

FILED
REBECCA ST. DILLI
CLERK OF SUPERIOR COURT
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DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PINAL

IN THE MATTER OF ESTABLISHING A)
PROCESS FOR THE APPOINTMENT OF)
MENTAL HEALTH EXPERTS IN CRIMINAL)
PROCEEDINGS)
_____)

No. 2021 - 00 58

WHEREAS, the Presiding Judge of the Superior Court of Arizona in and for Pinal County is the Chief Judicial Executive Officer of the County and has administrative supervision over all courts in Pinal County pursuant to Article VI of the Arizona Constitution and Arizona Supreme Court Administrative Order No. 2017-79; and

WHEREAS, Pinal County Superior Court Administrative Order 2021-00020, established the Vulnerable Persons Unit (VPU) to improve the timely and efficient processing of cases that involve incompetence and mental examinations pursuant to Rule 11 of the Arizona Rules of Criminal Procedure and Title 13, Chapter 41 of the Arizona Revised Statutes; which includes the process for the appointment of Mental Health Experts; and

WHEREAS, Rule 11.3(a) of the Arizona Rules of Criminal Procedure and Arizona Revised Statute §13-4505 requires the court, if reasonable grounds exist for a competence examination, to appoint Mental Health Expert(s).

IT IS THEREFORE ORDERED, to avoid undue delays and add consistency to the appointment of Mental Health Experts, all cases involving a Rule 11 Pre-Screen, Full Rule 11 and Restoration to Competency will be transferred to the Vulnerable Persons Unit for the assignment of a Mental Health Expert; notification of which will be issued by the VPU in a Notice of Assignment.

IT IS FURTHER ORDERED that Pinal County Superior Court policy D1.00 is hereby adopted along with any modifications or revisions subsequent to this date.

Dated this 1st day of October, 2021.

Administrative Order
Appointment of Mental Health Experts



Honorable R. Carter Olson
Criminal Presiding Judge



Honorable Joseph R. Georgini
Presiding Judge

Original: Filed with the Clerk
Copies To: Superior Court Judges
Public Defender, Kate Miliewski
County Attorney, Kent Volkmer
Public Defense Services, Cathryn Whalen
Court Appointed Attorneys and Service Providers
Court Administrator, Todd D. Zweig

SUPERIOR COURT OF ARIZONA
Pinal County Security Policies and Procedures

TITLE: Appointment of Mental Health Experts and Report Distribution	EFFECTIVE DATE: October 1, 2021	POLICY D1.00
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AUTHORITY: Administrative Directive, A.R.S. §13-4501, AZ.R.Crim.P 11.3(a), AZ.R.Crim.P. 11.4(a)(1), AZ.R.Crim.P. 11.4(a)(2) and AZ.R.Crim.P. 11.7(c)(2)

PURPOSE: This purpose of this policy is to establish a consistent process that ensures Mental Health Experts are appointed in a timely fashion and forensic evaluations are filed and appropriately distributed.

POLICY: It is the policy of the Pinal County Superior Court to create a Notice of Appointment of a Mental Health Expert to conduct a forensic evaluation to determine a defendant's competency to stand trial; and to ensure the timely delivery of the Mental Health Expert's reports to the necessary parties.

PROCEDURE:

a) NOTICE OF APPOINTMENTS:

- 1) Upon receipt of a motion from one of the parties, the Court may issue an order granting a motion for Rule 11 prescreen, Full Rule 11 evaluation, or for Restoration Treatment.
- 2) If the Court issues such order, it should include a directive to "transfer the case to the VPU for a Notice of Appointment." The VPU will receive the Order via PinalVPU@courts.az.gov either through a Minute Entry or signed Order. To ensure timely notification of R11 orders, the clerk of the court will also provide the VPU with a R11 Checklist within 24 hours of the hearing.

3) Selection of the Mental Health Expert (MHE)

- a. For purposes of a Rule 11 prescreen, the Court may appoint a specific provider or allow the VPU to assign a provider based on availability and circumstances.
- b. For purposes of a Full Rule 11 evaluation, the attorneys may each nominate a preferred provider, and the Court may appoint up to two (2) providers to conduct the evaluation.
- c. The Court may appoint specific providers or allow the VPU to assign a provider. If the VPU assigns a provider, preference will be given to those providers appointed by the Court. Should an appointed provider be unavailable or otherwise unable to conduct the evaluation, the VPU will notify the Court and assign an alternate provider.
- d. For purposes of Restoration Treatment, unless otherwise ordered by the Court, the VPU will assign a provider based on availability and area of specialty (if appropriate).
- e. All MHE's must be Psychologists or Psychiatrists, as defined by A.R.S. §13-4501, and AZ.R.Crim.P 11.3(a). The Mental Health Experts must also meet the criteria listed in Pinal County Administrative Order AO201900029. The MHE will be selected based on availability and area of specialty (if needed) subject to judicial discretion. If a defendant is out of custody, the VPU will attempt to appoint the MHE in close proximity to the defendant. The VPU will make reasonable attempts to accommodate requests for a specific MHE, based on articulated need.

4) **Creating a Notice of Appointment (NOA)**

- a. Within 24 hours of receiving the Order for R11 Evaluation, the VPU will create a Notice of Appointment.
- b. Follow the directions labeled “Creating and Finalizing Minute Entries in AJACS” located in **Court Admin>MENTAL HEALTH>Rule 11>R11 Sample Orders folder.**
- c. Choose appropriate Notice of Appointment:
 - i. NOA for R11 Prescreen
 - ii. NOA for Full R11
 - iii. NOA for Restoration
- d. Input the following information into the Notice of Appointment:
 - i. Defendant’s Name
 - ii. Case Number
 - iii. Judge’s Name (drop down)
 - iv. Doctor(s) (drop down)
 - v. Report Due: Click on calendar to choose date one week prior to next hearing date
 - vi. Judge’s Name (drop down)
 - vii. Doctor(s) assigned by VPU
- e. Once the NOA is filed copies must be distributed to the State, counsel for the defendant, PCSO transport (if in-custody), and appointed MHE, and any other party endorsed on the Order granting R11.

b) **SCHEDULING EVALUATIONS:**

- 1) Counsel for the defendant is responsible for scheduling all out-of-custody evaluations.
- 2) MHE will notify the VPU of their method of conducting in-custody evaluations, which include: In-person evaluations at the jail; Securus video evaluations; or transport to their office.
 - a. In Person: email PCSOLegalVisits@pinal.gov and/or Jasmine.Guillen@pinal.gov with the date/time request from the expert and include the NOA.
 - b. Securus visits will be set up through the jail and the MHE.
 - c. Office Visit: email transportation the NOA and in the body of the email request the date, time for the expert and supply the address, they will let you know if the appointment is accepted.

c) **MHE REPORTS:**

- 1) No later than ten (10) business days after completing the examination, the MHE shall submit their report to the VPU. AZ.R.Crim.P. 11.4(a)(1).
- 2) Upon receipt of the original report, the VPU will make copies of the report available to the reviewing Court and defense counsel *only*. Defense counsel will review the report and make redactions as necessary. Defense counsel must provide a redacted copy of the report to the VPU no later than three (3) days after receiving the original. The VPU will immediately make the redacted report available to the State. AZ.R.Crim.P. 11.4(a)(2).

- 3) Upon conclusion of the R11 matter, if the Defendant is found competent, **or** not competent and not restorable, the original report shall be filed with the Clerk of Superior Court under seal. Upon the final determination of competency, the Court shall direct the VPU to file the original report under seal. AZ.R.Crim.P. 11.7(c)(2).
- 4) After receipt and distribution of the MHE report, the VPU shall update Rule 11 Eval Orders Tracking Spreadsheet (**Court Admin>MENTAL HEALTH>R11>Rule 11 Tracking Orders**).
- 5) The MHE will provide the VPU with an invoice upon the completion of their report; the VPU must verify the completion of the report, then send the invoice to Public Defense Services. A copy of the invoice shall be sent to both PublicDS@pinal.gov as well as the Court Administration Senior Administrative Assistant.