

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Minutes

February 8, 2022 9:00 a.m.

Telephonic: Judge Wendy Million (chair), Elaine Armfield; Judge Marianne T. Bayardi; Judge Bruce Cohen; Det. Pierre De La Ossa; Lynn Fazz. Deborah Fresquez; Judge Catherine Gaudreau; Joshua Halversen; Anna Harper- Guerrero; Judge Statia Hendrix; Joi Hollis, Ph.D.; Judge Dyani Juarez; Patricia Madsen; Leah Meyers, Doreen Nicholas; Amy Offenber; Pearl Puente; Judge Lyle Riggs; Judge Sharron Sauls; Charles Seyffer; Rebecca Strickland; Tracy Wilkinson

Absent/Excused: Maria Christina Fuentes; Lt. John Johnson; Ashley Klaas; Ofc. Chris Malast; Judge Debra Phelan; Kristi Ward

Presenters/Guests: Judge Bruce Cohen, Presiding Judge, Family Court Maricopa County Superior Court; Elise Kulik, AOC legislative liaison; Lindsay Becerra and Shanice Edwards, AOC legislative interns

Administrative Office of the Courts (AOC) Staff: Jennifer Albright, Theresa Barrett, Sabrina Nash, Kay Radwanski

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The February 8, 2022, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 9:03 a.m. by Judge Wendy Million, chair.

B. Approval of Minutes (taken out of order)

The draft minutes of the November 9, 2021, CIDVC meeting were presented for approval at 10:05 a.m. after a quorum was reached.

Motion: To approve the November 9, 2021, meeting minutes. **Moved:** Lynn Fazz.
Seconded: Dr. Joi Hollis. **Motion:** passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update

Elise Kulik, legislative liaison, AOC, shared that 1,650 pieces of legislation have been filed to date. Ms. Kulik introduced Lindsay Becerra and Shanice Edwards, legislative interns, AOC Government Affairs, who discussed the following legislative bills:

- **HB 2358: Sexual Assault Survivor Rights** – expands on the rights of sexual assault victims and defines what a sexual assault survivor is. Additionally, it requires courts to clear the courtroom during testimony, provide separate waiting areas for victims and defendants, and grant victims the right to be heard and to provide an impact statement for sentencing and release of defendant.
- **HB 2417: Family Court; Ongoing Training** – requires training at least every three years for

all family court judges, family law referees, court commissioners, and other family court personnel to recognize and respond to domestic violence cases using best practices on domestic violence advocacy.

- **HB 2735: Sexual Assault Study Committee** – establishes a 15-member sexual assault study committee to review sexual assault recommendations. It duplicates SB 1218 and may not move forward.
- **HB 2752: Sentencing; Concealed Weapons Permit; Surrender** – provides a route for judges to order concealed weapons permits revoked if the defendant becomes a prohibited possessor. It also allows judges to seize a concealed weapon permit after a contested hearing for an order of protection, if the judge upholds the defendant is not allowed to possess firearms for the duration of the protective order.
- **HB 2809: Order of Protection; Prohibited Hearing** – would remove the right to contested hearing in Orders of Protection if defendant has been charged with a series of sexual assault charges.
- **SB 1024: Appropriation; Domestic Violence; Strangulation; Examinations** – appropriates \$500,000 from the 2022/2023 General Fund for the Arizona Criminal Justice Commission to distribute to counties with a population of less than 500,000 persons for domestic violence nonfatal strangulation forensic examinations.
- **SB 1025: Aggravated Assault; Strangulation; Sentencing** – adds applying excessive pressure to the chest as an act of aggravated assault. A person who is convicted of aggravated assault is not eligible for suspension of sentence, commutation, or release on any basis until the sentence imposed is served.
- **SB 1155: Clergy; Priests; Duty to Report** – adds members of the clergy, Christian Science practitioners, and priests to the list of persons with a duty to report acts of child abuse or neglect.
- **SB 1216: Orders of Protection; Duration** – increases effective duration of Orders of Protection and modified Orders of Protection from one year to two years. Extensions are effective only after the bill's effective date.
- **SB 1217: Duration; Emergency Orders of Protection** – extends Emergency Orders of Protection to five days after issuance.
- **SB 1218: Sexual Assault Study Committee** – like HB 2735, it creates a sexual assault study committee to look at agencies that relate to investigating or prosecuting sexual assault related crimes.
- **SB 1219: Aggravated Assault; Violation; Court Order** – if a defendant commits assault, the charge becomes aggravated if the act is in violation of a no-contact order.
- **SB 1624: Unauthorized Disclosure; Intimate Images; Remedies** – brings a new civil cause of act related to disclosure or threatening to disclose intimate images.
- **SB 1633: Harassment; Aggravated Harassment; Offense** – clarifies the definition of harassment.
- **SB 1653: Lifetime Injunction; Crime Victim** – requires the court to issue a no-contact injunction if the prosecutor or the victim requests it and the defendant is convicted of a dangerous, serious, or felony offense.

Regarding HB 2809, it was pointed out that because an individual can apply in any court for a protective order, the judge would not know whether a defendant has been charged with any sexual assault crimes. Ms. Kulik will follow up with the bill sponsor.

B. Next Steps: Domestic Violence Offender Treatment Programs: Report from the DV Offender Treatment Workgroup

Judge Million provided a brief background on SB1035, which became law in 2015 and authorized courts to approve domestic violence offender treatment programs subject to court rules approved by the Arizona Supreme Court. A workgroup was created to draft a code section; however, the draft proposal met with resistance because of concerns about costs and access to programs being a burden to defendants. The 2022 draft version provides for remote participation in domestic violence offender treatment. Judge Million, provided highlights on the proposal.

- Provides definitions of alternative provider and domestic violence specialist and intimate partner relationship.
- Creates minimum standards for all court-approved alternative providers.
- Outlines the number of treatment sessions needed for the number offenses and the length of time for each individual or group session, risk assessment as classes progress, and written progress reports to court.
- Creates a questionnaire for alternative domestic violence program providers to submit to the court for approval consideration.
- Creates a standardized domestic violence court review hearing report.

Discussion: revise D.1. to read *“A court that orders a defendant to participate in domestic violence offender treatment must order the defendant to attend a program that is approved the Arizona Department of Health Services, a probation department, the United States Department of Veterans Affairs, or an alternate provider approved by the court.”* Suggestions were made to add *“what curriculum is used?”* and *“are group sessions co-ed or gender-based?”* to the questionnaire.

Questions were raised regarding implementation and follow-up of alternative domestic violence programs. A recommendation was made to state that a court/judge establish a partnership with local victim service agencies to create best practices. It was suggested that the Department of Health Services be kept advised in an attempt to improve licensing.

Motion: To approve the proposed code section as amended. **Moved:** Anna Harper-Guerrero. **Seconded:** Leah Meyers. **Motion:** Passed unanimously.

C. Rule 6, ARPOP, and the Role of Advocates at *Ex Parte* Protective Order Hearings

Judge Bruce Cohen, presiding family court judge, Maricopa County Superior Court, discussed the role advocates have in assisting domestic violence victims during the protective order process and the blurred line between assisting a victim and advocating for a victim. He noted that some advocates are contacting the courts asking about specific case information for copies of the pleadings as if they are representing the victim. The possibility of additional training of judges and advocates to clarify roles was discussed. Kay Radwanski will send out the 2022 ARPOP statutes. Jennifer Albright, senior policy analyst, AOC, stated that she will get CIDVC a list of other programs, including licensed legal paraprofessionals, and what they are allowed to provide.

D. National Judicial Task Force to Examine State Courts' Response to Mental Illness: Family Court Sub Committee

In his role as national co-chair of the Family Court Subcommittee of the National Judicial Task Force to Examine State Courts' Response to Mental Illness, Judge Cohen shared that the subcommittee is creating a series to address the intersection of mental health, substance abuse, and domestic violence with family courts. The subcommittee is working to address assessment of a domestic violence survivor's credibility and developing a trauma-informed judiciary.

E. Safety Plans: Next Steps

Kay Radwanski, senior policy analyst, AOC, stressed the importance of domestic violence victims having a safety plan in place before and after obtaining an Order of Protection. She presented a information card that she drafted that courts could provide to any individual who requests a protective order to review while they are waiting for an *ex parte* hearing. She stated the card can be translated into Spanish and published as a resource on the Domestic Violence Information webpage (AZCourt.gov), and on the AZPOINT landing page.

Discussion: A suggestion was made to add a QR code to the card that individuals could scan with their phones to ensure their safety and confidentiality, include card with email to individuals along with the protective order, and share with advocacy organizations to discuss with individuals considering a protective order.

F. Workgroup Report; CIDVC Newsletter

Judge Million noted that the first issue of the CIDVC newsletter was published posted on the CIDVC webpage, and the newsletter was very well received. The next issue of the newsletter will be published after the June 2022 Judicial Conference and could possibly include an article on domestic violence offender treatment standards.

G. Workgroup Reports; CIDVC Newsletter (taken out of order)

- **Family Law Workgroup** - Patricia Madsen reported that the workgroup will meet on February 24, 2022, at noon. The workgroup drafted on the article for the CIDVC newsletter and is working on a proposal for next year's Judicial Conference based on the Netflix series "Maid," which is about a woman who is leaving a domestic violence relationship and her challenges. They are also working on a bench card for family law judges on the correct application of domestic violence statutes in family court.
- **Protective Orders Workgroup** - Leah Myers stated that the workgroup met in December and discussed foot distances on protective orders, with no consensus not reached. She met with prosecutors regarding foot distances and will share their concerns with the workgroup at a future meeting. Judge Million suggested this topic would be a good article for the June 2022 CIDVC newsletter. She also asked the workgroup to review the contested hearing bench card drafted by Judge Catherine Gaudreau.
- **High Risk & Fatality Workgroup** - Detective Pierre De La Ossa noted that the workgroup met in late November 2021 and discussed the workgroup's purpose. Judge Phelan is working on a fatality review article for the newsletter. Judge Million asked the workgroup to find a speaker for the May meeting to talk about risk assessment.
- **DV Treatment Workgroup** - Doreen Nicholas stated that most of this workgroup's focus has been on treatment for offenders. She suggested shifting focus from victims to domestic violence perpetrators and accountability.

H. Domestic Violence Court Forum

Judge Million stated that specialized domestic violence courts are growing in Arizona. Theresa Barrett, Court Programs Unit manager, AOC, suggested that the AOC and CIDVC co-sponsor a Domestic Violence Court Forum periodically to bring stakeholders together to share information and exchange ideas.

III. OTHER BUSINESS

A. Announcements/Call to the Public

Judge Million asked for good thoughts for Judge Marianne Bayardi, who is a finalist for the presiding judge position with the City of Scottsdale.

Judge Catherine Gaudreau shared that the Surprise City Court is working on developing a firearms transfer process to use when a protective order prohibits a defendant from a possessing a weapon. She is hoping her court can be an example for smaller city courts. Judge Million ask Judge Gaudreau to write a future article on the court's policy.

Call to the Public: Jamie Balson addressed Judge Cohen's concerns regarding domestic violence advocates contacting courts to get documents that are important to their clients. She stated that her organization has hired attorneys to assist clients with contested hearing and offered to assist with training.

B. Next Meeting. Tuesday, May 10, 2022; 9:00 a.m.

The meeting adjourned at 11:26 a.m.

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Minutes

May 10, 2022 9:00 a.m.

Telephonic: Judge Wendy Million (chair), Elaine Armfield; Judge Marianne T. Bayardi; Judge Bruce Cohen; Heather Erwin (proxy for Deborah Fresquez); Judge Catherine Gaudreau; Anna Harper- Guerrero; Judge Statia Hendrix; Joi Hollis, Ph.D.; Lt. John Johnson; Ashley Klaas; Patricia Madsen; Ofc. Chris Malast; Leah Meyers; Doreen Nicholas; Judge Debra Phelan; Pearl Puente; Judge Sharron Sauls; Charles Seyffer; Rebecca Strickland; Kristi Ward; Tracy Wilkinson

Absent/Excused: Det. Pierre De La Ossa; Lynn Fazz; Maria Christina Fuentes; Joshua Halversen; Judge Dyani Juarez; Amy Offenber; Judge Lyle Riggs

Presenters/Guests: Carol Park Aden, Community Legal Services; Judge Alison Ferrante, Gilbert Municipal Court; Liana Garcia, director, AOC Government Affairs; Elise Kulik, legislative liaison, AOC Government Affairs; Doreen Nicholas and Emily Britton, Arizona Coalition to End Sexual and Domestic Violence; Judge Bruce Owens, Gilbert Municipal Court

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Sabrina Nash, Kay Radwanski

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The May 10, 2022, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 9:02 a.m. by Judge Wendy Million, chair.

Judge Million congratulated Judge Marianne Bayardi on her recent appointment as presiding judge of the Scottsdale Municipal Court. She also acknowledged Judge Catherine Gaudreau, who now has a column—"From the Bench"—that will be published monthly in *The Surprise Independent*, a community newspaper.

B. Approval of Minutes

The draft minutes of the February 8, 2022, CIDVC meeting were presented for approval.

Motion: To approve the February 8, 2022, meeting minutes as presented. **Moved:** Dr. Joi Hollis. **Seconded:** Lt. John Johnson. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update

Elise Kulik, legislative liaison, AOC Government Affairs, provided an update on legislation of interest to CIDVC. The legislature has been in session for more than 120 days and continues to work on the budget. The general effective date of bills that have passed and become law will be 90 days after the legislature adjourns (*sine die*). Ms. Kulik announced that legislative proposals are being solicited for the 2023 session. If CIDVC intends to propose any statutory changes, the proposal must be provided to Government Affairs no later than July 15, 2022.

The following bills have been signed into law:

- **H2604—Emergency Orders of Protection; superior court.** An Order of Protection (OP) expires two years (increased from one year) after service on the defendant. Applies to an OP that is served from and after the effective date of this legislation. An Emergency Order of Protection (EOP) expires seven calendar days after issuance, instead of either at the close of the next day of judicial business or 72 hours after issuance, whichever is longer. Senate bills 1216 and 1217 have been folded into H2604.
- **S1624—Unauthorized disclosure; intimate images; remedies.** Establishes civil liability for “revenge porn.” A person is liable in a civil action for intentionally disclosing or threatening to disclose an "intimate image" (defined) of another individual if the depicted individual suffers harm from the disclosure or threatened disclosure and the person knew or should have known that the depicted individual did not consent to the disclosure, that the intimate image was private, and that the depicted individual was identifiable from the image itself or from information that is displayed in connection with the image.

The following bills are still in process:

- **S1633—Harassment; aggravated harassment; offense.** Increases the penalty classification for aggravated harassment offenses if a person violates conditions of release by harassing the victim. Modifies the definition of the crime of harassment, a class 1 (highest) misdemeanor, to mean if the person knowingly and repeatedly commits an act or acts that harass another person or if the person knowingly commits any one of a list of acts in a manner that harasses. Passed Senate. Passed House with amendments. Conference committee established to consider amendments.
- **S1653—Lifetime injunction; crime victim.** At the time of sentencing, on the request of the victim or the prosecutor, the court is required to issue an injunction that prohibits the defendant from contacting the victim if the defendant is convicted of a dangerous offense, a serious offense (defined in Title 13) or violent or aggravated felony, or a felony offense that is a sexual offense or an offense of sexual exploitation of children. The injunction is effective immediately and is valid for the defendant’s natural lifetime. A victim is authorized to submit a petition to the court requesting an injunction against a defendant who was sentenced for one of the specified offenses before the effective date of this legislation. The Injunction Against Harassment statute (ARS § 12-1809) would be affected by the bill. Passed Senate. Passed House Judiciary and is likely to be amended.

The following bills have failed this session:

- **H2417—Family Court; Ongoing Training.** Would require training at least every three years for all family court judges, family law referees, court commissioners, and other family court personnel to recognize and respond to domestic violence cases using best practices on domestic violence advocacy.
- **H2809—Order of Protection; Prohibited Hearing.** Would remove the right to a contested hearing in an Order of Protection case if the defendant has been charged with a specific type of sexual assault charge. Due process concerns were raised regarding this bill.

During discussion, Ms. Kulik noted that S2417, regarding mandatory domestic violence training for family court judges, could be reintroduced in the 2023 session. Judge Million pointed out that in the past, CIDVC has advocated that [ACJA 1-302\(H\)\(3\)](#) should be strengthened to make DV training mandatory for judges who handle protective orders, rather than the “regular” training now required. CIDVC’s efforts have been unsuccessful, having met resistance to requiring the training to be mandatory. However, this could be an opportunity to strengthen the ACJA and avoid legislative intervention in this area.

Regarding H2604, Kay Radwanski, AOC staff, noted that the protective order forms and the Arizona Rules of Protective Order Procedure (ARPOP) must be reviewed so courts are prepared to implement this legislation. Judge Million called for volunteers for a Forms/ARPOP workgroup to conduct the review. Ms. Radwanski will request volunteers by email to all CIDVC members.

B. ACESDV Action Circle

Doreen Nicholas, survivor engagement and systems change specialist, Arizona Coalition to End Sexual and Domestic Violence (ACESDV), discussed the Survivor Advisory Committee and a subgroup called the Action Circle that she staffs at ACESDV. The Action Circle includes a group of parents, informed by family court experts, providers, and experiences, who are motivated to be change agents. Participants believe solutions can be found within their stories to help encourage development of a trauma-informed court environment for domestic violence survivors and abused children. Their goal is to encourage systems change that prioritizes the safety of victims and survivors using best-practice research.

Emily Britton provided more details about the Action Circle and shared details of her own experience. She said the Action Circle is engaged in activities that include research, best practices, and alignment of Adverse Childhood Experiences (ACEs) and Centers for Disease Control (CDC) research, relevance to Arizona, definitions and understanding, and checklists for court use during family court cases. Among the recommendations she put forth is a request for a separate order for decision-making that can be used when enrolling a child in school. This type of order would exclude other details about the family court case that affect the family's privacy.

During discussion, Judge Bruce Cohen, presiding judge of the family court, Maricopa County Superior Court, noted that work is being done on a separate school order document. He acknowledged concerns regarding the privacy of the parents and the need for clear orders for schools. The draft form will be presented to CIDVC and other relevant committees for review, with the goal of presenting a final draft to the Arizona Supreme Court for approval.

Dr. Joi Hollis, director, Conciliation Court, Pima County Superior Court, added that the Parent Information Program (PIP), which was created in house in Pima County, was modified to be an e-learning platform during the pandemic. The curriculum includes information about the ACEs trauma assessment. Through a State Justice Institute pandemic grant, the program is being converted to an e-learning platform that can be used statewide. The curriculum includes safety planning information, and a Spanish language version will also be available.

Ms. Radwanski offered that the Supreme Court's Family Court Improvement Committee (FCIC) focuses on family court. She will provide Ms. Nicholas with contact information for FCIC staff.

C. Review: Proposed Domestic Violence Offender Treatment Program Code Section

Judge Million presented an updated version of a draft proposal for a code section in the Arizona Code of Judicial Administration (ACJA). The proposal addresses standards for court approval of domestic violence offender treatment programs. Although CIDVC approved a draft at its February 8, 2022, meeting, there has been additional review, and further edits are recommended. At the 2022 Judicial Conference. Rebecca Thomforde Hauser, Center for Court Innovation, will discuss best practices in domestic violence offender treatment, and Judge Million will discuss the draft proposal with attendees. Future steps including posting the proposal on the ACJA Web Forum, where it will be open for public comment; seeking input from other standing committees; and finally requesting adoption by the Arizona Judicial Council.

During discussion, members considered a scenario regarding the appropriate program for a defendant who has a history of intimate partner violence but whose current offense does not involve an intimate partner. It was proposed that language be added to give a judicial officer discretion to require a defendant in that circumstance to attend a program for intimate partners instead of another type of program. It was also noted that the proposal should include a requirement to report approved programs to the AOC for tracking purposes.

Motion: To approve the version as presented and authorize Judge Million to add language requiring courts to report the names of programs they have approved. **Moved:** Anna Harper-Guerrero. **Seconded:** Elaine Armfield **Vote:** Unanimous.

D. Workgroup Reports; CIDVC Newsletter

- **Family Law Workgroup** – Patricia Madsen reported that the workgroup is continuing development of a 90-minute training session based on the “The Maid,” a Netflix series. The goal is to propose this training as a session at the 2023 Judicial Conference. The workgroup also would like to explore recording this as a video. The workgroup is submitting a follow-up article on the Address Confidentiality Program for the next issue of *CIDVC News*.
- **High Risk & Fatality Workgroup** – Judge Debra Phelan reported that the workgroup has met twice since February. Judge Alison Ferrante will submit an article on the connection between animal abuse and domestic violence for the next issue of *CIDVC News*. Officer Chris Malast shared information about a tool called Mosaic Method, which can be used to assess risk of violence. The victim could use the tool, or law enforcement could refer victims to the tool. Judge Ferrante has suggested that a person who has completed a domestic violence offender treatment program could be invited to speak at a future CIDVC meeting about their experience in the program.
- **Protective Orders Workgroup** – Leah Meyers reported that the workgroup continued its discussion of whether foot distances should be required on protective orders. Ms. Meyers had asked for input from prosecutors, and the response she received is that foot distances on protective orders would make enforcement and prosecution more difficult. Instead, law enforcement training should focus on the defendant’s intent in being near the plaintiff. Judge Catherine Gaudreau will draft an article on a firearms transfer protocol being developed between the Surprise City Court and the Surprise Police Department. The protocol is modeled on a protocol used by the Phoenix Municipal Court and the Phoenix Police Department.
- **DV Treatment Workgroup** – Kristi Ward reported that the workgroup is developing an article on best practices for domestic violence offender treatment programs by interviewing an expert on intimate partner violence on best practices. The workgroup is also exploring the idea of bringing providers together to discuss basic standards and share information about treatment programs, similar to an expo on domestic violence offender treatment that the Maricopa County Probation Department hosted several years ago. The workgroup will also be working on a proposal for a session on cyberstalking for the 2023 Judicial Conference.

III. OTHER BUSINESS

A. Other Discussion

Ms. Madsen raised an issue of concern regarding a contested Order of Protection hearing, specifically asking when a contested hearing begins. She related a recent situation in which—during the course of a recorded hearing that the defendant had requested—the defendant was permitted to withdraw the request for the hearing. This was after the parties were sworn and the

judicial officer had reviewed evidence that the plaintiff's attorney intended to present. Withdrawal of the hearing request is relevant because Arizona law permits the defendant to have only one contested OP hearing, but in this case, the defendant was allowed to preserve the right to request another contested hearing in the future. In addition, the federal Brady firearms prohibition can attach when the parties are intimate partners and a court conducts a contested hearing in the case. A request from the plaintiff's attorney to have the Brady firearms prohibition attach was denied. The situation was further exacerbated because the plaintiff's requests for continuances to get time off from work and to obtain legal counsel were denied. The court also denied the plaintiff's request for attorney fees.

Ms. Madsen asked CIDVC to consider what the ramifications should be of withdrawing a hearing request at the requested hearing and whether there should be limits on allowing a defendant to withdraw a hearing request. Perhaps training or ways to tighten the process could be explored. Judge Million noted she relies on a federal case, *U.S. v. Young* (458 F.3d 998, Ninth Circuit, 2006), that outlines the meaning of a "hearing" when she trains other judicial officers on this topic.

Judge Cohen also raised an issue regarding possession of animals in marital dissolution cases. The law provides no special treatment for animals in marital dissolution cases; animals are treated as property. In a recent case, one party relied on a therapy dog for emotional support; however, the dog had been acquired by the other party prior to marriage. Therefore, that party was awarded ownership of the dog, resulting in emotional harm to the party for whom the dog functioned as a service animal. Judge Cohen wondered whether there is a statutory way to address possession of a service animal or whether this is a rare situation. It was agreed to preserve the issue for future discussion after further research.

B. Announcements/Call to the Public

Judge Million announced that the deadline for submission of articles for the next CIDVC newsletter is May 25.

Call to the Public: No one from the general public was present, and no requests to speak were received by CIDVC staff.

C. Next Meeting. Tuesday, September 13, 2022; 9:00 a.m.

The meeting adjourned at 11:14 a.m.

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Minutes

September 13, 2022, 9:00 a.m.

Telephonic: Judge Wendy Million (chair), Elaine Armfield; Det. Pierre De La Ossa; Judge Alison Ferrante; Deborah Fresquez; Judge Catherine Gaudreau; Joshua Halversen; Judge Statia Hendrix; Joi Hollis, Ph.D.; Lt. John Johnson; Ashley Klaas; Patricia Madsen; Ofc. Chris Malast; Leah Meyers; Amy Offenberg; Judge Debra Phelan; Pearl Puente; Judge Lyle Riggs; Charles Seyffer; Rebecca Strickland; Kristi Ward; Tracy Wilkinson

Absent/Excused: Judge Marianne T. Bayardi; Judge Bruce Cohen; Maria Christina Fuentes; Anna Harper- Guerrero; Judge Dyani Juarez; Judge Sharron Sauls

Presenters/Guests: Liana Garcia, Elise Kulik

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Sabrina Nash, Kay Radwanski

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The September 13, 2022, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 9:03 a.m. by Judge Wendy Million, chair.

Judge Million welcomed Judge Alison Ferrante, Gilbert City Court, who was recently appointed to the committee. She welcomed back Dr. Joi Hollis, Judge Bruce Cohen, and Judge Debra Phelan, who has been reappointed to CIDVC. She also thanked Doreen Nicholas, Arizona Coalition to End Sexual and Domestic Violence (ACESDV), for her years of service to CIDVC. Ms. Nicholas, who retired recently from ACESDV, has worked for many years on domestic violence issues and helping survivors.

B. Approval of Minutes

The draft minutes of the May 10, 2022, CIDVC meeting were presented for approval at 10:05 a.m. after a quorum was reached.

Motion: To approve the May 10, 2022, meeting minutes as presented. **Moved:** Lt. John Johnson. **Seconded:** Elaine Armfield. **Motion:** passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update

Elise Kulik, legislative liaison, AOC Government Affairs, stated the general effective date for bills passed in the 2022 legislative session is September 24, 2022. She noted that the report on this year's session has been posted to the [AZCourts.gov/legislative update webpage](https://azcourts.gov/legislative-update-webpage). She then discussed the following proposed legislation being vetted by various AOC committees for next year's legislative session.

- **Defer Entry of Judgment – ARS § 22-352 Judgment; imprisonment for fine; limitation; lien.** This proposal would allow justice of the peace courts to defer entry of judgment for certain misdemeanor offenses and place the defendant on probation if the defendant has pleaded guilty to the offense. If the defendant successfully completes probation, the charge would be

dismissed. Ms. Kulik noted that the Committee on Probation opposed this proposal for the reasons stated in the handout, and the Committee on Juvenile Courts took no position.

Discussion: Members discussed the lack of funding and a shortage of probation officers, both of which would be needed for probation oversight. The proposed legislation does not take into account victims' rights, takes the diversion decision away from the prosecutor, provides no opportunity for input from a prosecutor, does not set limits on the amount of probation or classes, does not include an exception for domestic violence offenses, and has no eligibility requirements. If the defendant is on probation to the court, rather than a probation department, the only supervision available would be review hearings.

Motion: To oppose the proposed legislation for the reasons expressed by members' comments. **Moved:** Lt. Johnson. **Seconded:** Judge Ferrante. **Motion:** passed unanimously.

- **Pretrial Financial Affidavit. A.R.S. § 13-3967.** This proposal, for which no vote was sought, affects the information the court would consider when setting conditions for release on bailable offenses before trial. Specifically, it would remove a requirement that the court consider information about the accused person's family ties, employment, financial resources, character, and mental condition. This proposal, submitted by the Maricopa County Adult Probation Department, was presented to COSC for informational purposes only; however, there was concern among judges at COSC that the lack of this information would affect their decision-making. The rationale for the proposal is that this specific information is self-reported by the arrestee, is inconsequential, and has been difficult to gather during the COVID-19 pandemic. During the discussion, some CIDVC members noted that the proposal would remove a frequently referenced piece of the pre-trial report that defense attorneys rely on to advocate for their client's release. Also, this information has been historically relied upon by judges and would impact judicial decision-making by eliminating factors a judge considers when setting release conditions.

B. Judicial Engagement Network Presentation (JEN) (taken out of order)

Judge Catherine Gaudreau, Surprise City Court, discussed her participation in the Judicial Engagement Network (JEN) fellowship program. Judges who receive JEN fellowships must develop a project. Judge Gaudreau explained that as part of the program, she chose to focus on a firearms transfer procedure for any Order of Protection that includes a firearms prohibition. She is working with other stakeholders in the City of Surprise to implement a firearms transfer protocol that is modeled on the program used in Phoenix. She shared the video she created on this topic as part of her JEN experience.

C. Update: Domestic Violence Courts (taken out of order)

- Judge Statia Hendrix, Scottsdale City Court, shared that Scottsdale City Court's specialty domestic violence court started in 2016. As judge of the specialty court, she handles most of the cases from arraignment in jail through post-adjudication review hearings. She consistently trains court staff and *pro tem* judges on domestic violence issues. In 2018 she created a workgroup of community stakeholders consisting of public defenders, attorneys, victim advocates, and youth and family services that meets quarterly to discuss domestic violence issues. On September 28, 2022, she is hosting a Domestic Violence Treatment Provider Forum, which is open to agencies that provide treatment services for offenders. Providers and members of the workgroup will have an opportunity to discuss issues and services. This year, during Domestic Violence Awareness Month, a victim impact panel will participate in a closed group in conjunction with Oasis Wellness.
- Judge Ferrante explained that Gilbert City Court started its domestic violence specialty court in 2020. Sentence reviews are conducted on Monday afternoons, and Thursdays are reserved for the domestic violence docket, with the same prosecutor and the same public

defender handling these cases. The Gilbert Police Department Youth and Adult Resources Department screen for domestic violence offenses and refer them for treatment. Gilbert Youth and Adult Resources is meeting with providers to get input on whether offenders are actively involved in their treatment. This input helps with sentencing reviews.

- Judge Gaudreau shared that the Surprise Police Department and the Surprise City Court have established a procedure for firearms transfer. (See Judicial Engagement Network presentation above.) The presiding judge handles arraignments, and Judge Gaudreau handles public defender dockets, private counsel, and unrepresented defendant cases. She stated that while Surprise City Court is not specifically a domestic violence specialty court, it plans to incorporate many of the best practices used by domestic violence courts.

D. Updates from the Administrative Office of the Courts

Kay Radwanski, CIDVC staff, provided an update on AZPOINT, rule petitions, and protective order forms that were modified during the summer.

- **AZPOINT Update** – Statistically over the past two years, AZPOINT usage versus paper usage for protective orders shows two-thirds of users are using AZPOINT to prepare their petitions for Orders of Protection (OP), with similar usage for users who file petitions for Injunctions Against Harassment (IAH). For users filing Injunctions Against Workplace Harassment (IAWH), petitions are created in AZPOINT 81 percent of the time. Enhancements are being planned for AZPOINT in 2022 and 2023. The Arizona Criminal Justice Commission (ACJC) has acquired grant funding, and the AOC IT Department is working with a new vendor on the petition portal to streamline account setup when a plaintiff uses a court computer to access AZPOINT. Also, the AZPOINT petition portal will be translated into Spanish, with the AOC language access specialist overseeing the translation work.

- **ARPOP Petitions**

R-22-0030, a petition to amend multiple Rules of Protective Order Procedure (ARPOP), was filed on an expedited basis by Judge Million as CIDVC chair in response to legislative changes brought about by HB 2604 and Senate bills 1633 and 1653, which were passed during the legislative session and take effect September 24, 2022. The Supreme Court adopted the requested changes on an emergency basis at its August rules agenda and will consider permanent adoption at its December rules agenda. HB 2604 extends the duration to two years for any OP served on or after September 24, 2022. It also extends Emergency Orders of Protection (EOP) to seven calendar days. The two Senate bills dealing with harassment and the definition of harassment, which necessitated technical changes to the protective order rules. SB 1653 created a lifetime no-contact injunction for defendants who have been convicted of one or more of the crimes listed in Appendix A of the petition. The Commission on Victims in the Courts is working on the implementation of this legislation as it impacts crime victims. SB 1633 changes the definition of harassment by adding humiliation and mental distress as part of the definition. It also struck a phrase that referred to dating relationships.

R-22-0026, a petition to Amend Rule 25(e), ARPOP, was filed by a professor/attorney as an expedited petition to cure what he believes is an inconsistency between the rule and the IAH statute. The consensus was that CIDVC will not comment on this petition. The Supreme Court will consider the petition at the December rules agenda.

- **Protective Order Forms Changes**

Ms. Radwanski discussed Administrative Directives 2022-05 and 2022-07, which were issued to conform certain protective order forms with legislative changes to the OP and IAH statutes. The OP order was updated to inform defendants that protective orders issued on or after September 24, 2022, will be valid for two years versus protective orders that were

served before September 24, which are valid for one year. The Plaintiff and Defendant Guide Sheets were also updated. Relevant updated forms have been added to AZPOINT.

- **Presumptive Standards for Remote and In-Person Hearings**

AO 2022-88, which goes into effect on October 1, 2022, has a list of presumptive standards for conducting various types of proceedings remotely or in person. Contested protective order (evidentiary) hearings are presumptive to be held in person, and *ex parte* hearings are presumptive to be held remotely. Presiding judges can deviate and adapt the standards as necessary for their courts.

E. Workgroup Reports; *CIDVC News* (taken out of order)

Judge Million has asked that the publication of the next issue of *CIDVC News* be delayed until October to coincide with Domestic Violence Awareness Month. Deadline for submissions is October 7.

- **Family Law Workgroup** - Patricia Madsen reported that she will ask Doreen Nicholas to submit an article for the CIDVC newsletter on her experience as an advocate before she retired. The workgroup continues to work on their session for the 2023 Judicial Conference. The presentation is based on the Netflix series "The Maid," and some clips from "Big Little Lies" may be added. They are also working on a bench card for family law judges on the correct interpretation and application of A.R.S. § 25-403.03, which addresses domestic violence and child custody in family court cases.
- **Protective Orders Workgroup** – Leah Meyers stated that the workgroup has not met and that she has reached out to get an article for the newsletter.
- **High Risk & Fatality Workgroup** – Judge Debra Phelan noted that the workgroup has a meeting scheduled next week. Judge Ferrante is writing an article for the CIDVC newsletter on the correlation between animal cruelty and domestic violence.
- **DV Treatment Workgroup** – Kristi Ward stated that the workgroup has not met recently; however, she is working with Judge Hendrix and Anna Harper-Guerrero on an article for the CIDVC newsletter on DV treatment providers and expectations.
- **Rural Courts and Domestic Violence** – Judge Lyle Riggs stated that the workgroup is trying to get started. The focus of the workgroup is how to implement some of the processes and procedures of larger courts in smaller one or two-judge courts. He stated that the workgroup will work on an article for the next newsletter.

III. OTHER BUSINESS

Announcements

Judge Million asked members to propose ideas for a second session at the Judicial Council Conference. A suggestion was made to discuss how brain trauma affects domestic violence victims' testimony in court testimony.

Call to the Public: Deborah Giannecchini spoke to the committee during the Call to the Public.

Next Meeting. Tuesday, November 1, 2022; 9:00 a.m. Virtual Meeting

The meeting adjourned at 11:13 a.m.

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Minutes

November 1, 2022; 9:00 a.m.

Telephonic: Judge Wendy Million (chair), Elaine Armfield; Judge Marianne T. Bayardi; Det. Pierre De La Ossa; Lynn Fazz; Judge Alison Ferrante; Judge Catherine Gaudreau; Anna Harper- Guerrero; Judge Stacia Hendrix; Joi Hollis, Ph.D.; Patricia Madsen; Ofc. Chris Malast; Leah Meyers; Amy Offenber; Pearl Puente; Judge Sharron Sauls; Charles Seyffer; Kristi Ward; Tracey Wilkinson

Absent/Excused: Judge Bruce Cohen; Deborah Fresquez; Maria Christina Fuentes; Joshua Halversen; Lt. John Johnson; Judge Dyani Juarez; Ashley Klaas; Judge Debra Phelan; Judge Lyle Riggs; Rebecca Strickland

Presenters/Guests: Liana Garcia, director, AOC Government Affairs; Elise Kulik, legislative liaison, AOC Government Affairs; Don Jacobson, senior special project consultant, AOC

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Sabrina Nash, Kay Radwanski

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The November 1, 2022, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 9:04 a.m. by Judge Wendy Million, chair.

Judge Million shared that she invited Detective Pierre DeLaOssa to talk about his unit, and she would be presenting and showing a video at today's meeting. She also asked members for ideas and suggestions for the 2023 CIDVC meetings.

B. Approval of Minutes (taken out of order)

The September 13, 2022, CIDVC meeting draft minutes were presented for approval.

Motion: To amend the September 13, 2022, meeting minutes with language provided by Judge Catherine Gaudreau to clarify the docket assignments at the Surprise City Court and to correct the spelling of a member's name. **Moved:** Judge Gaudreau. **Seconded:** Judge Marianne Bayardi. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Sealing of Criminal Case Records, SB1294, A.R.S. § 13-911

Don Jacobson, senior special project consultant, AOC, explained that during the 2022 legislative session, Senate Bill 1294 was passed and codified as A.R.S. § 13-911. Effective December 31, 2022, this statute will grant courts the ability to seal the records of any petitioner who may have a conviction. To petition the court to have their records sealed, the petitioner must have completed all terms of their sentence and met the timeframe for when they can petition the court to have the record sealed. This statute does not impact the Arizona Supreme Court or the Court of Appeals. The record can still be used in a court or law enforcement setting. If the court grants the petition, the petitioner would be allowed to state on employment, housing, and financial aid or loan applications that they have never been arrested for, charged with or convicted of the crime

that is the subject of the arrest or conviction. Petitioners have a limited right to appeal the court's decision. If the petition is denied, the petitioner can refile the petition in three years. This statute seals it from the public but not from prosecutors, law enforcement, or the court itself.

Mr. Jacobson noted that a [web page](#) has been created on Azcourts.gov that has additional guidelines, information, and forms.

Discussion ensued on exclusions to the statute, Class 1 felonies, and standardized notification for courts to distribute during sentencing. A statewide memo from the Court Services director to the courts will be forthcoming shortly.

B. Overview: Tucson Police Department Domestic Violence Unit (taken out of order)

Detective Pierre De La Rossa, Tucson Police Department, shared that he has been with the Tucson Police Department for twenty years. The police department's Domestic Violence (DV) Unit is made up of two squads, each with a sergeant and six detectives. The city is divided into four divisions (South, West, Midtown, and East), and each squad covers two of the city's divisions. The squads handle all domestic violence cases, except for domestic violence homicide and sexual assault cases, which are referred to either the homicide or sexual assault units respectively. Domestic violence reports are routed to the DV sergeants for review before assignment to DV detectives. The DV sergeants have discretion on what cases to assign. Most misdemeanor cases are not assigned because of limited staffing. The DV Unit works approximately 2,000 cases a year, primarily felony cases, and detectives determine what follow-up is needed, complete records check on every suspect, and check for prior aggravated domestic violence or harassment charges.

When called to an active scene, detectives conduct interviews of the victims, suspects, and witnesses, run a records check on every suspect for other cases associated with them, and check for prior domestic violence convictions. Felony cases are sent to divisional Community Response Teams for assistance in locating suspects. If the suspect is located, the assigned detective will conduct whatever follow-up is needed, such as interviews, search warrants, etc. All Tucson Police Department officers are responsible for conducting Form 4C lethality assessments on all intimate partner domestic violence calls where probable cause exists for arrest. Officers will also contact the Emerge Center Against Domestic Abuse, with the victim's consent.

C. Report: Domestic Violence Fatality Review Conference

Judge Million stated that Dr. Neil Websdale, director of the National Domestic Violence Fatality Review Initiative, held a conference in Prescott recently about the importance of Arizona's fatality review teams and how to revitalize them. Judge Million said there were conversations about creating a statewide committee comprised of local fatality review teams. Dr. Websdale and his team can provide technical assistance to any groups wishing to establish fatality review teams or reenergize existing teams.

D. Judicial Engagement Network Fellowship Presentation: DV Court Tucson

Judge Million presented a video on coordinated community response in high-risk domestic violence cases that she created for her Judicial Engagement Network Fellowship presentation. In her video, she presented information about the specialized domestic violence court she oversees at Tucson City Court. The DV court provides resources and services to domestic violence offenders to help them be successful. The video featured conversations with other criminal justice system partners.

E. ARPOP Petition R-22-0039

Kay Radwanski provided an update on Rule Petition [R-22-0039](#), which seeks to amend several ARPOP rules and create a new Rule 43 to address lifetime no-contact injunctions that can be issued in certain criminal cases. This rule petition also includes an amendment to Rule 26.11, Rules of Criminal Procedure. The law governing lifetime no-contact injunctions took effect on September 24, 2022. The Arizona Supreme Court will consider this rule petition for emergency adoption at the December 2022 Rules Agenda meeting. The Court will then likely open the petition for comment and then consider final adoption at its August 2023 rules agenda meeting.

F. Workgroup Reports; CIDVC Newsletter

- Workgroup members discussed CIDVC topics for the upcoming judicial conference. Ideas briefly discussed included victims' rights, traumatic brain injury, the APR AIS lethality assessment, and DV 101 for new judges. Judge Million suggested that CIDVC present these ideas to the conference planners for consideration. Patricia Madsen reported that Judge Bruce Cohen has submitted a proposal from the Family Law Workgroup for a 90-minute session based on "Maid," a Netflix series about domestic violence.
- Judge Million announced the next CIDVC News newsletter is scheduled for January 2023, and the deadline for article submissions is December 17, 2022.
- A suggestion was made to pursue the idea of a coordinated community response approach to domestic violence cases to educate on the processes involved.

III. OTHER BUSINESS

A. Announcements/Call to the Public

Judge Bayardi announce that Scottsdale City Court, in cooperation with the Scottsdale Police Department, is launching its Order of Protection Firearms Transfer Protocol project today. The transfer protocol is modeled after the program Judge Bayardi established while she worked at the Phoenix Municipal Court. The transfer protocol being implemented in Surprise is based on the same model.

During the Call to the Public, Camille Swanson addressed the committee.

B. 2023 Meeting Dates

- February 21 (Virtual Meeting)
- May 9
- September 12
- November 1

C. Next Meeting. Tuesday, February 21, 2023; 9:00 a.m.

The meeting adjourned at 11:00 a.m.