

**Arizona Supreme Court
Commission on Victims in the Courts**

October 23, 2015 Meeting Agenda

1501 W. Washington St. Phoenix, Arizona 85007
State Courts Building, Conference Room 345 A/B

(602) 452-3288 or (520) 388-4330 / Access Code: 9925 / [WebEx Link](#)

Call to Order and Announcements

10:00 a.m.	Call to Order	Hon. Ron Reinstein
10:05 a.m.	Announcements	
	• Evacuation Plan	

Approval of February 2015 Meeting Minutes**

Presentations

10:10 a.m.	Victims' Rights Constitutional Amendment – 25th Anniversary	Steve Twist
10:30 a.m.	<i>Proposed Changes to ACJA §6-103 Victims' Right Requirements for Probation Personnel**</i>	Kathy Waters
10:50 a.m.	Establishing Pretrial in Arizona Courts	Kathy Waters
11:00 a.m.	When Victims Experience Trauma	Shelly Corzo-Shaffer

New Business

None

Old Business

11:20 a.m.	Status of Public Access Change Request	Leslie James and Eric Ciminski
11:30 a.m.	Status of Changes to Criminal Rule 41, Form 4(a)	Kirstin Flores and Patrick Scott
11:35 a.m.	Case Law Update	Hon. Ron Reinstein
11:40 a.m.	SAFER Act Team Update	Hon. Ron Reinstein
11:45 a.m.	Human Sex Trafficking- Upcoming Conference	Hon. Ron Reinstein

Next Meeting Date

11:50 a.m.	To Be Determined
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Adjourn

*****Important Voting Items***

All times are approximate. The Chair reserves the right to set the order of the agenda. For any item on the agenda, the Committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration §1-202. Please contact Denise Lundin at (602) 452-3614 with any questions concerning this agenda. Persons with a disability may request a reasonable accommodation by contacting Kelly Gray at (602) 452-3647. Requests should be made as early as possible to allow time to arrange for the accommodation.

Arizona Supreme Court
Commission on Victims in the Courts

June 12, 2015

10:00 a.m. to 12:00 p.m.

State Courts Building

1501 W. Washington, Phoenix, AZ 85007

Conference Room 345 A/B

Present: Judge Ronald Reinstein, Chair; Mr. Timothy Agan; Mr. Michael Breeze; Judge Maria Elena Cruz; Ms. Sydney Davis; Ms. Kirstin Flores; Ms. Kim Hedrick; Ms. Leslie James; Mr. Dan Levey; Ms. Keli Luther; Judge Evelyn Marez; Sgt. Ret. James Markey; Chief Jerald Monahan; Judge Sam Myers; Ms. Debra Olsen; Ms. Elizabeth Ortiz; Mr. William Owsley; Ms. Karyn Rasile; Judge Richard Weiss; Chief Cindy Winn.

Telephonic: Ms. Karen Duffy; Judge Sally Simmons.

Absent/Excused: Ms. Shelly Corzo-Shaffer; Judge Timothy Dickerson; Judge Elizabeth Finn; Mr. Michael Lessler.

Presenters/Guests: Chief Justice Scott Bales; Attorney General Mark Brnovich; Ms. Christine Groninger; Ms. Holli Sanger-Alarco; Ms. Allison Sedowski.

Administrative Office of the Courts: Ms. Denise Lundin; Ms. Kelly Gray.

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The June 2015 meeting of the Commission on Victims in the Courts was called to order by the Honorable Ronald Reinstein, Chair, at 10:02 a.m. The Chair asked for commission member roll call and introductions of staff and guests.

B. Announcements

i. Evacuation Plan Announcement

Ms. Kelly Gray described evacuation procedures for conference room 345 A/B and the method of communicating special evacuation needs to the commission and attendees.

ii. Arizona Attorney General's 2015 Distinguished Service Award

Mr. Mark Brnovich and Chief Justice Scott Bales congratulated the commission for receiving the Arizona Attorney General 2015

Distinguished Service Award in recognition of the commission's positive impact on public policy on behalf of victims of crime. Chief Justice Bales thanked the commission members for their service and encouraged them to refer others to volunteer for committee work in the Arizona judicial system. Mr. Mark Brnovich expressed his sincere gratitude to the commission for their work in the area of victim rights.

iii. New Member Introductions

Judge Sam Myers, Judge Maria Elena Cruz, Ms. Debra Olsen, and Ms. Kim Hedrick introduced themselves and provided further information about themselves.

C. Approval of the February 2015 Minutes

The draft minutes from the February 2015 meeting of the Commission on Victims in the Courts were presented for approval. The chair called for any omissions or corrections to the minutes. There were none.

- Motion was made by Ms. Elizabeth Ortiz to approve the February 24, 2015 meeting minutes of the Commission on Victims in the Courts. Seconded by Mr. Michael Breeze. Motion passed unanimously.

II. PRESENTATIONS

A. Sexual Assault Forensic Evidence Reporting Act (SAFER)

Ms. Karyn Rasile, Mr. James Markey, and Ms. Allison Sedowski presented information on the Sexual Assault Forensic Evidence Reporting Act (SAFER). The SAFER Act was passed to address the backlog of sexual assault kit testing across the country.

Mr. Markey indicated that there were grants provided by the New York City District Attorney's Office to address the backlog nationwide, and to address the root cause of the accumulation of untested sexual assault kits. Through those grants, a committee was formed which implemented a registry for the purpose of reporting/collection of data and providing the status of processing sexual assault kits. The committee developed and disseminated best practices for DNA analysis related to sexual assault kits, created best practices for testing kits and recommended timeframes for analysis of kits. Additionally, a working group was developed to discuss the ongoing issues related to the processing of sexual assault kits.

Ms. Sedowski discussed the crime lab's impact on the prosecution of sexual assault cases and the procedures required to analyze kits. She provided a

scientific perspective and several new approaches on the processing of sexual assault kits.

Ms. Karyn Rasile discussed the impact of the Sexual Assault Nurse Examiner (SANE) program in Arizona and the consistency of information, services, and processes provided to victims. She recommended several changes including a staffed sexual assault information line/email, adding a form for lab feedback, the use of multiple disciplinary teams to assist victims, and encouraging victim-centered methods and policies.

Discussion ensued regarding the development of policies and procedures and ultimately training for professionals throughout the state.

B. Increasing the Effectiveness of “Lay Legal Advocates”

Ms. Chris Groninger, Director of Strategic Initiatives for the Arizona Foundation for Legal Services & Education reported on the idea of increasing the effectiveness of “Lay Legal Advocates” outlined in a communication to the Arizona Commission on Access to Justice.

Ms. Groninger explained that Arizona’s “Lay Legal Advocates” help victims make important, positive changes in their lives. However, limitations currently exist in rules and court procedures that reduce their effectiveness. Ms. Groninger shared the perspective of court and advocacy communities, that expanding the role of Arizona’s “Lay Legal Advocates” will increase and improve access to justice for victims across the state.

Some ideas put forth include:

- i.** Enacting regulatory and rule changes to allow Domestic Violence Lay Legal Advocates do more to help survivors of abuse complete legal documents and pleadings.
- ii.** Adoption of best-practices guidelines and implementation of new training with regard to advocates accompanying abuse survivors to court and sitting with victim at the “counsel table.”
- iii.** Additional training of court employees to facilitate better communication of legal information to victims and advocates.
- iv.** Development of a “Navigator” type program, similar to the one developed for the New York State Court system that could expand and further develop the ability of Arizona’s Lay Legal Advocates to assist victims with various legal issues.

Plans are to run a small pilot project for a year and receive feedback before developing recommendations. This concept will be brought to the next meetings of the Committee on Domestic Violence and the Courts and the Commission on Access to Justice.

III. NEW BUSINESS

A. Legislation and Rule Update

Ms. Amy Love presented the following recently passed legislation:

- i. H2166: DCS information; egregious abuse; neglect

Discussion: Ms. Love indicated that in previous versions of this legislation, there was language that affected the way courts do business. The language was removed/revised in the final version.

- ii. H2203: Post-conviction release hearings; recordings; free

Discussion: None

- iii. H2204: Criminal restitution order; courts

Discussion: Ms. Love indicated that this legislation allows all courts to enter criminal restitution orders. Previously only trial courts were permitted to enter restitution orders.

- iv. H2205: Emergency service providers; civil liability (~~traffic offense; restitution~~)

Discussion: None

- v. H2239: Police reports; victims; attorneys

Discussion: None

- vi. H2517: Internet crimes against children; fund

Discussion: None

- vii. H2553: Sex trafficking; vacating conviction (~~human trafficking victim; vacating conviction~~)

Discussion: None

B. Order Amending Rules 29 & 41 of the Arizona Rules of Criminal Procedure (HB2553 Controlling)

Mr. Patrick Scott discussed Arizona Supreme Court Order R-15-0032 amending rules 29 and 41 of the Arizona Rules of Criminal Procedure. Amendments related to H2553 becoming law.

An emergency order by the Arizona Supreme Court was filed to amend Rule 29 and mandated a new Form 21(a) under Rule 41 of the Arizona Rules of Criminal Procedure. The order added/changed language in Rule 29 that allows a sex trafficking victim to apply to the court that pronounced sentence to vacate a conviction of a violation of A.R.S. § 13-3214 committed prior to July 24, 2014 pursuant to A.R.S. § 13-907. The order becomes effective July 3, 2015.

Mr. Scott indicated that H2553 is applicable to A.R.S. § 13-3214 only, and that local ordinance violations are not included in this type of relief. He further explained that if the application is granted, background checks would show the conviction, but will indicate that the conviction was vacated. Additionally those individuals who were granted relief under H2253 would still have to disclose the conviction when applying for an Arizona Fingerprint Clearance Card. Mr. Scott clarified that the law applies to *offenses* committed prior to July 24, 2014 (as opposed to the *conviction* date).

IV. OLD BUSINESS

A. Code Section/Rule Change Proposals

i. Rule 41, Form 4(a) Comment and Proposed Workgroup

Mr. Patrick Scott and Chair Ronald Reinstein discussed the proposed changes to Ariz. R. Crim. P. 41, Form 4(a), "Release Questionnaire." Form 4(a) is used in the defendant's initial appearance hearing to provide additional information to the hearing officer regarding the defendant. In past meetings of this body, the commission voted to approve some language changes to Form 4(a). The language proposed on the form was regarding the presence of children during the incident and if the Department of Child Safety (DCS) was involved.

The Administrative Office of the Courts filed a petition to amend Form 4(a) and 4(b) in response to recent amendments to A.R.S. §§ 22-601 and -602, made by HB 2457 (Laws 2014, Chapter 37). A response

to that petition was filed by the State Bar of Arizona that supports the petition with one caveat regarding the inclusion of a question inquiring whether the DCS was involved in the matter related to defendant.

The State Bar of Arizona contends that the "Release Questionnaire" is subject to Rule 15 discovery requirements and that DCS information is confidential, and may only be released in specific circumstances under law. It argues that there are no exceptions for release in a criminal matter under A.R.S Title 8 and release of confidential information is considered a Class 2 misdemeanor under A.R.S. § 8-806. If the changes to Form 4(a) regarding DCS involvement were approved, the Arizona State Bar asserts that there will be conflicting laws between the criminal rules and children's code under A.R.S. § 8.

In response to these issues, it was determined that further study is required. A working group has been formed, staffed by Mr. Jerry Landau of the Administrative Office of the Courts. The first meeting is scheduled for July 2, 2015. The Chair indicated that he will update the Commission in future meetings regarding this issue.

ii. ACJA 5-204 Technical Amendment

Mr. Patrick Scott updated the group on changes to Arizona Code of Judicial Administration (ACJA) § 5-204. In the last meeting of this body, the commission voted to approve technical amendments to ACJA § 5-204 that would conform the rule to legislation recently passed. Administrative Order 2015-23 was issued on March 4, 2015 which broadened the applicability of victims' rights pertaining to juvenile offenses to include all misdemeanors, petty offenses, and criminal ordinance violations.

B. Victim ID Rule Update (taken out of order)

The Chair discussed victim identification issues related to Arizona Supreme Court Rule 123, Public Access to the Judicial Records of the State of Arizona. In the last meeting of this body there were concerns raised regarding accessibility of court records from computer terminals in superior court clerks' offices.

After further review of the rule and discussions with personnel from the Clerks of the Superior Court in Maricopa County and Pima County, it was determined that these terminals described were analogous to viewing a physical record at the court. Viewing records that may contain victim

identification information *at the court/clerk's office* is allowed under Arizona Supreme Court Rule 123. Viewing electronic records that may contain victim identification information *remotely* is not permitted under the rule. For these reasons, the Chair indicated that a workgroup was not necessary at this time.

C. Victims' Rights Panel at Judicial Conference (taken out of order)

The Chair stated that he will lead a panel discussion on Victims' Rights at the Arizona Judicial Conference scheduled for June 19, 2015.

D. Update on Minor Victims of Sex Trafficking in Arizona Probation

Ms. Holli Sanger-Alarco, Program Manager/Contracts & Monitoring Unit for the Juvenile Justice Services Division (JJSD) of the Administrative Office of the Courts, discussed implementation plans to address identification of minor sex trafficking victims and connect those victims with appropriate programming and services.

Ms. Sanger-Alarco said that the JJSD has entered into a contract with Dr. Dominique Roe-Sepowitz, MSW, Ph.D., associate professor of Social Work at Arizona State University, to provide training to the JJSD probation officers later this year on minor victims of sex trafficking. Additionally, her division is working to contract with therapists who are trauma trained in order to better serve minor victims of sex trafficking.

In the last meeting the commission, it was mentioned that the JJSD had been exploring the potential of converting a Yavapai County detention center into a residential program for victims of sex trafficking. Ms. Sanger-Alarco indicated that ultimately the conversion was cost prohibitive and the project would not move forward at this time. However, the JJSD is considering modifying the service specifications to move forward in a different way to better serve the minor victims of sex trafficking population.

V. CALL TO PUBLIC

A. Good of the Order/Call to the Public

- i. Mr. Dan Levey to the National Crime Victim Law Institute in Portland, Oregon to present on Arizona's restitution courts.
- ii. Ms. Kirstin Flores discussed funding available through the Victims of Crime Act (VOCA). These funds, which are administered through the Department of Public Safety (DPS), are used for non-mandated victim services programs in Arizona. Typically Arizona is granted about 9 million dollars statewide each year. During the next federal fiscal year, it is anticipated that Arizona will be granted up to 44 million dollars. The grant process is scheduled to begin in early August 2015. Representatives from DPS are available to discuss programs eligible for funding only as long as the solicitation is open. The DPS Crime Victim Services webpage is located at http://www.azdps.gov/Services/Crime_Victims/.
- iii. The Chair asked that if a member of the commission was interested in presenting on any issue or topic, please feel free to contact him or Denise Lundin at dlundin@courts.az.gov.

VI. ADJOURNMENT

A. Adjourn

- Motion was made by Judge Richard Weiss at 11:50 a.m. to adjourn. Seconded by Ms. Sydney Davis. Motion passed unanimously

VII. NEXT COMMITTEE DATE

October 23, 2015
10:00 a.m. to 12:00 p.m.
State Courts Building, Room 345 A/B
1501 W. Washington St., Phoenix, AZ, 85007

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
October 23, 2015	<input type="checkbox"/> Formal Action Request	25 th Anniversary of Victims' Rights Constitutional Amendment
	<input checked="" type="checkbox"/> Information Only	
	<input type="checkbox"/> Other	<i>20 minutes</i>

FROM:
The amendment's author

PRESENTER(S):
Steve Twist

DISCUSSION & TIME ESTIMATES:
A presentation on history of the movement to amend the constitution, changes made since the amendment, and recognition of its importance.

RECOMMENDED MOTION (IF ANY):
N/A

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
October 23, 2015	<input checked="" type="checkbox"/> Formal Action Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	ACJA 6-103: Victims' Rights Requirements for Probation Personnel <i>20 minutes</i>

FROM:
Adult and Juvenile Probation Services

PRESENTER(S):
Kathy Waters

DISCUSSION & TIME ESTIMATES:
Ms. Waters will discuss proposed changes to ACJA after public comments were received.

RECOMMENDED MOTION (IF ANY):
Approval Requested

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Proposal Cover Sheet

Section 6-103: Victims' Rights Requirements for Probation Personnel

1. Effect of the proposal:

- To conform the definition of “Delinquent act” and the Applicability section to A.R.S. 8-201.
- Clarifies that the notification rights set forth in the ACJA section 6-103 applies to opted in victims pursuant to ARS §13-4417 and ARS §8-398
- To provide clarifying language as to when probation departments need to notify opted-in victims versus the obligations of the court to notify.
- To add the requirements for departments to have a provision for communicating with limited-English speaking victims.

2. Significant new or changed provisions:

3. Committee actions and comments:

4. Controversial issues:

5. Recommendation:

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 1: General Administration
Section 6-103: Victims' Rights Requirements for Probation Personnel

A. Definitions. In this section unless otherwise specified, the following definitions apply:

“Court” means the superior court or any court of limited jurisdiction.

“Criminal Offense” means “conduct that gives a peace officer or prosecutor probable cause to believe that a felony, a misdemeanor, a petty offense or a violation of local criminal ordinance has occurred,” as provided by A.R.S. § 13-4401(6).

“Delinquent act” means an act to which this article applies pursuant to § 8-381 as provided in A.R.S. § 8-382(9) committed by a juvenile that if committed by an adult would be either (1) a misdemeanor offense involving physical injury, the threat of physical injury or a sexual offense; or (2) a felony offense, in accordance with A.R.S. §§ 8-381 and 382.

“Victim” means a person against whom the criminal offense or delinquent act has been committed, including a minor, or if the person is killed or incapacitated, the person’s spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative of the person, except if the person or the person’s spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused.

B. Applicability. Pursuant to Az. Const. Art. 2, § 2.1 and Art. 6, § 3 and A.R.S. §§ 13-603, 13-804, 13-4401 et seq., and A.R.S. §§ 8-381 through 8-420, the following requirements shall govern the administration of victims’ rights by adult and juvenile probation departments. Specifically A.R.S. § 8-381 provides: “This article applies to acts that are committed by a juvenile and that if committed by an adult would be either: 1. A misdemeanor offense. 2. A felony offense. 3. A petty offense. 4. A violation of a local criminal ordinance.”

The notification rights set forth in this code section apply to victims who have requested notice pursuant to A.R.S. §13-4417 and A.R.S. §8-398.

C. [No changes]

D. General Duties of Probation. Adult and juvenile probation departments shall:

1. Maintain the confidentiality and security of all victim information, including but not limited to, addresses, telephone numbers, place of employment, social security number or other locating information; and
2. Provide training concerning victim sensitivity, victim trauma and victims’ rights in orientation for all probation department personnel.

3. Identify language assistance resources for communicating with limited-English speaking victims.

E. Duties of Adult Probation. Adult probation departments shall:

1. Pursuant to A.R.S. § 13-4415(B), provide notice to a victim in the following circumstances ~~develop a process to furnish victims who request notice with timely notification of the following:~~

~~A. On request of a victim who has provided an address or other contact information, the court shall notify the victim of any of the following:~~

~~1. A probation revocation disposition proceeding or any proceeding in which the court is asked to terminate the probation or intensive probation of a person who is convicted of committing a criminal offense against the victim.~~

~~2. Any hearing on a proposed modification of the terms of probation or intensive probation.~~

~~3. The arrest of a person who is on supervised probation and who is arrested pursuant to a warrant issued for a probation violation.~~

B. On request of a victim who has provided a current address or other current contact information, the probation department shall notify the victim of the following:

1. Any proposed modification to any term of probation if the modification affects restitution or incarceration status or the defendant's contact with or the safety of the victim.

2. The victim's right to be heard at a hearing that is set to consider any modification to be made to any term of probation.

3. Any violation of any term of probation that results in the filing with the court of a petition to revoke probation.

4. That a petition to revoke probation alleging that the defendant absconded from probation has been filed with the court.

5. Any conduct by the defendant that raises a substantial concern for the victim's safety.

2. Provide the notices required by E(1) when:

(a) A hearing is set to consider any modification to any term of probation.

(b) Filing a petition to revoke probation, including a petition to revoke alleging the defendant has absconded.

3. Provide notice to the victim when the probationer is incarcerated as a condition of probation, as well as when a petition to enact a discretionary jail sanction of 30 or more days is implemented. The notice of incarceration shall also include the anticipated release date, noting the date may change as the incarceration period continues.

4. Provide notice to a victim of modifications from intensive to standard probation or from supervised probation to unsupervised probation.
5. Provide notice to the victim when the probationer leaves or returns to the county or state pursuant to Arizona Rules of Criminal Procedure 27.11(4), ACJA §6-211, or through the Interstate Compact for Adult Offender Supervision.
26. Develop a standardized presentence report format, in conjunction with the superior court, which addresses the emotional, economic and physical losses of victims.;
37. Monitor the payment of restitution by working with the clerk of the court to establish a process by which supervising probation officers are provided with accurate and timely information concerning the collection of court-ordered restitution.;
48. Require probation staff to:
 - a. through b. [No changes]
 - ~~c. Pursuant to A.R.S. § 13-4426:
 - A. The victim may present evidence, information and opinions that concern the criminal offense, the defendant, the sentence or the need for restitution at any aggravation, mitigation, presentencing or sentencing proceeding.
 - B. At any disposition proceeding the victim has the right to be present and to address the court.~~
 - ~~d. Pursuant to A.R.S. § 13-4427:
 - A. The victim has the right to be present and be heard at any probation revocation disposition proceeding or any proceeding in which the court is requested to terminate the probation or intensive probation of a person who is convicted of committing a criminal offense against the victim.
 - B. The victim has the right to be heard at any proceeding in which the court is requested to modify the terms of probation or intensive probation of a person if the modification will substantially affect the person's contact with or safety of the victim or if the modification involves restitution or incarceration status.~~
 - ec. Document all victim notifications and attempts to notify the victim;
 - fd. Respond to all queries by victims, providing accurate information in accordance with supreme court rules governing public access to judicial records;

- ~~ge.~~ Within the scope of their duties, minimize contact between victims and victims' family and the probationer and probationer's family;
- ~~hf.~~ Emphasize and address the probationer's responsibility to satisfy any court-ordered restitution at each scheduled visit and immediately address any arrearage in court-ordered restitution with the probationer;
- ~~ig.~~ Notify the court having jurisdiction upon finding that the probationer has become in arrears in an amount totaling two full court-ordered monthly payments of restitution. This notification shall consist of a petition to modify, petition to revoke, or memorandum to the court outlining the reasons for the delinquencies and expected duration thereof. A copy of the memorandum shall be provided to the victim, if the victim has requested notice of restitution modifications; and
- ~~jh.~~ Request court extension of probation pursuant to A.R.S. §13-902(C):

When the court has required, as a condition of probation, that the defendant make restitution for any economic loss related to the defendant's offense and that condition has not been satisfied, the court at any time before the termination or expiration of probation may extend the period within the following limits:

1. For a felony, not more than five years.
2. For a misdemeanor, not more than two years.

- ~~ki.~~ As provided by A.R.S. § 12-253(7), "Bring defaulting probationers into court when in the probation officer's judgment the conduct of the probationer justifies the court to revoke suspension of the sentence."

- (1) If the probationer is on standard probation supervision and is not located within 90 days, the supervising probation officer shall file a petition to revoke probation, seek a criminal restitution order pursuant to A.R.S. § 13-805(~~AC~~)(1)(2) for a probationer who is an absconder as defined in A.R.S. § 13-105(1), and request that the court issue a warrant. The supervising officer shall file the petition to revoke sooner, when required by local departmental policies, the circumstances surrounding the case or the need for community protection.
- (2) **[No changes]**
- (3) When a petition to revoke is filed prior to the expiration of 90 days, the probation officer shall seek a criminal restitution order upon the expiration of 90 days, pursuant to A.R.S. § 13-805(~~AC~~)(1)(2), for a probationer who is an absconder as defined in A.R.S. § 13-105(1).

F. through G. [No changes]

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
October 23, 2015	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Establishing Pretrial in Arizona Courts <i>10 minutes</i>

FROM:
Adult Probation Services Division

PRESENTER(S):
Kathy Waters

DISCUSSION & TIME ESTIMATES:
Ms. Waters will present updates on Pretrial in Arizona.

RECOMMENDED MOTION (IF ANY):
N/A

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
October 23, 2015	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	When Victims Experience Trauma <i>20 minutes</i>

FROM:
COVIC Member

PRESENTER:
Shelly Corzo-Shaffer

DISCUSSION & TIME ESTIMATES:

Ms. Shaffer will discuss the impact that trauma can have on crime victims and share insights from her personal journey.

RECOMMENDED MOTION (IF ANY):
N/A

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
October 23, 2015	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Status of Public Access Change Request <i>5 minutes</i>

FROM:
Administrative Office of the Courts

PRESENTER(S):
Eric Ciminski and Leslie James

DISCUSSION & TIME ESTIMATES:
The victims' rights community requested changes to the Supreme Court's Victim Case Notification system. This is a status report on the changes made.

RECOMMENDED MOTION (IF ANY):
N/A

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
October 23, 2015	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Change to Criminal Rule 41, Form 4(a) <i>5 minutes</i>

FROM:
Administrative Office of the Courts

PRESENTER(S):
Patrick Scott and Kirstin Flores (Arizona Attorney General's Office)

DISCUSSION & TIME ESTIMATES:
Mr. Scott and Ms. Flores will report on an agreement and change to Form 4(a), the "Release Questionnaire."

RECOMMENDED MOTION (IF ANY):
N/A

Arizona Supreme Court No. R-15-0026

TO:

Rule 28 Distribution

David K Byers

Elizabeth B Ortiz

John A Furlong

C. OTHER INFORMATION (Check if applicable)

1. Defendant is presently on probation, parole or any other form of release involving other charges or convictions.
Explain: _____

2. List any prior:
Arrests: _____

Convictions: _____

Failures to Appear (FTA): _____

Protective Orders: _____

3. There is an indication of:
 Alcohol Abuse Other Substance Abuse
 Mental Health Issues Physical Illness
 Developmental Disability
Explain: _____

4. Defendant is employed by: _____
Address: _____

Phone: _____
How long: _____

5. Defendant resides at: _____

With Whom: _____
How Long: _____
Alternate address for court notification: _____

6. Facts to indicate defendant will flee if released: _____

7. Reasons to oppose an unsecured release: _____

8. Defendant speaks a language other than English
Language spoken: _____
 American Sign Language
 Defendant requested an interpreter

D. CIRCUMSTANCES OF THE OFFENSE

1. Defendant used firearm or other weapon
Type: _____

2. Defendant injured someone.
Explain: _____

3. Medical attention was necessary
Nature of injuries: _____

4. Defendant threatened someone
Nature of threats: _____

5. Did the offense involve a child victim? Yes No
If yes, was DCS notified? Yes No

5 6. If property offense
a. Value of property taken/damaged: _____
b. Property was recovered

6 7. Names of co-defendant(s), if any: _____

E. CRIME(S) AGAINST PERSONS

1. Relationship of defendant to victim: _____

2. Victim(s) and defendant reside together.

3. Law enforcement learned of the situation by Victim
 Third Party Officer observation

4. Previous incidents involving these same parties
Explain: _____

5. Defendant is currently the subject of:
 Order of Protection
 Injunction against Harassment
 Other court order: _____

6. Likelihood of inappropriate contact with victim(s)
Explain: _____

7. Victim(s) expressed an opinion on defendant's release.
Explain: _____

F. DOMESTIC VIOLENCE DEFENDANT ISSUES

- Access to or use of weapons
 - Children/Vulnerable adults present
 - Crime occurred in public
 - Control/ownership/jealousy issues
 - Depression
 - Frequency/intensity of Domestic Violence increasing
 - Kidnapping
 - Potential for multiple violations of court orders
 - Prior history of Domestic Violence
 - Prior Protective Order
 - Recent separations
 - Stalking behavior
 - Threats of homicide/suicide/bodily harm
 - Violence against children, vulnerable adults or animals
- Explain: _____
- _____
- _____

G. CIRCUMSTANCES OF ARREST

1. Did defendant attempt to:
 Avoid arrest Resist arrest Self Surrender
Explain: _____

2. Defendant was armed when arrested
Type of weapon: _____

3. Evidence of the offense was found in defendant's possession
Explain: _____

4. State whether defendant was under the influence of alcohol or drugs at the time of the offense

Yes No Unknown

Type of substance: _____

H. DRUG OFFENSES

1. If the defendant is considered to be a drug dealer, state the supporting facts: _____

2. State quantities and types of illegal drugs directly involved with offense _____

Methamphetamine was involved:

Drug field test was positive

Defendant admission of drug type: _____

Approximate monetary value of drugs: _____

3. State whether money was seized

Yes No

Amount: _____

If this is a fugitive arrest, complete the affidavit as required by the Uniform Criminal Extradition Act (ARS 13-3841 et seq.)

I certify that the information presented is true to the best of my knowledge:

Date

Departmental Report #

Arresting Officer/Agency/ Serial No.

Duty Phone No.

COURT _____

County, Arizona

State of Arizona Plaintiff -vs- _____ Defendant (FIRST, MI, LAST)	[CASE/COMPLAINT NO.] Booking No. _____	RELEASE QUESTIONNAIRE (To be completed by Defendant)
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Alias(es) _____

The following information is for the purpose of determining the conditions under which you may be released at this time. You are not required to answer any question if you feel the answer might be harmful to you. The answers you give to the following questions will be used by the court for the purpose of determining the conditions of your release. However, your answers will be checked against the information supplied by the police, and with the references you yourself give on the form. Any discrepancies may result in higher bail or harsher conditions of release. **Any information you give may be used against you in this or any other matter.**

General Background

1. Background and Residence

Full Name: _____

Sex _____ Race _____ Date of Birth _____

Place of Birth [city, state, country] _____

Have you served in the military services of the United States? [] Yes [] No

Present Citizenship _____

If you are not a United States of America citizen, how long have you been in this country? _____

Do you need the court to provide an interpreter to help you communicate and to understand what is being said? [] Yes [] No

If so, what language are you most comfortable speaking?
[] Spanish [] American Sign Language [] Other language: _____

Are you homeless? [] Yes [] No

Present Address _____

How long have you lived at the above address? _____

Telephone No. () _____ Cell No. () _____

Where else have you lived in the past year and for how long?

Where will you go if released today? _____

2. Family

Are you married/partnered If so, are you living with your spouse/partner? [] Yes [] No

Are you living with someone? Relationship: _____

How many other persons (including your children) are living with you? _____

How much do you contribute to their support? _____

Do you have regular contact with any other relatives? [] Yes [] No

Explain _____

3. Employment

Are you presently employed? [] Yes [] No If not, what is your principal means of support?

Explain: _____

Employer's Name _____

Address: _____

Telephone No. () _____

What is the nature of your job? _____

How long have you worked there? _____

4. Criminal Record

Do you have any previous criminal record? [] Yes [] No

Explain _____

5. Record of Appearance

Have you ever been released on bail or other conditions pending trial? [] Yes [] No

Did you ever fail to appear as required? [] Yes [] No

Explain _____

6. Supervision

Is there any organization or any person who might agree to supervise you and be responsible for your return to court as required? [] Yes [] No

Organization or person to contact _____

_____ ()
Address City State Zip Telephone

7. Other Circumstances

Are there any other matters (such as your health or illness in your family) which you feel the court should consider in making its decision? _____

8. Verification

Is there any other friend, relative, neighbor or other person who can be called as a reference to this information?

_____ ()
Name Address City State Zip Telephone

_____ ()
Name Address City State Zip Telephone

_____ ()
Name Address City State Zip Telephone

I certify, under penalty of perjury, that the information presented is true and correct to the best of my knowledge.

Date

Defendant Signature
Contact Telephone No. _____

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
October 23, 2015	<input type="checkbox"/> Formal Action Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Arizona Case Law Update <i>10 minutes</i>

FROM:
Administrative Office of the Courts

PRESENTER(S):
Judge Ronald Reinstein

DISCUSSION & TIME ESTIMATES:
Recent decisions regarding victims' rights will be reviewed and victims' rights case law document prepared for recently held training will be shared.

RECOMMENDED MOTION (IF ANY):
N/A

ARIZONA VICTIMS' RIGHTS CASES UPDATES

Commission on Victims in the Courts October 23, 2015

Morehart and Duffy v. Barton, ex rel Miller, Arizona Supreme Court – 2010- ARS §13-4420, Rule 39(b)(4), Art. 2, §2.1(a)(3)

Held that in certain ex parte proceedings, e.g., mitigation investigation, victims are not entitled to be present, because defendant has no right to be present at purely procedural matters. This concerned some out-of-state summonses. Note that the state was not claiming victim had a right to be present.

In Re: Kristen C., Court of Appeals, Div. One - 3/11/99

Juvenile Court ordered 17 year old defendant to pay entire \$6,000 restitution before she turned 18 (3 days later). The trial court knew a civil judgment would be entered as defendant was making \$5.50/hr. Held: Court was within its discretion because otherwise it would lose jurisdiction on 18th birthday and victim wouldn't have been able to get a restitution lien.

State v. Sarullo, Court of Appeals, Div. Two – 11/13/08

Defendant convicted of Burglary, 2nd – 13 year old was in the home. Defendant wanted to interview her, maintaining she was not a victim. COA disagreed and held that occupants are victims. Defendant also wanted other victims' medical/counseling records. Court said defendant was not entitled as there was no sufficient basis and no showing that they were exculpatory.

State v. Tomas Madrid, Court of Appeals, Div. One – 3/18/04

Restitution was properly ordered for travel, lodging, meals, and incidentals for victim's three children to attend trial. These are economic losses. Mother was murdered. Court said the fact that the victims were in court at all was because of defendant's crimes. They didn't choose to be there and were exercising their constitutional rights.

State v. John Leonardo, Court of Appeals, Div. Two – 3/31/11

Trial court ordered child molest victim to submit to defense interview on a separate criminal case involving another victim, saying the child was not a victim in that case. But in the case the child was a victim, the defendant was on probation. COA granted relief because the victim retains her rights while the defendant is on probation.

State v. Clarence Wayne Dixon, Arizona Supreme Court – 2011

This dealt with a denial of a Motion to Continue where the defendant had over four years to develop mitigation, but was seeking more time. At the time there was an 18 month deadline in which capital cases were to be tried. Defendant, who was pro per, presented virtually no mitigation even though advisory counsel had prepared significant mitigation evidence. The trial judge considered the rights of the victim's parents to prompt and final disposition under the Arizona Constitution.

State v. Guadiagni, Court of Appeals, Div. Two – 2008

Trial court ordered restitution to two wives of defendant in a bigamy case. Defendant said victims weren't eligible for restitution because they were not victims. Court held that the trial court erred in ordering restitution when the defendant and his attorney weren't present, but otherwise entitled to travel expenses, lost wages, and cost of annulment. No waiver of presence by defendant.

State v. Hegyi/Montane, Court of Appeals, Div. One – Special Action 2013 – ARS §13-4433(g)

Trial court ordered deposition of the mother of child whose father was murdered in Oct. 2011. The mother refused a defense interview and the trial court entered an order compelling a deposition. The COA found the mother could refuse the interview as she was the child victim's lawful representative. The mother had witnessed the murder and identified the defendant in a lineup as well.

State v. Chavez/Gill, Arizona Supreme Court – 3/26/04

Held: State must obtain a court order to authorize redaction of a victim's DOB from law enforcement reports that must be disclosed to defense. COA Div. One opinion vacated. COA said victims have right to privacy and to withhold information such as birthdates. But birthdates were not included in Rule 39(b)(10), (11), ARS §13-4434(A) or the Victims' Bill of Rights. Prosecution was unilaterally redacting. The court invited the legislature to act or that there be broad input in the Rules amendment process.

State v. Rose, Arizona Supreme Court – 4/5/13

Police officer killed by defendant. In penalty phases, emotional victim impact testimony from victim's family. Question was whether it was unduly prejudicial and fundamentally unfair. The court found the presentation troubling and that it came very close to crossing the line. Also that the trial judge has a responsibility to exercise sound discretion in balancing probative value with prejudicial effect and the risk of an unfair proceeding. Also sounds a caution to prosecutors and victims. There was a suggestion that courts screen the victim impact statement if necessary to limit an orchestrated, overly dramatic victim impact presentation that may be unduly prejudicial.

In this case the victim's two young sons were dressed in police uniforms, two photos were shown while the widow read a statement, and Last Call was played. The court said it can't condone the type of vengeful language used in court, and strongly encouraged prosecutors and judges to prevent victims from alluding, in any way, to the potential sentence.

Note: In a subsequent capital case, State v. Burns, the Supreme Court again affirmed but noted they were "troubled with the volume and type of materials presented as victim impact evidence in this case." The jury heard more than a dozen victim impact statements, some of which came from people who had never met the victim. They again cautioned victims and prosecutors about piling on victim impact evidence "lest they risk a mistrial." "The trial court should take an active role in pre-screening the nature and scope of victim impact evidence to ensure it doesn't cross the line."

Lindsay and Samantha R. v. Cohen, Court of Appeals, Div. One – 1/13/15

The unique facts of this case should be taken into account. The state and victims took the position that victims' counsel could substitute for the prosecutor at the restitution hearing. Court held that nothing in the Victims' Bill of Rights allows "privatization" of the restitution process, therefore substitution not allowed. The prosecutor abdicated its responsibility to the victims' attorney. Defendant moved to strike victims' pleadings and determine counsel. COA held victims' attorney can't direct the prosecution of the case or take the prosecutor's place. "A criminal restitution hearing can't be converted into a civil damage trial."

State ex rel Smith v. Reeves, Court of Appeals, Div. One – 2011

The COA held that a child killed in a car accident and his surviving parents are all victims when the charge is Leaving the Scene of a Fatal Accident. The trial court found the charge was not a crime against person and therefore the parents had to submit to an interview. The COA disagreed and found the parents could refuse an interview.

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
October 23, 2015	<input type="checkbox"/> Formal Action Request	SAFER Update
	<input checked="" type="checkbox"/> Information Only	<i>5 minutes</i>
	<input type="checkbox"/> Other	

FROM:
Administrative Office of the Courts

PRESENTER(S):
Judge Ronald Reinstein

DISCUSSION & TIME ESTIMATES:
The commission will be updated on the work of the Sexual Assault Forensic Evidence Reporting (SAFER) Act Team.

RECOMMENDED MOTION (IF ANY):
N/A

Commission on Victims in the Courts

Meeting Date:	Type of Action Required:	Subject:
October 23, 2015	<input type="checkbox"/> Formal Action Request	Human Sex Trafficking –
	<input checked="" type="checkbox"/> Information Only	Upcoming Conference
	<input type="checkbox"/> Other	<i>5 minutes</i>

FROM:
Administrative Office of the Courts

PRESENTER(S):
Judge Reinstein

DISCUSSION & TIME ESTIMATES:
The commission will be advised on an upcoming national conference on Human Sex Trafficking.

RECOMMENDED MOTION (IF ANY):
N/A