

Commission on Victims in the Courts
Meeting Minutes-FINAL
Friday March 2, 2007 10:00 AM-2:00 PM
Childhelp Child Advocacy Center
Conference Call Number: 602-452-3193; Access Code 7002
C.O.V.I.C Website <http://www.supreme.state.az.us/covic>

COVIC Members Present

Chair: Hon. Ronald Reinstein
Hon. Lex Anderson
Det. Jack Ballentine
Dr. Kathryn Coffman
Ms. Kimberlie Musselman
Ms. Sydney Davis
Ms. Kathy Waters
Ms. Charlene Laplante
Mr. Anthony Vidale
Mr. Dan Levey
Hon. Richard Weiss
Hon. Anna Montoya-Paez
Hon. Antonio Riojas, Jr.
Hon. William O'Neil
Mr. Doug Pilcher
Mr. Steve Twist

Proxy

Mr. Bruce Bowers for Mr. Edwin Cook
Ms. Kirstin Flores for Mr. Bill Hart

Members Absent

Mr. Richard Romley
Mr. Gary Husk
Mr. Marc Budoff
Ms. Emily Johnston
Mr. Stephen Dichter
Ms. Karen Sullivan
Hon. Patricia Noland

Staff Present

Ms. Carol Mitchell
Ms. Nicole Garcea

Guests

Sarah Schmoll, AOC
Gary Sharpe, Phoenix City Prosecutor's
Office
Catherine Plumb, AAG for AZ State
Hospital
Kim Knox, Maricopa County Finance
Jamie Mabery, MCAO, Victim Services

Welcome and Call to Order

The Chair officially called the meeting to order at 10:16 AM, at the Childhelp Center in Phoenix, Arizona. Introductions were made of commission members and guests.

Childhelp Presentation

A tour of Childhelp was planned, but due to time constraints a presentation was given instead by Mr. Bill Copeland, a Retired Sergeant of the Glendale Police Department and director of Childhelp.

Childhelp is a national organization for abused children with its administrative headquarters in Scottsdale, Arizona. The Phoenix location began operating in 1998. It has many different agencies working under one roof to provide the best services for abused children in one central location including Dr. Coffman and her staff from St. Joseph's Hospital, Child Protective Services, the Phoenix Police Department, and one staff psychologist and 4 counselors.

Childhelp has served over 45,000 clients since they opened. They are looked to by other organizations, both national and international, as examples for best practice guidelines when assisting abused children. The Phoenix location is looking to the future and planning a move to expand its capabilities, possibly even working in conjunction with the Family Advocacy Center to create the first ever center to have adults' and children's needs met under the same roof.

Announcements

The Chair thanked Dr. Coffman for offering the Childhelp facilities in which to hold the meeting.

The Chair announced that it was COVIC's one-year anniversary and the Chief Justice made some new appointments. Mr. Richard Romley and Ms. Charlene Laplante each served a one-year term in COVIC's inaugural year. The Chair thanked them both and provided Ms. Laplante a certificate of appreciation. As Mr. Romley was not present his certificate will be presented to him at a later date.

Mr. Dan Levey was recognized for being named as interim president for NOVA. Mr. Levey and Judge Reinstein were appointed to the Supreme Court's Capital Case Task Force. The Chair hopes that COVIC will be able to collaborate with this Task Force to incorporate victim issues into potential improvement of caseflow process, especially as it relates to capital punishment cases.

Mr. Richard Romley and Mr. Stephen Dichter were both required to attend a hearing in Maricopa Superior court regarding the capital case backlog and will not be available for today's meeting.

Approval of September 8, 2006 Minutes

Members did not indicate any corrections to the previous meeting minutes.

Motion: To approve minutes from September 8, 2006. Motion unanimously passed.

**At this time a letter from a victim was handed out for the Commission's review to be discussed later.

Victim Legislation Update

Mr. Jerry Landau of the AOC presented the legislative update (refer to Legislative Update handout distributed at the meeting).

He indicated there aren't too many bills in legislature dealing with victims that are currently moving:

Bills affecting victim's rights:

HB2179: "Economic Loss" bill. Expands the definition of economic loss.

HB2527: Neighborhood associations, after registering with the city, town or county in which they are located, can receive notice and invoke victim's rights in any city, town or county for offenses previously outlined in statute.

HB2725: Allows a person who is a victim of a criminal act to bring a civil action claiming damages in excess of the restitution actually paid.

HCR2015: The 2008 general election ballot is to carry the question of whether to amend the state constitution to prohibit any damage award in a court action for injuries if the accident was caused in whole or part by the person's consumption of alcohol.

SB1183: Requires employers to allow an employee who is a victim of a crime to leave work to obtain or attempt to obtain an order of protection, an injunction against harassment or any other injunctive relief to help ensure the health, safety or welfare of the victim or the victim's child. Expands the list of documentation an employee must provide prior to leaving work to include a court order to which the employee is subject.

SB1286: Victims' Rights Omnibus. Extremely important piece of legislation affecting many aspects of victims' rights. Mr. Landau specifically requested COVIC's input on this bill.

SB1619: Allows the prison director to withdraw a minimum of 20 percent, or the balance owed on a restitution payment, up to a maximum of 50 percent of the money available each month in a prisoner's spendable account, trust fund or retention account (if applicable), for a court-ordered restitution payment. Removes the mandatory 30 percent deduction from a prisoner's compensation for court-ordered restitution. PASSED in Senate appropriations.

Discussion occurred over two bills:

SB1183 – The current version of the bill only allows those that are victims of a crime to leave their work. Dan Levey from the Governor’s office which sponsored this bill stated that they were aware of the issue and were looking at ways to reword the bill.

SB 1286 – There was a great deal of discussion on this bill as there are many aspects to it. This bill is currently in its third read at the Senate level. There are many concerns that it may unintentionally hamper victims’ rights as opposed to assisting. There are also many aspects that refer to death penalty cases and case transfers in Maricopa County, as well as post-conviction relief.

Discussion took place regarding the amendment to have appellate courts notify victims of the decision concurrently with other parties. Points made were as follows:

- Concern was expressed that perhaps victims will not receive the notice in a timely fashion and could still be taken by surprise by members of the media or other entities. Judge Reinstein gave NJ as an example to follow: New Jersey Supreme Court will notify victims in advance that a decision will be released to the public providing the date and time of the release, but with no specific information regarding the legal details of the opinions.
- Although the focus has been on notice from the Supreme Court it is believed it will have an impact all appellate courts.
- The volume of cases to notify from the Appellate and Superior courts is much larger versus the volume of cases to notify from the Supreme Court.
- Problems when court sends notice directly to victims instead of prosecutors or victims’ advocate retaining responsibility to notify victims.
- Steve Twist stated it should also be included that a reasonable window of time be provided as an opportunity to discuss the decision and the ramifications of the decision with the victim.
- Judge Reinstein plans to speak more with Justice Ryan for input and guidance in rectifying this portion of the bill.
- Jerry Landau believes that the bill will pass with some changes.

Steve Twist addressed an issue specific to Maricopa County regarding victims’ rights to a speedy trial and judges moving between civil, criminal, and other benches. The delay that takes place when a case is transferred to a new judge, when that judge needs to get up to speed, especially on death penalty cases, is a hindrance to the case processing and a disservice to victims. Discussion ensued with comparisons to Pima County’s system of retaining the same judge on death penalty cases throughout the course of the case.

State v. Klein Victim definition

Kirstin Flores from the AG’s office came to speak about the State v. Klein decision and its impact on courts. The State v. Klein decision states, basically, that a victim receives victims’ rights regardless if the crime was a felony or a misdemeanor. This has already affected the Attorney General’s office in that an estimated \$100,000 additional money will be required to print forms for the expanded classification of victims.

It is also expected to have a financial impact on the all the prosecutor's offices (AG, County and City) that will now have to provide notification for all misdemeanors. It also affects caseload processing especially in lower courts and jail costs because now many cases that were disposed on the same day they were arraigned could now take much longer in order to await victim input.

A request was made to have the Administration of Justice Workgroup further discuss this matter and see if there is a way to combat some of the issues this decision has created.

Another issue that Kirstin brought to the attention of the Commission is the recorded Victim's Rights Statement that has been played at the beginning of court in some courtrooms in Pima County. The Commission agreed that it should be stated orally, and the Chair will be speaking to the Chief Justice to address this.

Civil commitment order/Victim notice

Catherine Plumb is the AAG for Arizona State Hospital and came to address the commission regarding victim notice after criminal charges are dropped and a person is ordered to be civilly committed. Ms. Plumb discussed a civil statute that requires the hospital provide victim notification and the problem in which they are not given victim information. Ms. Plumb and her colleagues wish to be respectful of victims and notify them whenever someone is released from the state hospital. This is becoming increasingly difficult, however, as they are often offered no contact information for the victims and are not provided that information from the court.

One option discussed was to add a notice on the bottom of the commitment order to indicate which prosecutor's office to contact. Judge O'Neil stated that he would have the Administration of Justice Workgroup follow up on this issue to develop any remedies.

Court Access and New Construction

Judge Reinstein asked the Maricopa County Court Administration to meet with Dan Levey, Jamie Mabery, and Bill Hart to incorporate ideas related to victims' rights issues and the protection of victims and their families, during the planning phase for a new Maricopa County Criminal Court tower.

Discussion took place regarding the following points:

Court Access:

- Allowing Victim Advocates to enter into the courts without going through the juror and defendant line. Estimation of \$50k per year being wasted for 15 minutes that each Victim Advocate has to stand in line.
- A Provision exists in the AZ code of Judicial Administration that states that new construction or remodeling of any building must consider victims rights.

New Construction:

- Victims' attorneys are present more often in courtrooms now, but the logistics, right now, do not support this trend.
- There are also secure waiting area issues related to victims, and along similar lines, issues related to child-friendly and disabled-friendly courtrooms.
- It would be ideal if a list of recommendations could be adopted for remodeling and new construction of courts for victims.
- A suggestion was made to utilize ASU, NAU, and U of A Design School students to create some ideas.
- Victims' rights should be posted outside of the courtrooms in both English and Spanish.
- Victims' advocates should be allowed an access card similar to ones used by county attorneys.

Ongoing discussion will be had by members of COVIC and the Maricopa County Court Administration regarding this matter.

COVIC will consider developing a list of victim-related standards for the courts to use during new construction or renovation.

Motion: The Chair will make a presentation at the PJ meeting and the AJC meeting to recommend that any county which doesn't allow Victims' Advocates from Attorney General's and County Attorney's offices the same access to courts that they give Public attorneys changes their policy to do so. Motion unanimously passed.

Petition to Amend Rules 31.27 and 32.10 of Criminal Procedure

Discussion took place regarding the proposed amendments of Rules 31.27 and 32.10 of the Arizona Criminal Procedure. Carol Mitchell reviewed the proposed rule change (provided in material packet) and asked for input. Steve Twist will work with Carol on any suggested changes.

Motion: Request that the proposed changes to Rules 31.27 and 32.10 of the Criminal Procedure are modified to read that victims who have attorneys get notification sent to their attorneys as opposed to going to the prosecutor's office. Motion passed unanimously.

Workgroup Summary 2006

The Workgroup's chairs provided a summary of the plans initiated in the first three meetings (CY 2006).

Judge O'Neill stated the Administration of Justice Workgroup identified several issues to address in the form of two short term projects and two long term projects as follows: Short Term Project 1) Evaluate court policies around the state for interpreter/translator services provided to victims. Short Term Project 2) Re-evaluate all bench books to update and ensure victim rights' issues are integrated. Long Term Project 1) Evaluate setting bond practices to see if variance between judges can be reduced. Long Term Project 2) Promote training to change the culture among judges about victimization.

Kim Musselman stated the Education Workgroup is forming a panel to discuss victim rights at the Judicial Conference in June of 2007. They would like to have the panel do a "trial run" at the COVIC June meeting.

Dan Levey stated the Restitution Workgroup identified several issues to begin researching: 1) Encouraging other counties to develop collections units similar to Kim Knox's in Maricopa County. 2) Exploring the possibility of creating a webpage dedicated to restitution on the Supreme Court's website. 3) Enhancing education about restitution processing (particularly in conferences with court staff, probation staff, clerks, etc.). The Restitution Workgroup will also be discussing State v. Hansen at its meeting today.

Kim Knox shared that Ch. 15 did an investigation regarding restitution in Maricopa County and now Ch. 12 is also considering this.

Judge Granville inquired about the authority which authorizes the expenditure of funds that are necessary to collect restitution. The statutory authority was not available to anyone at the meeting.

Public Comment

A Call to Public was made and the victim letter was discussed.

An open discussion took place regarding children and the courts. Courts should consider special circumstances when dealing with child victims and their treatment throughout family, civil, and criminal courts. Dr. Coffman suggested creating a special workgroup to address this issue and received unanimous support from the commission.

The workgroup meetings will convene during lunch today through 2:00 PM.

Motion to Adjourn

Motion: Meeting ended at 12:48 PM

Respectfully Submitted,
Carol Mitchell, Court Specialist
Staff to the Commission on Victims in the Courts