

Commission on Victims in the Courts
Meeting Minutes-DRAFT
Friday June 8, 2007 10:00 AM-2:00 PM
Conference Rooms 345 A & B, State Courts Building
Conference Call Number: 602-452-3192; Access Code 1112
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
Mr. Steve Twist
Ms. Kimberlie Musselman
Ms. Kathy Waters
Ms. Emily Johnston
Mr. Bill Hart
Hon. Carter Olson
Mr. Dan Levey
Hon. Richard Weiss
Hon. Anna Montoya-Paez
Hon. Antonio Riojas, Jr.

Proxy

Ms. Karen Duffy for Hon. Patricia
Noland

Members Absent

Mr. Stephen Dichter
Ms. Sydney Davis
Ms. JoAnn Del Colle
Ms. Karen Sullivan
Mr. Gary Husk
Mr. Edwin Cook
Dr. Kathryn Coffman
Mr. Marc Budoff
Mr. Anthony Vidale
Hon. William O'Neil
Mr. Doug Pilcher

Staff Present

Ms. Nicole Garcea
Ms. Carol Mitchell

Guests

Hon. Yoshinori Niwa, Visiting Judge
Kim Knox, Maricopa County Finance
Jamie Mabery, MCAO, Victim Services
Jerry Landau, AOC
Amy Wood, AOC
Annalisa Alvrus, Public
Doryce Norwood, Public
Ronni Gaun, Public

Welcome and Call to Order

The Chair officially called the meeting to order at 10:12 AM, at the State Courts Building in Phoenix, Arizona. Introductions were made of commission members and guests.

Announcements

The Chair took a moment to make several announcements regarding awards, retirements, acknowledgements, and miscellaneous business:

- Mr. Dan Levey was awarded with the Ronald Reagan Public Policy Award.
- Mr. Steve Twist and Mr. Dan Levey recently worked on the language for the resolution for the National Day of Remembrance Honoring Murder Victims and their families. House Resolution 223 was co-authored by U. S. Congressman John Shadegg (R-AZ) and Representative Steve Chabot. The Day of Remembrance will take place in September.
- Mr. Steve Twist was the keynote speaker at the National Conference for Sexual Assault Response Teams for sexual assault nurses and forensic examiners. Honorable Ronald Reinstein also spoke at the Conference.
- The Arizona Coalition for Victim Services is having a conference August 16th and 17th. The Restitution subcommittee will be presenting. Carol also gave a heads up that potentially the Coalition will be requesting a best practices from judges in the area. She will be in touch with further details as necessary.
- Ms. Carol Mitchell will be taking maternity leave prior to our next committee meeting. In the interim, Ms. Amy Wood, Carol's manager, and Ms. Nicole Garcea, Carol's assistant, will be available should any issues arise. A sincere congratulation was offered to Ms. Mitchell on her coming delivery.
- Honorable William O'Neil has been awarded the Arizona Supreme Court Distinguished Services Award for "Improving Public Trust and Confidence in the Courts". He will receive the award June 20th at the State Judicial Conference in Carefree.
- Detective Jack Ballentine will be retiring from the Phoenix Police Department. His retirement goes into effect July 2nd. Further, Detective Ballentine has been selected to head the Phoenix Fire Department's Arson Investigation Division.
- Also retiring are both Honorable David Cole and Honorable Ronald Reinstein effective June 30th. Judge Cole will be joining the new Phoenix Law School as a professor. Judge Reinstein will be continuing his work at the Supreme Court assisting with special projects regarding judicial education and evidence-based sentencing and practices, as well as consulting for various criminal justice and forensic science groups.

Approval of March 2, 2007 Minutes

Members indicated the following corrections to the previous meeting minutes:

SB 1619 PASSED Senate Appropriations (currently reads FAILED).

Motion: To approve minutes from March 2, 2007 with the above addendum. Motion seconded and unanimously passed.

Victim Legislation Update

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

In general, the Legislature are working on the budget and looking at June 22nd to finish up.

Bills affecting victim's rights:

CHAPTER 204: Victims' Rights; Free Police Reports. This has been signed by the Governor and will take effect 90 days after it was signed by the Governor (around the end of September).

SB1286: Victims' Rights Omnibus. Several modifications have been made to this bill. It passed the Committee of the Whole in the House yesterday. It is in a different form than when it started. Especially of note is the fact that effective January 1, 2008, a victim or victim's counsel who requests notice must receive a copy of the memorandum decision or opinion from the issuing appellate court concurrently with the parties.

SB1619: Signed by the Governor. Dan Levey shared that ADOC is unsure which percentage of account money will be withheld from ADOC inmates for restitution.

Advanced Notification of Opinion

The Chair took a moment to explain the previous discussion that had taken place regarding this topic and the end result. Based on recommendations from COVIC, the Supreme Court decided to put into effect the practice of providing twenty-four hours advance notice of when an opinion is expected to be released. The practice of releasing the opinion early to certain parties was not adopted for several reasons which Jerry Landau explained.

Mr. Steve Twist took a moment to thank the Supreme Court for this important step that it has taken.

Judge Reinstein requested feedback, both positive and negative, to assess how this new practices is working.

Mr. Bill Hart reported he has already seen a positive impact and boost in morale at the AG's Victim Services' Office. The advance notice eliminates the anxiety that victim advocates may have about when an opinion will be released. It also allows for better planning with staffing/coverage within their office.

ACJA Code Revision

There are parts of the ACJA Code (§5-204 and §6-103) which were passed in 2004 that have been affected by the Klein decision (the change of the definition of “criminal offense”). There may be other portions which also need to be revised for various reasons (e.g., Subsection I #2 “minimizing victim contact” and Subsection K). Ms. Carol Mitchell explained that these will need to be revised and updated prior to the September meeting for COVIC. It will then be routed to several other committees for approval prior to taking it to the AJC in December for approval. A sign-up sheet was sent around for volunteers to participate on this ad-hoc workgroup.

Victims’ Rights Script

Judge Reinstein updated everyone on the status of the Victims’ Rights Advisement that is to be read in court. Some judges, particularly in Pima County have been playing the script on tape, which may follow the letter of the law, but does not follow the spirit of the law. Ms. Mitchell informed the committee that Chief Justice McGregor has it on the agenda to discuss this at the Presiding Judges Meeting at the Judicial Conference later this month.

Judge Reinstein also stated that he discussed with Chief Justice McGregor the tact that one judge was using by placing a Spanish version of the Victims’ Rights advisement on the outside of his courtroom, as this may assist limited English-speaking victims, particularly when interpreters are not available.

Advanced Notification Sign-up

Ms. Rachelle Resnick, Clerk of the Supreme Court gave a brief presentation to show members the on-line process that provides the advanced notification of court opinions.

Judge Reinstein requested that a link be placed on the COVIC webpage to allow individuals to access it from both COVIC’s page and from the Arizona Judicial Branch website.

Proposition 100 Subcommittee

Chief Justice McGregor has put together a Subcommittee to delve into issues related to Proposition 100, a law that deals with illegal immigrants arrested in this country and their right to bail. Judge Riojas is on the subcommittee and spoke regarding the issues that relate to both Proposition 100 and Victims’ Rights.

Proposition 100 has led to many Simpson hearings for defendants charged with class 1-4 Felonies. These hearings determine whether or not the defendant should be held without bail based on evidence presented that s/he entered the country illegally.

Judge Riojas spoke further on this topic explaining that the problem mainly resides in Maricopa County due to the sheer volume of cases. There are several problematic issues associated with this topic.

If a Simpson hearing is held, under the current A.O. the defendant is entitled to a hearing within 24 hours; however, the county attorney could ask for a 24-hour extension and the public defender can request a continuance of up to five days.

A current rule change petition has just been filed by the AOC. Comments are accepted until June 14th. One proposed change would be to extend the timeline of the hearing to seven days which would afford more time for victim notification. There are also some potential legislative changes which may place

Further points of discussion:

- Different counties handle initial appearances differently.
- Prosecutors don't want to release evidence early so the hearings are a mere formality.
- Will need to see if rule change is adopted or if legislation will pass that changes things.
- There is an extra session to discuss this topic at the Judicial Conference.
- This proposition has created manpower issues across the board due to increase in hearings.

Mr. Twist expressed his concern over victims being notified of these hearings so that they have an opportunity to appear at the hearing if they choose. Judge Reinstein concurred and stated that these hearings can take place at all times during the day. He also stated that this hearing can be very important to victims because it is the first hearing to discuss release terms.

Ms. Jamie Mabery with the Maricopa County Attorney's Office – Victim Services Division stated that victims' rights were being violated daily with the increased hearings due to the fact that they would often hold Status Conference hearings immediately following the Initial Appearance.

Mr. Twist expressed the importance in having a formal discussion between interested parties such as prosecutors, law enforcement, and victim advocates to create a proposal to handle this situation.

Judge Reinstein requested that the Administration of Justice Workgroup take a look at this issue to try and come up with some solutions. He also stated that perhaps a recommendation could be made to the Arizona Judicial Council to review the Initial Appearance Procedures on notification of victims.

Another issue regarding notification to victims is that they are usually being treated within the first 24 hours and it could be difficult to reach them.

Ms. Musselman and Judge Montoya-Paez also expressed different issues in Coconino County and Santa Cruz County respectively. The biggest issue was prosecutors choosing not to present evidence.

Workgroup Summary

In Judge O'Neil's absence, Ms. Carol Mitchell gave a brief summary as to what had been accomplished by the Administration of Justice workgroup. They are looking at best practices for victim notification in civil commitment cases involving the state hospital. They are also looking at the issues in Pima County regarding judges being rotated from death penalty cases. Finally, they are looking into the issues that arise when the parent(s) of a minor become the victim of that minor and court fines/fees are assessed to the parents (victims) to pay.

Kim Musselman stated the Education Workgroup continued to work on forming a panel to present victim rights at the June Judicial Conference. The panel will conduct a "trial run" at today's meeting to gain feedback prior to the conference. They are also working on the possibility of putting together a small survey for the Judicial Conference or a later date to seek out topics for future judicial education.

Dan Levey stated the Restitution Workgroup was primarily working on putting together a restitution page on the Internet. This page will be modeled after the Colorado Judicial Branch's Restitution page. They are looking at putting together a model site for the next COVIC meeting. Other issues discussed were federal tax intercept legislation and a training workshop for the summer Arizona Coalition of Victims Services Conference.

Kim Knox discussed the intercept of a lottery payoff in the amount of \$13,000 to go towards outstanding restitution. She also discussed foreclosures and excess proceeds to go to restitution.

Victim Panel Presentation

Mr. Dan Levey and Ms. Doryce Norwood shared their stories about their victimization and experiences in the criminal justice system. They received very positive feedback from the commission that involved suggestions to include practical tips for judges to consider when dealing with victim cases.

Public Comment

A Call to Public was made and Ms. Annalisa Alvrus addressed the commission. Ms. Alvrus submitted a letter that was discussed at COVIC's previous meeting. She expressed her gratitude for COVIC discussing her letter and shared her experience and frustration about her domestic violence case that involved both the Family and Criminal courts. She hoped the commission would help educate criminal justice professionals about domestic violence and to avoid placing blame on the victims.

Ms. Alvrus spoke of the compounded difficulty of cases with children involved. She also encouraged COVIC to follow through with its proposed workgroup to discuss children's involvement in court.

The Chair directed Ms. Alvrus to attend a CIDVIC meeting to discuss these issues with them as well.

Mr. Twist referred to the previous minutes regarding Dr. Coffman's request for a subcommittee on children in the courts. Discussion took place relating this group to CIDVIC and to other workgroups and where it would be placed. No formal action was requested, but Judge Reinstein stated that he would speak with Judge O'Neil, chair of CIDVIC regarding this matter.

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

Motion to Adjourn

Motion: Meeting ended at 12:42PM

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