



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

<p>ATTORNEY GENERAL OPINION</p> <p>By</p> <p>KRIS MAYES ATTORNEY GENERAL</p> <p>August 7, 2024</p>	<p>No. I24-012 (R23-019)</p> <p>Re: Pima County Consolidated Justice Court Administration</p>
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To: Laura Conover
Pima County Attorney

Question Presented

Through its Administrative Order No. 2020-189, the Arizona Supreme Court altered the administrative structure of the Pima County Consolidated Justice Court (“Consolidated Justice Court”) by (1) authorizing the Presiding Judge of the Pima County Superior Court to appoint a “Justice Court Administrator for the Pima County Consolidated Justice Court” (“Administrator”); (2) designating the Administrator a “deputy superior court administrator;” and (3) authorizing “the Presiding Judge of the Superior Court to designate a judge as a liaison between the Presiding Judge and the justices of the peace of the [Consolidated Justice Court]” (the “Liaison”). Is either the Administrator or Liaison a “county officer” within the meaning of A.R.S. § 11-532(A)(7) such that the Pima County Attorney must provide them legal advice?

Summary Answer

No. While the individual justices of the peace are county officers, under the administrative structure adopted by Administrative Order No. 2020-189, neither the Administrator nor the Liaison are appointed by or otherwise subordinate to the justices of the peace of the Consolidated Justice Court. Instead, the Administrator and Liaison are appointed by and subordinate to the Presiding Judge of the Pima County Superior Court and other Superior Court officers. The Administrator and Liaison are not, therefore, county officers to whom the Pima County Attorney must provide legal advice under A.R.S. § 11-532(A)(7).

Background

I. Pima County Justice Courts: 1974 – 2020

In Administrative Order No. 1974-01, the Arizona Supreme Court authorized “the Justice of the Peace Courts in Pima County” to centralize administration of the Tucson-based justices of the peace under the Presiding Judge of the Pima County Superior Court. This unified administrative structure became the Pima County Consolidated Justice.¹

In 2004, the Legislature adopted A.R.S. § 22-103, which requires justices of the peace in counties with at least two justices to select a presiding and alternate presiding justice of the peace. In response, the Arizona Supreme Court entered two separate Administrative orders to articulate both the “Duties of the Justice of the Peace” and “Duties of the Presiding Justice of the Peace.” Administrative Order Nos. 2005-21 and 2005-22. Relevant here, Administrative Order No. 2005-21 required justices of the peace operating at a single, consolidated facility to select one justice of the peace to exercise the administrative and management duties set forth therein, including hiring

¹ The Justices of the Peace for the Ajo and Green Valley Justice Courts retained administrative control over their precincts. *See* Administrative Order No. 2020-189 at 1, 4.

justice court personnel, initiating disciplinary proceedings, maintaining court records, and preparing budgets. Administrative Order No. 2005-21 at 2. Where justices of the peace were not operating in a consolidated facility, the individual justice of the peace was responsible for exercising these administrative management duties for his or her own court. *Id.* at 1.

In 2013, acknowledging the “size and complexity of the justice court system in Pima County” and its “unique administrative structure and governance responsibilities,” the Arizona Supreme Court adopted Administrative Order No. 2013-70, which supplanted Administrative Order Nos. 2005-21 and 2005-22 for the justice courts in Pima County and created a new governance and administrative structure. Administrative Order No. 2013-70 at 1.

In addition to the setting forth the duties of the “Presiding Justice of the Peace” elected by the justices of the peace pursuant to A.R.S. § 22-103, Administrative Order No. 2013-70 created the role of “Chief Administrative Justice of the Peace of the [Consolidated Justice Court]” who was to be appointed by the Pima County Superior Court’s Presiding Judge. Both the Presiding Justice of the Peace and the Chief Administrative Justice of the Peace would “meet periodically” with the Presiding Judge to “discuss justice court issues and needs.” Administrative Order No. 2013-70 at 2. The Order also created the role of “Justice Court Administrator” to be appointed by a majority of the justices of the peace of the Consolidated Justice Court but “with the advice and consent of the Presiding Judge of the Superior Court.” *Id.* at 6. The Administrator served at the direction of the Chief Administrative Justice of the Peace and was responsible for carrying out most of the Consolidated Justice Court’s administrative functions. *Id.* at 7 (listing fourteen express duties of the Administrator).

The creation of these two new positions (Chief Administrative Justice of the Peace and Administrator) was apparently necessitated by the possibility that the elected Presiding Justice of

the Peace in Pima County may not be a Justice of Peace in the Consolidated Justice Court, allowing for a possible lapse in administrative oversight. *See* Administrative Order No. 2013-70 at 1. But regardless of which administrative duties were assigned to which role, under Administrative Order No. 2013-70, all administration of the Consolidated Justice Court flowed through a justice of the peace, whether the Presiding Justice of the Peace or the Chief Administrative Justice of the Peace (individually or by virtue of his or her supervision of the Administrator).

II. Administrative Order No. 2020-189

In 2020, the Arizona Supreme Court adopted Administrative Order No. 2020-189 (the “Order”) which again modified the administrative scheme for justice courts in Pima County, citing the need “to clarify and realign duties of the court’s leadership positions.” Administrative Order No. 2020-189 at 1. The Order generally consolidates the administrative authority which had been spread among a number of positions, and vests that authority with the Presiding Superior Court Judge and Court Administrator of the Superior Court. Specifically, the Order makes three changes which are particularly relevant to our analysis here.

First, the Order entirely eliminated the separate role of “Chief Administrative Justice of the Peace” for the Consolidated Justice Court.

Second, the Order changed the manner by which the Administrator is appointed. Instead of being appointed by a majority of the justices of the peace, the Administrator is now appointed by the Presiding Judge of the Pima County Superior Court (“Presiding Judge”). *Id.* at 5. The Order expressly provides that the Administrator serves “as a deputy superior court administrator under the supervision of the court administrator of the superior court.” *Id.*

Third, the Order authorizes the Presiding Judge to designate a judge (either a Pima County Superior Court judge or a “retired judge”) to serve as a “liaison between the Presiding Judge and

the justices of the peace of the [Consolidated Justice Court].” Administrative Order No. 2020-189 at 2. The duties of the Liaison are not set forth in Administrative Order 2020-189. Rather, it directs the Presiding Judge of the Superior Court to “issue an administrative order specifying the authority and responsibilities of the designated liaison.” *Id.*²

Analysis

The Attorney General represents “the departments of this [S]tate,” including the Arizona Superior Court and its judges. A.R.S. § 41-192(A)(1). A.R.S. § 11-532 provides that the county attorney shall, “[w]hen required, give a written opinion to county officers on matters relating to the duties of their offices.” A.R.S. § 11-532(A)(7).

Both this Office and the Arizona Supreme Court have had occasion to conclude that justices of the peace are county officers.

This Office has previously opined that “justices of the peace and justice court constables, although part of the integrated judicial department of the state, nevertheless are county officers whom the county attorney is required to advise on matters relating to the duties of those offices.” Ariz. Att’y Gen. Op. I87-100 at 1. In so doing, the Office relied in part on the Arizona Supreme Court’s decision in *Hellman v. Marquardt*, wherein the Court held that the Maricopa County Superior Court was not the appropriate venue for a special action petition against a Yavapai County Justice of the Peace because the justice of the peace position is “local in character” and a “county office.” 111 Ariz. 95, 98 (1974). The Arizona Supreme Court later confirmed that the “county attorney is responsible for providing legal advice and representation to justices of the peace so requesting.” *Collins v. Corbin*, 160 Ariz. 165, 167 (1989). As a result, the Pima County Attorney

² We understand that the Presiding Judge of the Superior Court for Pima County has appointed a Liaison, but has not entered an administrative order setting forth the responsibilities of the Liaison position.

has historically provided legal counsel to the Consolidated Justice Court, along with the justices of the peace and constables.

We now consider whether the Administrator and Liaison are county officers to whom the Pima County Attorney must provide legal advice under A.R.S. § 11-532(A)(7). Because both positions are appointed by and subordinate to the Presiding Judge, we conclude they are not county officers.

I. The Administrator is not a county officer.

Under the prior structure, the Consolidated Justice Court administration ran through the justices of the peace, and the Administrator (1) was appointed by a majority of the justices of the peace and (2) served at the direction of the Chief Administrative Justice of the Peace. Administrative Order No. 2013-70 at 6-7.

Now, Consolidated Justice Court administration is squarely within the Presiding Judge's—and therefore the Superior Court's—domain. *See* Administrative Order No. 2020-189 at 2 (“[I]t is the responsibility of the presiding Judge of the Superior Court to ensure the effective, efficient administration of the justice courts of Pima County.”). The Administrator is a “deputy superior court administrator” and subordinate to the Court Administrator of the Superior Court and, ultimately, the Presiding Judge of the Superior Court. Administrative Order No. 2020-189 at 5. Because the Administrator's authority flows through Presiding Judge, and not the justices of the peace, the Administrator's role is no longer part of the “county office” in the way it once was. *See Hellman*, 111 Ariz. at 98.

In concluding that justices of the peace and justice court constables are county officers, this Office distinguished the Court of Appeals decision in *State v. Pima County Adult Probation Department*, 147 Ariz. 146 (App. 1985). Ariz. Att'y Gen. Op. I87-100 at *2. There, the court

found that Pima County’s adult probation officers are part of the judicial department of the State for insurance coverage purposes because (1) “the chief adult probation officer is appointed by the presiding judge of the superior court and is under his direction and control” and (2) all deputy probation officers are appointed by the chief probation officer, with the approval of the presiding judge. *Pima Cnty.*, 147 Ariz. at 148. The Consolidated Justice Court Administrator now bears a similar relationship to the Presiding Judge. Said differently, the Administrator’s authority arises from the Superior Court (a department of the State) and not the County. *See Hellman*, 111 Ariz. at 98 (concluding that the justices of the peace are “local in character” because, among other reasons “the power to divide the county into justice precincts is placed in the hands of the county board of supervisors” and “justices of the peace are elected by the qualified electors of the justice precinct”).

In sum, under Administrative Order No. 2020-189, the Consolidated Justice Court Administrator performs a Superior Court function, is subordinate to two Superior Court officials, and is expressly designated a “deputy superior court administrator.” Accordingly, we conclude that the Administrator is not a “county officer” for purposes of A.R.S. § 11-532(A)(7).

II. The Liaison is not a county officer.

Administrative Order No. 2020-189 permits the Presiding Judge to appoint a current or retired Superior Court judge to serve as the Presiding Judge’s Liaison with the Consolidated Justice Court. Administrative Order No. 2020-189 at 2. The Liaison reports to the Presiding Judge and it is the Presiding Judge who is solely responsible for articulating the authority and responsibilities of the Liaison. *Id.* The Liaison, then, is essentially a delegate of the Presiding Judge on issues pertaining to the Consolidated Justice Court. There is no question that the Presiding Judge, like all superior court judges, is a state official. *Kannarr v. Hardy*, 118 Ariz. 224, 226 (1978). The

Presiding Judge's appointed Liaison must necessarily fall within that state umbrella. *Pima Cnty.*, 147 Ariz. at 148. Thus, the Liaison is not a "county officer" for purposes of A.R.S. § 11-532(A)(7).

Conclusion

Neither the Consolidated Justice Court Administrator nor Liaison are county officers to whom the Pima County Attorney must provide legal advice. The Administrator and Liaison should direct requests for legal advice to this Office.

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Kris Mayes
Attorney General