

**Commission on Victims in the Courts**  
**Meeting Minutes**  
Friday June 2, 2006 10:00AM-2:00PM  
Judicial Education Center, Copper & Gold Rooms  
Conference call number: 602-542-9001  
C.O.V.I.C. Website <http://www.supreme.state.az.us/covic/>

**COVIC Members Present**

Chair: Hon. Ronald Reinstein  
Det. Jack Ballentine  
Mr. Marc Budoff  
Dr. Kathryn Coffman  
Mr. Edwin Cook  
Ms. Sydney Davis  
Mr. Bill Hart  
Mr. Dan Levey  
Hon. Anna Montoya-Paez  
Ms. Kimberlie Musselman  
Hon. Patricia Noland  
Hon. William O'Neil  
Mr. Doug Pilcher  
Hon. Antonio Riojas, Jr.  
Ms. Karen Sullivan  
Hon. Richard Weiss

**Proxy**

Ms. Paula Taylor (for Kathy Waters)

**Members Absent**

Hon. Lex Anderson  
Mr. Gary Husk  
Ms. Emily Johnston  
Ms. Charlene Laplante  
Mr. Steven Dichter  
Mr. Richard Romley  
Mr. Steve Twist  
Mr. Anthony Vidale  
Ms. Kathy Waters

**Staff Present**

Ms. Carol Mitchell  
Ms. Carrin Huff

**Guests**

Ms. Julie Begonia, MCAPD  
Chief Barbara Broderick,  
MCAPD  
Ms. Julee Bruno,  
AOC Ed. Services  
Ms. Marie Holck,  
AOC Ed. Services  
Ms. Kim Knox, Maricopa  
County Finance  
Ms. Elizabeth Ncube, AOC  
Ed. Services  
Ms. Leila Gholam, AOC  
Legislative Liaison  
Ms. A. Teaunee Duran, AOC  
Legislative Analyst  
Hon. Warren Granville,  
Maricopa County Superior  
Court Judge

## **Welcome and Call to Order**

The Chair officially called the meeting to order at 10:07 AM, at the Judicial Education Center, Phoenix, Arizona. Members and guests present introduced themselves. The Chair indicated that Mr. Romley reported that he was called to D.C. to work on a federal matter.

## **Approval of March 10<sup>th</sup> minutes**

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

**Motion:** To approve minutes from March 10<sup>th</sup>, 2006. Motion unanimously passed.

## **Victim Legislation Update**

Ms. Leila Gholam and Ms. Teaunee Duran from the AOC presented the legislative update on behalf of Mr. Jerry Landau. Ms. Gholam reviewed the process and timeline for completing the Arizona Judicial Council (AJC) Legislative Request for Proposal form. The form should be filled out completely and the submitting person should be available for further questions if the proposal moves forward. Any requests and court committee recommendations should be sent to Jerry Landau at the AOC by August 18, 2006. All of recommended bills will be presented to other standing committees for input and then AJC will review all recommendations. Approval of the 2006 judicial legislative package is expected to occur October 12, 2006. If there are any committee members that feel that this committee needs to testify in favor of, or oppose, any proposed bill that member should bring any ideas forward to the committee through Carol Mitchell or Judge Reinstein. As this would have to be cleared with the chief justice.

### **The following victim related bills have been signed by the Governor:**

SB1126-victim right to refuse an interview

SB1093-blank subpoenas victims notice

SB1176-victim's rights; failure to comply with victim's rights.

\*Concern that the bill only applies to section 13, and not Juvenile (8415), suggestion to look further into changing to include juvenile at next years session.

SB1052-victim compensation and assistance fund

1303-change of name; application; venue

\*Hon. Patti Noland asked: What is the notification process for name changes?

SB1386-Crime Victims; Free Police Reports

2124- Rental Agreements; Emergency; Tenant Safety:

The Chair asked the commission if there were any suggestions regarding potential legislation to propose from C.O.V.I.C. A concern was raised that victims are not being treated with respect by the legislative panels when giving testimony. A question was raised as to whether victim's rights apply at the legislative sessions and it was concluded that victim's rights only apply in the judicial process. Suggestions were made that if

victims are going to give testimony to the legislative panel, victims should be forewarned and prepared of how they may be treated.

Another issue involved victim confidentiality when law enforcement has been required to submit a full unredacted report in the mitigation process of a death penalty case. Along with the victim's testimony, their name is also included in the report, which may deter victims from participation if they do not feel their information is being kept confidential.

It was suggested that it may be simpler to pursue a rule change through the Supreme Court versus a legislative bill. The chair suggested that this topic, involving inconsistent rulings may be a good topic for judicial education. Additional discussion involved clarifying the definition of a victim and restitution. These items will be considered as potential recommendations to enhance new judge orientation and other judicial training.

### **Strategic Planning (continued from March meeting)**

Carol Mitchell reviewed the 4 topic areas of discussion for strategic planning from AJCA code Section 1-111 and sought input on the last two items that were not addressed at the previous meeting:

- Recommendations regarding training and education for judges and court personnel on victims' rights and treatment of victims;
- Work to promote the improved collection and disbursement of restitution;
- Liaison with other established victims' advocacy organizations while maintaining neutrality;
- Make other recommendations that preserve victims' constitutional rights and administration of justice.

### **Liaison with Victim Advocacy Organizations & neutrality:**

- Need victims' issues component in New Judge Orientation and continuing education for judges when they rotate benches. Consider preparing a presentation for Annual Judicial Conference.
- Ms. Musselman raised the issue that her local court denied her advocacy group permission to post group information during victims' rights week. It was suggested that this topic be raised at a Presiding Judges meeting and that this may be specific to this court/judge preference to not allow any advertising. This should be another suggestion for judicial education.

### **Recommendations to preserve Victims' constitutional rights and administration of justice:**

- Hon. Patti Noland suggested that coordination should be established with the Arizona Department of Corrections (ADC) and Board of Executive Clemency on issues with restitution and information to victims. Discussion on the ability to collect restitution while the inmate is incarcerated and the timing of filing criminal restitution orders.

- Mr. Levey indicated that the ADC is looking in to being able to change the 30% limit on what monies they are able to get from the inmates. He is researching other states' options and with the ADC director, hopes to make changes in the future.

### **Courtroom Seating:**

Commission member Bill Hart discussed the issue of courtroom seating for victims and advocates. Adequate courtroom seating is an issue in all courts. There are concerns with victim intimidation and safety and rules being inconsistently applied. There was a discussion about the possibility of creating a rule to mandate priority for victims and their families. The concern with creating a rule is that some courts will be unable to comply merely based on their physical facilities. It was suggested that this could be again handled through judicial education and possibly through the issuance of an administrative order from that jurisdiction's presiding judge.

Pinal County was recognized for having excellent accommodations for victims. Judge O'Neil explained that they did consider victims in the planning stage of their new facility construction.

Ms. Mitchell explained that for future reference, any advocate that accompanies a victim to the Supreme Court are encouraged to contact Cari Gerchick, public information officer for the Supreme Court to coordinate accommodations.

### **Education Issues: Presentation by Education Services Division, AOC**

Several commission members shared positive feedback and gave high marks regarding the professional quality and excellent content of the computer-based training CDs that were distributed on restitution and victims' rights.

Ms. Elizabeth Ncube, manager of the Judicial College of Arizona curriculum, addressed the commission and shared information about the judicial college. She explained there are two main programs: New Judge Orientation for limited jurisdiction and pro-tems and the Annual Judicial Conference. They offer mandatory computer based training for Judges and Pro-Tem's within their first year on the bench..

The orientation for Limited Jurisdiction covers critical issues including a "take home" assignment and in person class. Ms. Ncube distributed the lesson plan for the limited jurisdiction new judge orientation session on victim rights and restitution.

General Jurisdiction judges go through a two week training (Jan/Apr) where core issues are identified for the lesson plan, victim's rights were identified as a core issue. The conference program also has a victim's rights component, and there is an opportunity for this commission to suggest training recommendations. There is also a new Judicial Training Academy and this may be an opportunity to expand continuing education for

judges and submit victim rights as one of the topics when the three core topics are selected annually.

Ms. Ncube encouraged COVIC to pass on any program recommendation they have to the Judicial College to consider.

Ms. Marie Holck, manager of AOC's Probation Education programs which include the Certification Academy, explained the victim components within the academy's curriculum. The Academy has a two week training program for Probation Officers. A class on Victim's Rights covers Statutory, Rules and Constitution. The Victim's Rights component of education is required for the probation officer to become certified. A victim's class is also offered at the Intensive Probation Institute which includes two victim speakers and a review of the victim statutes, rules, and the Bill of Rights contained in the constitution. See provided example of lesson plan & pamphlet. Continuing education for probation officers is offered locally and only covers set programs. Ms. Holck distributed the following documents: "Victim's Rights, Intensive Probation Academy" and the "Institute for Intensive Probation, Lesson Plan."

Julie Bruno, manager of judicial staff education, explained the AOC currently offers three conferences per year, one held in each region. At least one victim training session is offered every year. She welcomed input and explained that new information can be added into the cycle. Another medium that would have broad reach (200-500 people) would be to consider developing a victim's rights broadcast.

### **Suggestions:**

- Coordinate with Maricopa and Pima Counties to understand what is offered in victim's rights to develop a more cohesive program during rotation of judges.
- Suggest distributing education CD's to all judges not just for new judges.
- Consider having victims rights be a core topic for continuing education COJET credit.
- Look into setting up panels of speakers from advocacy groups (i.e. regular brown bag luncheons) to educate judges.
- Commission should send any training proposals to Judicial College and AOC, Cojet Education Services. Also plan for a victim course at the Judicial Conference, plan for 2007 conference.
- Code Sections need to be addressed and updated for continuing education. Performance reviews and audits, adherence to victims rights requirements being met.
- Look into teleconference training, calendar of training schedule & process. Work with AOC to establish the best venue (broadcast or computer based).
- The Chair announced that there is a conference in Portland, OR and Carol Mitchell will be attending. Steve Twist and Dan Levey will be speaking at the conference. Members will report back to the commission with any ideas/speakers
- It was suggested that an education CBT CD should be created and distributed to all court staff and judges, not just new judges.

- AOC to review hand out materials for potentially offensive images used to portray victims.

### **Restitution Issues:**

Hon. Warren Granville, Maricopa County Superior Court: Explained Maricopa County created an ad hoc committee that focuses on restitution issues. The issues range from enforcing/imposing orders of restitution, communication with DOC & collection/monitoring efforts.

Julie Begonia, Division Director with Maricopa County Adult Probation Department explained the historical perspective of how adult probation handled the collection of court ordered sanctions, including restitution. Because of the poor results, they implemented a multi-faceted approach to addressing this issue. They had to change attitudes and encourage probation officers (P.O.) to do a better job at monitoring and evaluating the defendant's ability and effort to comply with payments. They created the financial compliance unit and instituted a continuum of interventions used to address probationers delinquent with their court ordered sanctions.

Maricopa County's policy is that the P.O. completes a payment ability evaluation for 30-day delinquent persons and assesses all income and assets. (See blue handout). If the person fails to comply with payments after the evaluation they are then sent to "budget class", a 5 week (1 hour/week) class on managing finances, typically the buyout rate (paying off delinquency) is high because the budget class does not have a positive reputation. If the person cannot pay in full, the P.O. encourages them to make payments consistent with their ability to pay. Prior to returning probationers to court for probation violation or revocation, the P.O. has to establish (through using the various interventions) that the defendant is willfully non-compliant in paying court-ordered sanctions.

Maricopa County has established a partnership with Western Union so if the defendant owes money and resides in another state they can make payments at any Western Union office. They also employ a variety of other interventions (explained in the handout). The Tax Intercept Program (TIP), instituted in 2000, has been very profitable, but only used to collect state returns. There is hope that they will be able to collect federal returns also.

Ms. Begonia reviewed a slide illustrating the increase in restitution collections since 1997. \$4.4M was collected in 1997, compared to close to \$12M expected for 2006. Probation services fees are steadily increasing, which translates to restitution payments remaining current.

Ms. Kim Knox, is the supervisor of the Maricopa County Collections Unit. The unit is no longer a court entity, and now works under the finance department. She distributed a handout. The unit deals with approximately 450 cases per month, half of those being restitution cases. They collect on debts owed to the court.

As of January 1<sup>st</sup>, 2006, they started charging 10% interest per year on amounts owed. Their strategy is to send letters at thirty day intervals when delinquent. After 120 days past due they use skip tracing and hold car registration at MVD (prevents from being able issue/renew registration), they are also sent to a private collection agency (4 available). The collection agency charges an additional 19% on top of the original balance so there is no cost to the state for the service. They are able to collect on excess proceeds from house foreclosures, the process is more time consuming, but very profitable. The unit also handles garnishments.

They work with civil and probate departments to coordinate and distribute money to person's owed restitution that got lost in the system. (Children unaware of monies owed to them, cases that have been forgotten). Judgments never expire so monies can be collected many years later. They coordinate with MVD, deny registration if debt owed with a majority of money comings from MVD intercepts.

Their Tax Intercept Program collected \$378,000 so far this year. Ms. Knox is working with the AOC to determine if there is an opportunity to intercept federal tax refunds.

Ms. Knox's unit has been very successful in their collection efforts over the past several years. Their fiscal year goal for 2006 is close to \$3.3M., and through March alone, they have collected close to \$3M.

Kim announced the next meeting of the Maricopa County Restitution Workgroup will be on June 8<sup>th</sup>, 1:15pm at the Central Court Building. Anyone is welcome to present issues, and it often provides networking opportunities between agencies.

**Discussion on restitution issues involved:**

- The need for more communication between the victims and attorneys with the reality of the process of collecting restitution.
- Educate victims of their rights dealing with restitution and lawsuit filing abilities. Also sensitivity training for those dealing with victims.
- Investigate if a criminal restitution order be reissued to allow it to collect interest since the provision became effective in 2005.
- Bring to AJC: Consistency in ordering restitution and incentive (interest) for collection agencies.

Statute 13-810, Contempt power for non-payment of restitution: many judges aren't aware of options.

A recommendation was made to allow subcommittees be formed so they possibility meet prior to the September meeting to begin researching issues raised.

**Motion:** To create sub-committees of COVIC. Motion unanimously passed.

**Public Call**

There were no public responses.

Chief Barbara Broderick shared that the probation department is exploring ways and accepting input regarding what more can be done with victims (interactions/responses) at the pre-sentence report writing stage.

### **Motion to Adjourn**

**Motion:** To adjourn was seconded and unanimously approved at 1:58pm.

The next scheduled meeting for the Commission on Victims in the Courts is scheduled for September 8<sup>th</sup> 2006 at:

City of Phoenix Family Advocacy Center  
2120 N. Central Avenue  
Phoenix, AZ 85004

### **Action Items**

- Members submit legislative recommendations through Ms. Mitchell or Judge Reinstein by mid-July.
- Ms. Mitchell will compile a list of recommendations mentioned at meeting for restitution sub-committee:
  - Determine if restitution order can be reissued to allow collection of interest?
  - Consistency in judges indicating details for restitution- such as which victim gets paid first when necessary.
- Ms. Mitchell will compile a list of recommendations mentioned at meeting for the education sub-committee to potentially submit to Judicial College, COPE and COJET:
  - Definition of a victim (clarification)
  - Determine who can be compensated for restitution and priority of restitution payments within victim category (Need judges to specify priority of recipients).
  - Items for presiding judges to consider such as courtroom seating
  - Members will report back with any more ideas on education or speakers. Ms. Mitchell will coordinate with Ed Services.
- Dan Levey, Carol Mitchell, Steve Twist to report back with recommendations obtained from attendance at victim conference in Oregon.
- Kim Musselman to check with Arizona Coalition for Victim Services (ACVS) about courtroom seating feedback and issues around the state.
- Sub-committees to be established and encouraged to meet prior to next meeting.