scheduling firm Court dates.
5. The Court shall order the State to provide disclosure of the materials and information listed in Rule 15.1(b) (AZRCrP) that are then in the possession of the prosecutor no later than fifteen days after the arraignment. Disclosure of blood results and any other items not in the possession of the prosecutor shall be disclosed as soon as they become available.
6. If the Court has reasonable cause to believe that the defendant was not previously fingerprinted as prescribed by ARS 41-1750(U), the Court shall order that the defendant be fingerprinted at a designated time and place, which shall be prior to the Case Management Conference.

Case Management Conference: (Day 50)

The Court shall:

1. Ascertain whether State will offer a plea. The defendant can accept the plea at the Case Management Conference or it will be scheduled within fifteen (15) days,
2. If the State is not offering a plea or the defendant has declined it, the Court will ascertain the status of disclosure and set a motion deadline and status conference in approximately 30 days. The purpose of the status conference is to set a firm motion hearing date, if motions are filed, to ascertain the status of a plea or to set a firm trial date,

Since most DUI cases result in a non-trial disposition, trials will not be set until it is determined that the case is in fact going to trial. Under specific circumstances, e.g. attorneys with significant trial practices and/or those who utilize the services of specialized witnesses, a firm trial date may be set at the time of the Case Management Conference to try to negate the unavailability of attorneys and/or witnesses within the time frame of this plan,

3. Advise the attorneys to have their schedules and those of their witnesses available at all Court events for the purpose of scheduling firm court dates,
4. Order the attorneys not to create any scheduling conflict, including informing the judges of any other Court of any firm dates already set when calendared events are being set in those Courts,
5. Advise the attorneys that if an attorney becomes over scheduled that the attorney shall provide another attorney to the defendant so that there is no delay in any court proceeding including the defendant's trial,
6. Advise the prosecutor that a dismissal resulting from a motion made by the state on the day of trial may result in a dismissal with prejudice or sanctions including but not limited to jury fees, preclusion or limitation of a witness, evidence or argument, and/or any other appropriate sanction that is reasonably related to the reason for the prosecutor's motion to dismiss.

Status Conference: (Day 80)

1. If no motions have been filed, the Court shall set the case for a firm trial, take the Defendant's plea or set a firm Change of Plea within fifteen (15) days if there is an appropriate reason to delay the plea.
2. If motion(s) have been filed, set a firm motion hearing date within 30 days. Since most DUI cases result in a non-trial disposition, trials will not be set until it is determined that the case is in fact going to trial. Under specific circumstances, e.g. attorneys with significant trial practices and/or those who utilize the services of specialized witnesses, a firm trial date may be set at the time of the Status Conference to try to avoid the unavailability of attorneys and/or witnesses within the time frame of this plan.

Motion Hearing: (Day 110)

At the Motion Hearing, the Court shall take evidence and/or argument and promptly rule on the motion(s). If the motion(s) are taken under advisement, prior to the termination of the Motion Hearing, the Court shall set a firm trial date or change of plea date that all parties, attorneys and witnesses are available. The judge will render a decision within 10 days. If the ruling on the motion(s):

1. Results in a dismissal of the case, the parties shall be notified and the case closed,
2. Does not result in dismissal of the case, the case shall be set for the firm Trial or Change of Plea date already established,
3. Advise the attorneys that if an attorney becomes over scheduled that the attorney shall provide another attorney to the defendant so that there is no delay in any Court proceeding including the defendant's trial,

Advise the prosecutor that a dismissal resulting from a motion made by the state on the day of trial might result in a dismissal with prejudice or a sanction including but not limited to preclusion or limitation of a witness, evidence or argument, costs and/or any other appropriate sanction that is reasonably related to the reason for the prosecutor's motion to dismiss.

Trial: (Day 150)

1. If the State makes a motion for dismissal, the Court will advise the prosecutor that it may result in a dismissal with prejudice or sanctions including but not limited to jury costs, preclusion or limitation of a witness, evidence or argument, costs and/or other appropriate sanction that is reasonably related to the reason for the prosecutor's motion to dismiss.

2. If the State offers a plea and the defendant accepts it, the Court will advise the defendant that jury and/or pro tem judge costs may be assessed.

Sentencing: (< or = to Day 175)

Sentencing shall proceed as soon as possible following a plea or finding of guilt unless there are exceptional circumstances requiring the preparation of a pre-sentence report.

Scheduling Conflicts:

Each judge will communicate with other judges to avoid any scheduling conflicts with other judges, prosecutors or defense attorneys.

If scheduling conflicts arise with other Courts, the assigned judge will contact the other Court to verify the conflict.

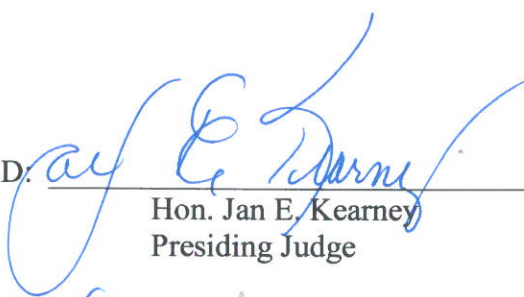
No "stipulated continuance" will be automatically granted by a judge of the Court. Each request for a continuance must contain a valid reason for the continuance, which will be considered, with or without hearing, by the judge. Continuances will be granted only for the amount of time necessary to resolve the issue that created the need for the continuance.

All parties, attorneys and witnesses will be required to maintain a current schedule of availability for the setting of each Court event.

Publication of Case Management Plan:

Upon filing of the plan with the Administrative Office of the Courts, the plan will be publicized and forwarded to the City Prosecutor and City Public Defender for distribution to attorneys, and posted on the Court's web page.

APPROVED: _____


Hon. Jan E. Kearney
Presiding Judge

DATE: _____

