

**COMMITTEE ON THE IMPACT OF
DOMESTIC VIOLENCE AND THE COURTS**
Minutes
May 8, 2012
Arizona State Courts Building
Conference Room 119A/B
1501 W. Washington Street, Phoenix, AZ 85007

MEMBERS PRESENT IN PERSON:

Judge Emmet J. Ronan, Chair	Patricia Madsen, Esq.
Judge Keith D. Barth	Dana Martinez
Jessye Johnson (proxy for Allison Bones)	Leah Meyers, MSW
Cathy Clarich	Chief Jerald L. Monahan
Joi Davenport	Judge Carol Scott Berry
Pegg Derrow	Andrea K. Sierra
Gloria E. Full	Rena Tenney
V. Michele Gamez, Esq.	Det. Eugene J. Tokosh
Judge Carey S. Hyatt	

MEMBERS PRESENT TELEPHONICALLY:

Judge Cathleen Brown Nichols	Maria Randall
Lynn Fazz	

MEMBERS ABSENT:

Dr. Kathy S. Deasy	Kristine Reich, Esq.
Professor Zelda Harris	Capt. David Rhodes
Judge Joseph P. Knoblock	Tracey L. Wilkinson
Judge Wendy Million	

GUESTS/PRESENTERS

Amy Love, AOC	Andre Barth
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STAFF:

Kay Radwanski	Annette Mariani
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I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the May 8, 2012, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 10:09 a.m. by the Honorable Emmet J. Ronan, chair. All members and guests were welcomed.

B. Approval of Minutes

The minutes of the February 13, 2012, CIDVC meeting were presented for approval.

MOTION: To approve the minutes of the February 14, 2012, as presented. Motion seconded. Approved unanimously CIDVC-12-006.

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. Legislative Update

Amy Love, AOC legislative liaison, provided an update on legislation from the current session that have an impact on victims. All bills included in the handout she provided were signed with the exception of SB1127: child custody factors, which is expected to be signed soon. All bills on the handout have an effective date of August, 2, 2012, unless otherwise specified.

Chapter 269; criminal restitution order – delayed effective date of April 1, 2013

SB1127: child custody factors – This bill was introduced by Senator Linda Gray, co-chair of the Domestic Relations Committee (DRC), regarding the custody statutes in Title 25. It has a delayed effective date of December 31, 2012.

In response to a question, Ms. Love said she was uncertain whether consideration will be given in the next session to cleaning up language in ARS § 13-3602 to conform to SB1127. Section 13-3602 makes reference to child “custody,” a term that has been changed to “legal decision-making” in SB1127. The DRC typically reviews the Title 25 statutes, not Title 13.

B. Update – Maricopa Association of Governments Protocol Evaluation Project

Renaë Tenney updated the committee on the Maricopa Association of Governments (MAG) Protocol Evaluation Project. She first provided background information, highlighting what transpired during the first year of implementation:

- The project, funded through a STOP Grant administered by the Governor’s Office, assesses the protocol used by law enforcement and prosecutors in handling domestic violence cases.
- The project is overseen by the MAG Regional Domestic Violence Council.
- Through the project, the region’s first misdemeanor domestic violence protocol model was developed, providing 28 protocols for consistency when law enforcement and prosecutors respond to domestic violence.

In the second year of implementation:

- The misdemeanor domestic violence protocol will continue to be maintained.
- Meetings with community partners will continue, looking at what is working out in the field and what is not working and possible solutions to these responses.
- A prosecutor affinity group meeting will take place next week to look at bridging gaps and processes with the goal of having a more streamlined model.
- The work of the victim advocate affinity group has been expanded in collaboration with the Avon Project at the O’Connor House and a newly

established domestic violence collaborators' group to discuss findings of a survey, which addressed the supports that are in place for the victim advocates and how this would help them to move forward. A representative of the Avon Project will present information on this survey at the June 4, 2012, meeting at the MAG office.

- Focus groups with victims have been taking place. In addition to working with the Phoenix Police Department on community issues, shelter visits have been made. The visits help gauge information on the services that shelters provide and give vital feedback on how community-based services are being used.

C. Comments – Petitions to Amend ARPOP Rules

Kay Radwanski, AOC committee staff, reported on several rule petition comments that had been prepared for the committee's review and consideration of filing.

Timeline for the rule petition process:

Annually by January 10	Deadline for filing of petitions
Annually by May 20	Deadline for comments to be submitted (this year, May 21, 2012)
Annually by June 30	Deadline for petitioner response
Late August, early September	Justices meet to review all rule petitions that have been filed in order to make decision on adopting changes, rejecting suggestions, expanding rules, etc.

Petition R-12-0013 – ARPOP Rule 1(C) and ARFLP Rule 13(D), filed by CIDVC, regarding public access to unserved protective orders. David Byers, Administrative Director, AOC, filed a comment asking that if the petition is approved, Rule 123, Rules of the Supreme Court, should be amended with conforming language. Discussion ensued, resulting in the following motion:

MOTION: To not file a response to David Byers' comment. Motion seconded. Approved unanimously. CIDVC-12-007

Petition R-11-0043 – ARPOP Rule (M) filed by the Arizona State Bar, regarding mailing of proof of service to plaintiffs. A comment in opposition has been filed by the Arizona Association of Superior Court Clerks. The consensus in the previous meeting was that although this is a well-intended idea, there is a concern that it may not achieve timely notice to the victim. There also would be an additional expense incurred by the court that may not benefit the plaintiff. Discussion ensued resulting in the following motion:

MOTION: To approve the language and content of the comment that was previously submitted by the ARPOP Workgroup and to authorize its filing by May 21, 2012. Motion seconded. Approved unanimously. CIDVC-12-008

Petition R-12-0007 – ARPOP Rule 6(E) (4) (e) (2) – filed by Michael Roth of Quartzsite, who is requesting an emergency repeal of this rule, regarding weapons and Injunctions Against Harassment. Two comments in support were filed by Michael Palmer. Information clarifying the federal Brady law, the state firearms statute, civil protection orders and the NCIC database were addressed in the committee’s comment to Mr. Roth’s petition. The Court will not be hearing the petition on an emergency basis, and it will be on the calendar for August or September 2012. Discussion ensued resulting in the following motion:

MOTION: To approve the language and content of the comment that was previously submitted by the ARPOP Workgroup, with the removal of the first paragraph on page 5 of this petition. Motion seconded. Approved unanimously. CIDVC-12-009

Petition R-12-0023 – ARPOP Rule 1(D)(4) – filed by Michael Palmer, a Phoenix resident, regarding the court’s authority to delay the exit of persons from a courtroom. CIDVC’s comment notes that the Code of Judicial Conduct requires the judge to maintain order and decorum in the courtroom and also cites State v. Bush, 149 Ariz. 325 (1986). Discussion ensued resulting in the following motion:

MOTION: To approve the language and content of the comment that was previously submitted by the ARPOP Workgroup, except for removal of the words “*that was dismissed*” in the first paragraph on page 2 of this petition. Motion seconded. Approved unanimously. CIDVC-12-010

All comments to petitions will be filed electronically by May 21, 2012.

D. 2012 Protective Order Forms Review

Ms. Radwanski gave a brief overview of Project Passport, an initiative by the National Center for State Courts (NCSC) to encourage states to use protective order forms that are similar nationwide in order to help law enforcement in recognizing these orders. The result of CIDVC’s work was a set of standardized protective order forms that were approved and then mandated by the Supreme Court to be used in every Arizona court beginning January 1, 2008. With minimum exception, Arizona courts cannot make changes to the forms without permission from the AOC. Since implementation, some courts have requested “tweaks” in these forms.

The Forms and Processes Workgroup, which met in February and March, presented its recommendations for forms modifications to CIDVC. Members were asked to review the workgroup’s proposals, discuss other suggested changes, and approve or disapprove the recommended changes. Once modifications have been reviewed and agreed upon, recommendations will be sent to David Byers, AOC administrative director, requesting his approval and issuance of an administrative directive.

Plaintiff’s Guide Sheet for Protective Orders

Page 1:

- Under paragraph 11 add: “To comply with federal law, no identifying information about you will be published on the Judicial Branch website (www.azocourts.gov).
- Under paragraph 7, add language to conform to text on the Defendant’s Guide Sheet, which reads: “However, orders are not automatically granted upon request. Legal requirements must be met.”
- Under paragraph 3, move text reading “A copy of your petition and the order will be given to the Defendant and may be used in future judicial proceedings” to #4: Service and Effect. Keep the text in boldface font.

Page 2:

- Add Date of Birth for the plaintiff, and boldface language about address confidentiality so it stands out.

Petition for OP/IAH/IAWH

- In the caption, add a bolded block that reads: “This is not a court order.”
- Discussion ensued on:
 - Whether there is enough room for the plaintiff to provide adequate information about domestic violence incidents?
 - Should the language “attach additional paper if necessary” be retained?
 - Should only the most recent incidents be listed?
 - Are plaintiffs limited to describing only five incidents?
 - Are the plaintiffs’ descriptions viewed as just “talking points” or are these incidents being memorialized?
 - Forms are available in various languages for comparison but must be filed in English.
 - Should a plaintiff be asked to state what has been the most dangerous incident in the past 12 months?
 - Add language advising that “A copy of this petition will be provided to the defendant upon service.”
 - Is number 8, Plaintiff’s request for Defendant to be ordered to participate in domestic violence counseling, useful and is it utilized? Because it is required in statute but can be ordered only after a hearing of which Defendant had notice and an opportunity to participate, should the workgroup remove it or provide more explanation?

Order of Protection – Discussion ensued on:

- Should the field for “Distinguishing Features/Alias” be left on or taken off? In developing a new case management system for limited jurisdiction courts, the AJACS development team noticed that the field cannot be populated because plaintiffs are not asked to provide this information. It was suggested that a question be added to the Plaintiff’s Guide Sheet. Ms. Radwanski advised, however, that for the field to populate automatically, changes will have to be made to multiple case management systems, which can be costly. As AZTEC is being phased out within the next few years and being replaced with AJACS, programming changes to AZTEC are discouraged.

- The workgroup had recommended that the “actual notice” language be stricken in response to concerns by the AJACS team. However, it was recalled that the line was intended to be used when orders were modified and when the defendant did have notice.
- Additional language will be added under “No Crimes” section to be consistent with U.S. v. Sanchez and policy previously decided by the Arizona Judicial Council.
- Additional advisory language – “However, orders are not automatically granted upon request. Legal requirements must be met.” – was presented. Similar language was recommended for inclusion on the Injunction Against Harassment, the Emergency Order of Protection, and the Defendant’s Guide Sheet.

Defendant’s Guide Sheet

- Additional advisory language – “However, orders are not automatically granted upon request. Legal requirements must be met.” – was added.
- Language in paragraph 5 could be enhanced so individuals understand that a hearing is needed for the order to be modified or quashed.

Injunction Against Harassment

- As on the Order of Protection, should the section on “Distinguishing Features/Alias” be left on or taken off?
- As on the Order of Protection, should the “actual notice” language be stricken?

Injunction Against Workplace Harassment

- As on the Order of Protection, should the section on “Distinguishing Features/Alias” be left on or taken off? – no discussion

Emergency Order of Protection

- As on the Order of Protection, should the section on “Distinguishing Features/Alias” be left on or taken off? – no discussion

Acceptance of Service – no changes

Declaration of Service

- Workgroup recommended addition of language and a check box to indicate a person authorized by the court (court staff) served the order in the courtroom
- Add IAWH to caption block - no discussion
- Workgroup recommended addition of a line and check boxes to indicate whether the plaintiff was advised of service.

Hearing Request

- Language regarding interpreter services and changes to the Certificate of Transmittal was added – no discussion.

Notice of Hearing Prior to

- Form title changed to “Notice of Hearing Prior to Issuance Of,” which is then followed by a list of the three protective orders
- Language for multiple locations/courtroom was added as many courts not only have multiple courtrooms but some also have multiple locations.
- The word “notice” instead of “copy” under Certificate of Transmittal was suggested.
- A court has asked that the defendant’s mailing and work addresses, as well as space for demographic information, be added. The request will be reviewed by the workgroup.

Hearing Order

Three different versions of this form were presented.

- An option for “withdrawn” was suggested because occasionally a plaintiff will have second thoughts after filing and fail to appear in the courtroom. Judges are reluctant to indicate the request was denied in this situation because there was no finding on the merits of the petition.
- The hearing request and the hearing order are combined on this form, leading to confusion regarding signatures by court staff and the judicial officer.
- The Certificate of Transmittal language was improved.
- A court has asked for the defendant’s address to be added on the bottom. This request was referred to the workgroup.
- On all three versions the suggested language states “The Court continues the hearing set for _____ date.” However, there is no space for the continuance date. A member asked whether another notice is required if the judge continues the hearing.

Notice to Sheriff – no changes

Transfer Order – no changes

Notice of Hearing

- The information on this new form was taken out of the Hearing Order, making the notice a stand-alone form.
- Change “copy” to “notice” under Certificate of Transmittal.
- A court has asked for the defendant’s address to be added on the bottom. This request was referred to the workgroup.

Declaration of Service

- A court has combined the Declaration of Service and Acceptance of Service forms into one page, retaining all information from the approved forms. The top portion is filled out if the order is served. The bottom portion is filled out if it is handed to the defendant in the courtroom. The workgroup should consider this as an option to help courts conserve resources.

The Forms and Processes Workgroup will meet to discuss the committee's comments and recommendations and bring updated information back to the group at the September 11, 2012, meeting.

E. Workgroup Reports

The following reports were presented:

A.R. S. §13-3601 Review Workgroup – This workgroup has been provided with a law student intern who has done some research on the broadness of the domestic violence law. Once this information has been presented to the workgroup, members will reconvene in the fall and bring back information to the committee.

Forms and Processes Workgroup – This workgroup will be reviewing the comments and recommendations provided during the meeting.

ARPOP Workgroup – The workgroup did not meet formally, but members were asked to review the Rule 28 comments prior to the CIDVC meeting. No workgroup members suggested changes to the draft comments.

Best Practices Workgroup/Education Workgroup – A domestic violence session has been planned for the Judicial Conference in June.

Batterer Treatment Programs Workgroup – Members were asked to join if interested. A condensed summary of offender treatment programs that are utilized in Arizona and in other states will be put together for presentation at a future committee meeting.

III. OTHER BUSINESS

A. Call to the Public – No persons from the general public were present.

B. Next Meeting

September 11, 2012
Conference Room 119 A/B
Arizona State Courts Building,
1501 W. Washington St.
Phoenix, AZ 85007

The meeting adjourned at 1:41 p.m.