

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA**

IN THE MATTER OF COMPETENCY	)	ADMINISTRATIVE ORDER
PROCEEDINGS IN CRIMINAL MATTERS	)	NO. 2018-007
IN MESA MUNICIPAL COURT	)	
_____	)	

On August 9, 2017, legislation amending A.R.S. § 13-4503 became effective granting the Presiding Judge in each county the authority to authorize a municipal court or justice court to exercise jurisdiction over competency hearings in misdemeanor cases that arise out of the municipal court or justice court. It further provides that the limited jurisdiction court may refer a competency hearing to another limited jurisdiction court in that county with the approval of the Presiding Judge. Thereafter, the Supreme Court amended Rule 11 of the Arizona Rules of Criminal Procedure (hereinafter "Rule 11") to conform to the jurisdictional changes the legislature made to A.R.S. § 13-4503.

Having considered A.R.S. § 13-4503 and Rule 11, this Order addresses how Mesa Municipal Court may conduct Rule 11 competency proceedings in Maricopa County.

**IT IS ORDERED** Mesa Municipal Court shall exercise jurisdiction over competency hearings in misdemeanor cases that arise out of its court in compliance with the policies and procedures set forth below.

**IT IS FURTHER ORDERED** that beginning on January 8, 2018, Mesa Municipal Court shall:

1. Conduct Rule 11 proceedings in compliance with the policies and procedures approved by the Presiding Judge and attached to this Order.
2. Ensure an accurate and complete recording of all Rule 11 courtroom proceedings is taken and maintained in accordance with applicable retention schedules. This includes completion of all automation tasks to ensure the local case management system is properly configured for docketing and retaining case records.
3. Establish a process approved by the Presiding Judge for the issuance, filing, and distribution of minute entries and orders, and for the handling of evaluations and medical reports as required by law and court rule.
4. Appoint mental health experts who meet the requirements set by statute and rule, and who are appointed pursuant to statutory and local procurement requirements.
5. Transmit necessary findings to the Administrative Office of the Courts for the Department of Public Safety for firearm background checks as required by state and federal law.

6. Pay any costs associated with holding Rule 11 competency proceedings as dictated by applicable statute, rule, or local practice at their court.
7. In accordance with A.R.S. § 13-4508, and Arizona Supreme Court Rule 123, judges shall take all necessary steps to ensure the confidentiality of Rule 11 evaluations and ensure that those records are to be treated as confidential records by all who have access to them, including attorneys. Judges who conduct Rule 11 proceedings shall have the authority to order the unsealing of past Rule 11 evaluations for the limited purposes of the Rule 11 proceedings held in their court.
8. The Superior Court and the Clerk of the Superior Court shall ensure that when Mesa Municipal Court conducts Rule 11 competency proceedings, Mesa Municipal Court has access to any records necessary to conduct the proceeding, including past Rule 11 evaluations in the Superior Court.
9. Mesa Municipal Court shall provide to a requesting court access to any records necessary to conduct Rule 11 proceedings in that court if the requesting court is authorized to conduct Rule 11 proceedings.

**IT IS FURTHER ORDERED** if Mesa Municipal Court wishes to either refer competency hearings to another court authorized to conduct Rule 11 hearings pursuant to A.R.S. § 13-4503(F), or conduct Rule 11 competency hearings for another court, Mesa Municipal Court shall not do so without obtaining prior approval from the Presiding Judge of the Superior Court of Arizona in Maricopa County.

**IT IS FURTHER ORDERED** the Presiding Judge may revoke the Mesa Municipal Court authorization to conduct or refer Rule 11 competency proceedings if the Presiding Judge determines that the court fails to comply with the conditions of this Order or any subsequent related order.

DATED this 5th day of January, 2018

/s/ Janet E. Barton

---

Janet E. Barton  
Presiding Judge

Original: Clerk of the Superior Court

Copies: Hon. Joseph Welty, Associate Presiding Judge  
Hon. Sam Myers, Criminal Presiding Judge  
Hon. Matias Tafoya, Mesa Municipal Court Presiding Judge  
Raymond Billotte, Judicial Branch Administrator  
Richard Woods, Deputy Court Administrator  
Karen Westover, Deputy Court Administrator  
Paul Thomas, Court Administrator, Mesa Municipal Court

## MESA MUNICIPAL COURT RULE 11 PROCEDURE

**Effective Date** – This procedure is for cases that are referred to Rule 11 Court under the jurisdiction of the Mesa Municipal Court effective as of 1/8/2018.

### **RULE 11 STAFFING LISTS**

#### **Forensic Staff\***

Anne Gervase  
Heather Heath  
Yvonne Goergen  
Tiffany Decker  
Trecia Wagner  
Roberta Howard  
Mary Husemann

#### **Rule 11 Specialists**

Heather Heath  
Yvonne Goergen  
Tiffany Decker  
Trecia Wagner

#### **Court Program Manager**

Anne Gervase

\*Specialized training will be provided to Forensic staff regarding the handling of medical reports.

### **RULE 11 DOCTOR LIST AND SCHEDULE**

1. Dr. Wayne General – Conducts Rule 11 Evaluations on Wednesdays for 90 minutes
2. Dr. Bennette Dawson - Conducts Rule 11 Evaluations on Thursdays for 60 minutes
3. Dr. Neal Olshan - Conducts Rule 11 Evaluations on Thursdays for 60 minutes

### **COURT PROGRAM MANAGER PROCEDURES**

1. Prior to the Rule 11 Hearing
  - a. Once notified that Rule 11 Evaluation and Rule 11 Hearing have been set, the Minute Entry (Form 122) Notice of Appointment and Competency Hearing Date including appropriate Endorsements will be prepared.
    - i. Court staff can only set Rule 11 evaluations for defendants who are not in custody.
    - ii. The Court Program Manager will set up the Rule 11 Evaluation for defendants who are being held in-custody.
      1. If the defendant is being held at MCSO – Send e-mail with defendant name, Rule Evaluation time and date to the following individuals:
        - a. Sergeant Rosales [J\\_Rosales@MCSO.maricopa.gov](mailto:J_Rosales@MCSO.maricopa.gov)
        - b. Jennifer Myers [jmyers@COSC.maricopa.gov](mailto:jmyers@COSC.maricopa.gov)
      2. If the defendant is being held at Core Civic- Send e-mail with defendant name, Rule Evaluation time and date to the following individuals:
        - a. Jose Martinez – Jose.Martineziii@corecivic.com
        - b. Ashley Ward – Ashley.Kirby-Ward@corecivic.com
    - iii. Send an e-mail the Thomas Hill at the Mesa Police Department with the defendant name, Rule 11 evaluation time and date for the defendant.
  - b. Notify the designated doctor of the following:
    - i. Defendant information including Rule 11 Evaluation date and time.
    - ii. Timeline for Doctor to provide original Medical Report to Court
      1. Ten (10) business days from the date of the evaluation.

## **COURT PROGRAM MANAGER PROCEDURES (continued)**

### 1. Prior to the Rule 11 Hearing (continued)

- iii. Court Program Manager will need receive the Medical Report in an encrypted e-mail from the doctor.
- iv. Medical Reports will be imported or scanned into the secure Rule 11 location in EDMS by any of the Forensic Staff. (see list above)
  - 1. When the quality check has been completed, the original Medical Report (without redaction) will need to be kept pursuant to Records Retention Guidelines for Superior Court.
- c. Send the attorney on the Rule 11 case the following:
  - i. A copy of the medical report in an encrypted e-mail and provide them with timeline below to redact the Medical Report prior to sending to the Prosecutor.
    - 1. The timeline is within 24 hours of when it is e-mailed to them.
    - 2. Redacted medical reports must be returned by the attorney in an encrypted e-mail to the Court.
    - 3. A copy of the Minute Entry (Form 122) Notice of Appointment and Competency Hearing Date including appropriate Endorsements.
  - ii. Send the following to the Prosecutors Office – Contact Dawn Savarino
    - 1. Redacted Medical Report
    - 2. A copy of the Minute Entry (Form 122) Notice of Appointment and Competency Hearing Date including appropriate Endorsements.
    - 3. Full Rule 11 Order
- d. Research prior Rule 11 or Mental Health cases and mental health status:
  - i. Send an email to [MCRule11@superiorcourt.maricopa.gov](mailto:MCRule11@superiorcourt.maricopa.gov) to inquire if defendant(s) have prior Rule 11 cases (CR#) or Mental Health cases (MH#). MH cases are Civil Commitment.
  - ii. Research Mercy Maricopa database for Seriously Mentally Ill (SMI) status.
    - 1. If the defendant is SMI, then the Minute Entry will reflect the information for Case manager to release any Medical Reports and attorney's responsibility to make them available to the Doctor, Defense Counsel or other authorized representatives for review or copying.
    - 2. If staff cannot access Mercy Maricopa database then send an e-mail to the following person to research for SMI status.

Khonnie Silivongxa silivongxayk@mercymaricopa.org

## **COURT PROGRAM MANAGER PROCEDURES (continued)**

2. After the Rule 11 Hearing
  - a. Prepare the minute entry for Notice of Appointments and/or Reschedule of Evaluations that will be sent to the following:
    - i. Attorney
    - ii. Prosecutor
    - iii. Mercy Maricopa (if SMI) –  
Khonnie Silivongxa silivongxayk@mercymaricopa.org
    - iv. Doctor(s)
    - v. Court Motion Desk

## **RULE 11 COURT SPECIALIST PROCEDURES**

1. Prior to the Rule 11 Hearing
  - a. Prepare Rule 11 Calendar and provide to judge for review at least one week prior to the Rule 11 Hearing date:
    - i. Print the Criminal Court Calendar from Court CMS
    - ii. Export into Excel and add the following information:
      1. Date of Birth
      2. Language (if other than English)
      3. Attorney
      4. Record review of doctor appointments
        - a. Doctor's Full Name
        - b. Date of Report
        - c. Evaluation Results
          - i. Competent
          - ii. Incompetent
          - iii. Refused to participate
          - iv. Set to record review
      5. Mercy Maricopa Information
        - a. Is defendant SMI? If yes, include name of facility
        - b. Is defendant enrolled at Mercy Maricopa?
      6. If defendant is in-custody then include the following:
        - a. Booking number
        - b. Bond Amount
        - c. Facility
      7. Is defendant on electronic monitoring
    - b. Enter the Rule 11 case alert using the following process:
      1. Go into the Filing Screen in Court CMS
        - a. Filing Party: Other
        - b. Filing Method: Written
        - c. Filing Type: **RULE 11 COURT REFERRED**

## **RULE 11 COURT SPECIALIST PROCEDURES (continued)**

2. During the Rule 11 Hearing
  - a. Start and stop the FTR Gold Digital Recording System and the external FTR Gold clock.
  - b. Records items for the minute entry:
    - i. Start and stop time for each hearing
    - ii. Parties present and parties not present for the hearing
      1. Defendant
      2. Attorney (Notate if an attorney is standing in for another)
      3. Doctor
      4. Interpreter
      5. Prosecutor
    - iii. Specify if defendant in-custody and scheduled release date and bond amount.
    - iv. Any discussion regarding case including but not limited to the following:
      1. Medical Report
        - a. Stipulation to 1 doctor report or split
        - b. Any future action to be taken (reset doctor appointment, assign another doctor, etc.)
      2. Any motions discussed (oral or written)
      3. Future court dates (continuances, record reviews, oral arguments, order to show cause)
      4. Competency Status (competent, not competent, did not participate in interview)
      5. Remanded to Court (set to Pretrial or Oral Motion to Dismiss)
3. After the Rule 11 Hearing is concluded
  - a. Compose minute entries for all outcomes except Notice of Appointments and Reschedule for Evaluations. This includes but not limited to:
    - i. Dismissals
    - ii. Pleas
    - iii. Warrants
  - b. Judge needs to review the minute entries after they have been completed.
  - c. Endorse appropriate parties.
    - i. Original will be scanned
    - ii. Send copies to:
      1. Doctor
      2. Prosecutor
      3. Attorney
  - d. Move Rule 11 Hearing audio to the following Rule 11 folder:  
**MCFTRExportedAudio (R:) Drive – Competency Hearing PRESERVATION for Rule 11 Audio ONLY folder**

## **RULE 11 COURT SPECIALIST PROCEDURES (continued)**

3. After the Rule 11 Hearing is concluded
  - a. If defendant is being removed from the Rule 11 Court then remove the Rule 11 case alert using the following process:
    1. Go into the Filing Screen in Court CMS
      - a. Filing Party: Other
      - b. Filing Method: Written
      - c. Filing: Notice
      - d. Filing Type: **RULE 11 COURT REMOVED**
4. NICS Reporting – Competency Results
  - a. The following procedure will be used by each member of the Rule 11 Team to set up their accounts
    - i. log in to [www.cjis.gov](http://www.cjis.gov) and click on 'Apply for an Account'.
    - ii. After completing the application procedure, you will be given a LEEP username.
    - iii. Set up E-Check
      1. Contact Theresa Henderson by phone at 304-625-7534 or [tshenderson@fbi.gov](mailto:tshenderson@fbi.gov).
      2. Give her the Court's ORI number and the username given to you when you set up the LEEP account.
  - b. Reporting Options
    - i. One Record At A Time – The Mesa Municipal Court will report using this process.
    - ii. Batch – Will look at moving to this in the future.