

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ESTABLISHMENT OF A TASK FORCE) Administrative Order
TO CREATE GUIDELINES FOR THE) No. 2022 - 62
HANDLING OF FENTANYL EVIDENCE)
AND OTHER TOXIC EVIDENCE)
IN THE COURTHOUSE)
_____)

There has been a significant rise in the United States of overdoses due to fentanyl, carfentanil, and their analogs and a corresponding rise in criminal cases involving these drugs that are filed in state courts. Accordingly, there is the potential risk that the drug evidence and other toxic evidence in these cases will need to be handled in the courthouse.

The Center for Disease Control’s National Institute for Occupational Safety and Health has identified emergency responders and healthcare workers as at-risk groups for exposure to fentanyl and its analogs. Guidance that contains standard operating procedures, training, personal protective equipment, and other relevant information for preventing occupational exposure to fentanyl and its analogs has already been developed for these identified groups. There has been little guidance, however, issued for court personnel who may have to handle packaged evidence of fentanyl, carfentanil, their analogs, or other toxic evidence. In 2019, the National Judicial Opioid Task Force released a briefing on the subject stating, “it is important for personnel who work in courthouses and other court-related facilities to accurately understand what this evidence is, what risks it presents, and to understand the policies and precautionary measures adopted by courts.”

In arriving at appropriate guidelines for the handling of fentanyl, carfentanil, their analogs and other toxic evidence, the court must balance the safety concerns for personnel who may have to handle these drugs, and the public who may be exposed to these drugs during a judicial proceeding, against the rights of parties, and where applicable the victim in judicial proceedings to due process and a fair trial.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED:

1. ESTABLISHMENT: The Task Force to Create Guidelines for the Handling of Fentanyl Evidence and Other Toxic Evidence in the Courthouse is established.

2. PURPOSE: The Task Force shall, using the guidelines of the National Judicial Opioid Task Force, develop guidelines for handling these drugs when they are presented as evidence

during judicial proceedings. In determining the appropriate guidelines for Arizona courts, the Task Force must always weigh the rights of the parties, and where applicable, the victim, against the safety interests of court personnel and the public.

The guidelines developed by the Task Force should address, at a minimum, the following:

- a. Whether these drugs should be inspected and approved by designated court personnel before being allowed into a courthouse.
- b. Whether these packaged drugs must always remain in the exclusive possession of law enforcement personnel, except by approval of the court, and whether these drugs should be given to, or handled by, court personnel or others involved in judicial proceedings, including attorneys, witnesses, court clerks, and jurors.
- c. The protocols that should be adopted for handling of the packaging for these drugs.
- d. Whether these drugs should remain in a courthouse or court-related facility during non-business hours. If court rules pertaining to the handling of exhibits prevent removal from the courthouse, policies on secure and safe storage should be established.
- e. Whether courthouse personnel should be trained to address possible exposure to fentanyl and other toxic evidence and to properly identify opioid toxicity; and identify what, if any, training is currently available.
- f. Whether naloxone should be kept in courthouses and other court-related facilities for emergencies and whether court administration or court security should be trained on the administration of naloxone in the event of opioid toxicity.

3. **REPORT AND RECOMMENDATIONS:** The Task Force shall submit a report and recommendations to the Arizona Judicial Council by December 31, 2022. The Task Force may present findings and recommendations as each area is addressed rather than waiting until guidelines for all areas have been developed.

4. **MEMBERSHIP:** The individuals listed in Appendix A are appointed as members of the Task Force effective upon signature of this Order and ending on December 31, 2022. The Chief Justice may appoint additional members as necessary.

5. **MEETINGS:** Task Force meetings shall be scheduled at the discretion of the Chair. All meetings shall comply with the Arizona Code of Judicial Administration § 1-202: Public Meetings.

6. **STAFF:** The Administrative Office of the Courts shall provide staff for the Task Force and shall assist the Task Force in developing recommendations and preparing any necessary reports.

Dated this 15th day of June, 2022.

ROBERT BRUTINEL
Chief Justice

Appendix A

TASK FORCE TO CREATE GUIDELINES FOR THE HANDLING OF FENTANYL EVIDENCE AND OTHER TOXIC EVIDENCE IN THE COURTHOUSE

Chair

Jerry Landau
Special Projects Consultant
Administrative Office of the Courts
Judge Pro-Tem

Members

Jenny Black
Court Services Administrator
Clerk of Court
Superior Court of Maricopa County

Vince Figarelli
Director
Department of Public Safety
Crime Laboratory

Jaime Hindmarch
Deputy Director
Maricopa County Legal Advocate

Bruce McIntyre
Cochise County Attorney

Donna McQuality
Clerk of Court
Superior Court of Yavapai County

Judge Frank Moskowitz
Superior Court of Maricopa County

Judge Scott McDonald
Superior Court of Pima County

David Rhodes
Sheriff
Yavapai County

Judge Timothy M. Wright
Presiding Judge
Superior Court of Gila County

Sharon Yates
Court Administrator
Superior Court of Coconino County

Tom Zaworski
Legal Advisor
Scottsdale Police Department