

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Minutes

February 21, 2023; 9:00 a.m.

Attending: Judge Wendy Million (chair); Elaine M. Armfield; Judge Marianne T. Bayardi; Judge Bruce R. Cohen; Detective Pierre A. De La Ossa; Deborah Fresquez; Judge Catherine A. Gaudreau; Anna M. Harper-Guerrero; Judge Statia D. Hendrix; Dr. Joi Hollis; Lieutenant John M. Johnson; Judge Dyani M. Juarez; Patricia Madsen; Detective Christopher L. Malast; Leah Meyers; Amy Offenber; Pearl Puente; Charles R. Seyffer; Rebecca P. Strickland; Emily C. Uline-Olmstead; Danielle Wright; Tracey J. Wilkinson

Absent/Excused: Lynn Fazz; Judge Alison Ferrante; Joshua C. Halversen; Ashley R. Klaas; Judge Debra R. Phelan; Judge Lyle D. Riggs; Judge Sharron L. Sauls; Kristi Ward

Presenters/Guests: Jamie Balson; A. Keilty; Elise Kulik; Michael Malone; Mary Newman; Cindy Trimble

Administrative Office of the Courts (AOC) Staff: Theresa Barrett; Veronica Gonzales; Kay Radwanski

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The February 21, 2023, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 9:00 a.m. by Judge Wendy Million, chair. Judge Million introduced and welcomed new committee members, Emily Uline-Olmstead and Danielle Wright, as well as new support staff, Veronica Gonzales. Judge Million also thanked Judge Statia Hendrix, Patricia Madsen, and Pearl Puente for their willingness to seek reappointment to the committee.

B. Approval of Minutes (taken out of order)

The November 1, 2022, CIDVC meeting draft minutes were presented for approval.

Motion: To approve the November 1, 2022, meeting minutes as presented. **Moved:** Lt. John Johnson. **Seconded:** Amy Offenber. **Vote:** Passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Strategic Agenda Planning

Cindy Trimble, AOC audit officer, presented the development process and timeline for the 2024-2029 Judicial Branch Strategic Agenda of Vice Chief Justice Ann A. Scott Timmer, who is expected to become Chief Justice in June 2024. This agenda will assist in supporting the next Chief Justice's plan to align purposes and goals of the Judicial Branch, thus aiding in prioritizing projects that further those goals. The goals include (1) expanding and promoting access to justice, (2) maintaining public trust and confidence, (3) protecting children, families, and communities, (4) advancing judicial branch excellence and innovation, and (5) enhancing professionalism and leadership within our justice system.

Currently, input from all judicial committees and stakeholders is being collected to identify continuing and new initiatives that can be included in the first draft, which is planned for

completion in July 2023. Ms. Trimble recommended that CIDVC include any contextual language and reasoning for proposed initiatives.

Judge Million proposed a hybrid platform and longer meeting time for the May 9 meeting to allow for the discussion of possible initiatives from CIDVC for the Strategic Agenda.

B. Legislative Update

Elise Kulik, AOC legislative liaison, shared the status of current legislation related to domestic violence. She introduced Mary Newman, a legislative intern, who discussed the following bills:

- **HB 2427: Domestic violence; pregnant victim; sentencing** – expands the list of circumstances under which assault is classified as aggravated assault, a class 3 felony, to include whether the person who committed the assault knew or had reason to know the victim was pregnant and there is a domestic relationship (as defined elsewhere in the statute) between the individual and the victim. This bill will be heard in Committee of the Whole.
- **HB 2482: Appropriations; crime victim notification fund** – appropriates \$3.75 million from the general fund in FY2023-24 to the Law Enforcement Crime Victim Notification Fund. This bill will also appropriate \$250,000 from the general fund in FY2023-24 to the State Treasurer to allow for the evaluation, certification, and payment of any costs associated with the fund. The bill passed as amended in the House Appropriations Committee.
- **HB 2516: Child abuse; investigations; forensic interview** – allows an individual who takes a child into custody because of exigent circumstance to have the child forensically interviewed by a trained forensic interviewing professional, instead of having the child evaluated by a licensed physician or health care provider. This bill passed in the House and has been sent to the Senate.
- **SB 1304: Home arrest; electronic monitoring** – permits an inmate who is sentenced to at least two years of imprisonment and who has served at least one year of the sentence imposed by the court to be eligible for the Home Arrest Program if they meet specified criteria, such as whether the inmate was convicted of a felony that was not a serious offense and whether they have not been convicted of a dangerous crime against children or a sexual offense. This bill was passed in the Senate Rules Committee, but it needs an affirmative vote of at least 2/3 of the members of each house to pass because it has an impact on state revenue.
- **SB 1582: Lifetime injunction; petition; procedures** – states that a conviction that is set aside or sealed does not affect the validity of a lifetime injunction and does not prohibit a victim from submitting a petition to the court requesting a lifetime injunction. It was passed in the Senate Rules Committee.
- **SB 2312: Women’s shelters; male employees; liability** – states that a facility that does not allow biological male employees to be in the presence of women or their minor children who are living in a facility is not liable for gender discrimination if the facility’s sole purpose is to provide a safe and stable shelter for women or women with their minor children. The bill passed in the House Health & Human Services Committee.

C. Informational Items (taken out of order)

Kay Radwanski, CIDVC staff, provided an update on the Lay Legal Advocate Program, AZCourtHelp and AZPOINT analytics, rule petitions, and *U.S. v. Rahimi*.

- **AO 2023-21 – Lay Legal Advocate Programs** – [AO 2023-21](#) orders the permanent

establishment of the Licensed Legal Advocate Pilot Program, which was originally a pilot program in effect in Pima County and in partnership with the University of Arizona. The program trains and licenses lay legal advocates and permits them to advise and assist domestic violence victims throughout their navigation of Arizona's civil legal system.

Anna Harper-Guerrero, who worked closely with the program, explained that in this new phase, evaluations of the model are still being conducted, such as finding the best ways to share information with other programs, expand to include providers and other communities, and develop approaches for different organizations that might want to participate in the program and their delivery of services. Ms. Harper-Guerrero also expressed that the program is still solidifying its foundational training and ensuring the lay legal advocates are able to provide the level of service that is needed when supporting survivors of domestic violence. These developments will be connected to the high-risk grant that Judge Million mentioned as that grant is related to protective orders.

- **ACAJ Analytic Report – AZPOINT** – The Arizona Commission on Access to Justice (ACAJ) provided an analytic report from 2022 for [AZCourtHelp](#). Through AZCourtHelp, 10,899 users were referred to AZPOINT, Arizona's system for requesting protective orders. For the live chat feature on AZCourtHelp, protective orders were one of the top areas discussed.
- **Rule Petition R-22-0026 – Final Order** – Rule Petition [R-22-0026](#) clarifies that an Injunction Against Harassment still requires a plaintiff to allege a series of acts, but the most recent act must have occurred within the year preceding the filing of the petition. It was adopted by the Arizona Supreme Court in December 2022.
- **Rule Petition R-23-0010** – Rule Petition [R-23-0010](#) concerns Rule 25(e), Arizona Rules of Protective Order Procedure. The petitioner seeks modification of the rule, asserting that firearms surrender pursuant to an Injunction Against Harassment is a seizure of property. A consensus was taken, and the committee unanimously authorized Judge Million to file a comment in opposition on CIDVC's behalf.
- ***U.S. v. Rahimi*, 2023 WL 1459250, Fifth Cir.** – This case centers around the firearms prohibition under 18 USC § 922(g)(8) for individuals subject to domestic violence restraining orders. The U.S. Court of Appeals, Fifth Circuit, ruled that 18 USC § 922(g)(8) is unconstitutional. As this case was decided by the Fifth Circuit, and Arizona is within the jurisdiction of the Ninth Circuit, *Rahimi* is not applicable to Arizona. However, Judge Million advised the committee to read the case and be aware of it.

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

Judge Million discussed the recent issue of *CIDVC News*, noting that it included two articles by other members and two that she wrote. She encouraged workgroups to contribute more articles, suggesting that each member submit an article about their role in addressing domestic violence. Another topic could focus on phrases that are heard in court but are often misinterpreted and answers to frequently asked questions. Discussion ensued about article ideas. The deadline for submission of articles for the April issue is March 10.

Judge Million proposed that at the May 9 meeting, the workgroups brainstorm domestic violence-related projects, highlight them in the newsletter, and present those ideas to the new Chief Justice.

- **Family Law Workgroup** – Patricia Madsen and Judge Bruce Cohen reported that the workgroup will be presenting at the Judicial Conference on June 28, 2023. Their session will consist of scenes from two television shows, *Maid* and *Big Little Lies*, and a discussion of how these films portray the effect of domestic violence on victims and survivors, the systemic lack of response from law enforcement, and how domestic violence is presented in court. The session is being developed as a standalone presentation, meaning that the information can be used as training tools elsewhere and for the future.

The workgroup has also been making progress on a bench card titled “Assessing Domestic Violence in Family Court Parenting Cases: Deconstructing A.R.S. § 25-403.03.” This statute requires the court, in family law cases, to assess whether there has been “significant” domestic violence or a “significant history” of domestic violence. The bench card guides the reader through the statute, allowing the individual to understand and see how the facts of the case will be analyzed. The bench card includes the relevance of the statute when determining legal decision-making and parenting time, the three categories of domestic violence in family law, considerations that are required when domestic violence is found to exist when determining parenting time, and evidence to consider.

Discussion followed, including a suggestion that a note be added regarding the trauma suffered by children who are exposed to domestic violence. The workgroup will consider adding text to address this concern. The bench card was then presented for approval to be used as a resource for the courts.

Motion: To approve the “Assessing Domestic Violence in Family Court Parenting Cases: Deconstructing A.R.S. § 25-403.03” bench card with amendments by the workgroup.

Moved: Judge Marianne Bayardi. **Seconded:** Elaine Armfield. **Vote:** Passed unanimously.

III. OTHER BUSINESS

A. Announcements

Judge Cohen advised that his term as family court presiding judge in Maricopa County will end in June. He recommended that his successor, Judge Rhonda Fisk, replace him on CIDVC. She has been invited to submit an application to the Chief Justice.

Judge Catherine Gaudreau spoke about the recent Judicial Engagement Network (JEN) Conference that she attended with Judge Million and Judge Alison Ferrante. At the meeting, judicial officers collaborated on implementing of new practices related to domestic violence, sexual assault, stalking, and violence against women, supporting others, and providing expertise and knowledge. Judge Gaudreau suggested including an article about the work being done by JEN in the next newsletter. The JEN program partners with the National Council of Juvenile and Family Court Judges and the Center for Justice Innovation.

Call to the Public: No one from the public was present.

B. Next Meeting. Tuesday, May 9, 2023; time to be determined. Hybrid meeting.

The meeting adjourned at 10:22 a.m.

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Minutes

May 9, 2023; 10:00 a.m.

Telephonic: Judge Wendy Million (chair); Judge Bruce R. Cohen; Det. Pierre A. De La Ossa; Judge Alison Ferrante; Deborah Fresquez; Judge Catherine A. Gaudreau; Joshua Halversen; Judge Statia D. Hendrix; Dr. Joi Hollis; Lt. John M. Johnson; Judge Dyani M. Juarez; Patricia Madsen; Leah Meyers; Amy Offenberg; Pearl Puente; Judge Lyle D. Riggs; Judge Sharron L. Sauls; Charles R. Seyffer; Kristi Ward; Danielle Washington-Wright; Tracey J. Wilkinson

Absent/Excused: Elain M. Armfield; Judge Marianne T. Bayardi; Lynn Fazz; Maria Christina Fuentes; Anna M. Harper-Guerrero; Ashley Klaas; Ofcr. Christopher L. Malast; Judge Debra R. Phelan; Rebecca Strickland; Emily C. Uline-Olmstead

Presenters/Guests: Judge Ronda Fisk; Elise Kulik; Craig Washburn

Administrative Office of the Courts (AOC) Staff: Theresa Barrett; Veronica Gonzales; Kay Radwanski

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The May 9, 2023, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 10:07 a.m. by Judge Wendy Million, chair.

Because Judge Lyle Riggs and Rebecca Strickland have decided to not seek reappointment to CIDVC, Judge Million thanked them both for their service. Similarly, Judge Bruce Cohen will resign from CIDVC effective June 30, as his time as the presiding family court judge at the Maricopa County Superior Court is ending Judge Million thanked Judge Cohen for his service.

B. Approval of Minutes

The February 21, 2023, CIDVC meeting draft minutes were presented for approval.

Motion: To approve the February 21, 2023, meeting minutes as presented. **Moved:** Judge Catherine Gaudreau. **Seconded:** Amy Offenberg. **Vote:** Passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Expansion of the Licensed Legal Advocate Program

Stacy Butler, director of Innovation for Justice at the University of Arizona, presented on the Licensed Legal Advocate (LLA) Initiative, which focuses on expanding legal services for survivors of domestic abuse. The presentation included an introduction to Innovation for Justice (i4J), which is a social justice innovation lab that engages in access to justice research to advance change at service and policy levels, and its three impact areas (service, system, and structure).

Statistics on the justice gap for domestic violence survivors in a lawyers-only service model were displayed, showing that without legal aid, there is an increase in domestic violence incidents

and in abusive parents being allowed parenting time and a decrease in the success rate for protective orders. Also, 88% of low-income survivors receive inadequate or no legal help at all. The LLA Initiative is designed to address this justice gap, working in tandem with community-engaged research, survivors, advocates, community-based organizations, and civil legal system stakeholders. The licensed legal advocates that are trained through this program can provide limited scope legal advice.

Eligibility to become an LLA includes 2,000 hours of work experience as a lay legal advocate housed in a domestic violence organization; demonstration of training readiness, knowledge, and experience with domestic violence dynamics and trauma-informed advocacy; successful completion of 80 hours of attorney-mentored LLA training; and passage of a court-based certification exam. The curriculum for becoming an LLA includes providing general legal information and legal advice related to Orders of Protection and family law matters only at intake, legal advice and assistance during the completion of court forms and other documents for filing, and legal advice and assistance with respect to preparation for hearings and mediations. LLAs may also sit a counsel table to advise and assist clients during court hearings and may respond to requests for information from the presiding judge during a hearing.

Although LLAs are allowed only to advise and assist domestic violence survivors, they do not directly represent them. Survivors who receive LLA help are still considered as self-represented in family law proceedings. The presentation also included strategies in place to address potential concerns and issues and feedback from program participants.

B. Legislative Update (taken out of order)

Elise Kulik, AOC legislative liaison, shared the status of various current bills of interest to CIDVC. She also advised that if CIDVC members have any legislative proposals for the next session, they are invited to discuss those ideas with the legislative team before filling out a proposal form.

- **HB 2312: Women’s shelters; male employees; liability** – states that there is no liability for gender discrimination in a facility that (1) prohibits a biological male employee from being in the presence of a woman or a woman’s minor children who live in the facility and (2) has a sole purpose of providing a safe and stable shelter for women or women with minor children. In other words, facilities and shelters for women are not legally responsible for refusing to employ male employees. The bill has been transmitted to the governor.
- **HB 2482: Sexual assault kits; victim notification** – appropriates \$7.6 million from the general fund in FY2023-24 to the Law Enforcement Crime Victim Notification Fund. This will expand the software that can be used by law enforcement agencies using monies from the fund. This bill will also appropriate \$400,000 from the general fund in FY2023–2024 to the state treasurer, allowing for the evaluation, certification, and payment of any costs associated with the fund, and it will also establish the Sexual Assault Kit Study Committee. The cost of this legislation has been incorporated into the legislative budget.
- **HB 2516: Child abuse; investigations; forensic interview** – allows an individual who takes a child into custody because of exigent circumstance to have the child forensically interviewed by a trained forensic interviewing professional, instead of a licensed physician or health care provider. This bill is currently being transmitted to the governor.
- **SB 1304: Home arrest; electronic monitoring** – permits an inmate who is sentenced to at least two years of imprisonment and who has served at least one year of the sentence imposed by the court to be eligible for the Home Arrest Program if they meet specified

criteria, such as whether the inmate was convicted of a felony that was not a serious offense and whether they have not been convicted of a dangerous crime against children or a sexual offense. This bill has been passed by the Senate.

- **SB 1582: Lifetime injunction; petition; procedures** – states that a conviction that is set aside or sealed does not affect the validity of a lifetime injunction and does not prohibit a victim from submitting a petition to the court requesting a lifetime injunction. This bill covers elements that were missed when Kayleigh’s Law was passed, such as allowing victims to request a lifetime injunction even after a sentence has been given or after a conviction has been set aside or sealed. This bill has been signed by the governor, and it will be effective 90 days after the legislative session ends.

C. Proposed ACJA § 5-209: Court-Approved Domestic Violence Offender Treatment Programs (taken out of order)

Judge Million provided an update on the proposal to add a new section—5-209: Court-Approved Domestic Violence Offender Treatment Programs—to the Arizona Code of Judicial Administration (ACJA). She has presented the proposal to the Committee on Probation (COP) and the Committee on Superior Court (COSC), which both unanimously recommended its adoption and provided minor suggestions. For example, one individual recommended changing the options from “in person or by video” to “in person or by interactive video link” to ensure that those taking the program are actively participating. Other suggestions included requiring people to have their cameras on while taking the program, establishing the correct identity of those participating, and ensuring that the individuals were ordered by the court to do the treatment. Judge Million also stated that the code will allow judges to pick a treatment provider that uses risk assessments to determine how many classes offenders need to take. The treatment provider would then offer a recommendation based on the risk assessment, and it would be up to the sentencing court to decide the number of classes. Judge Million said that Steve Lessard, COP chair, supports this proposed code and is interested in starting a statewide committee on DV offender treatment, which would explore best practice information.

Kay Radwanski, CIDVC staff, provided more explanation of the proposal’s history and how past concerns are addressed in the current version.

Judge Million noted that CIDVC will be providing education on this topic if ACJA § 5-209 is adopted. An article has been published in the *CIDVC News* that addresses this topic, but Judge Million is currently researching and collaborating with the Center for Justice Innovation and plans to write another article and create a recommended list of the related curriculums that are available to judicial officers. The proposed code will also be presented to the Committee on Limited Jurisdiction Courts and then to the Arizona Judicial Council in late June for final action.

D. Recent Appellate Cases for Orders of Protection (taken out of order)

- **Court of Appeals, Division 2 Opinion** – Judge Cohen discussed a new Court of Appeals, Division 2, published opinion that verified and supported the bench card on assessing domestic violence in family court parenting cases that CIDVC recently created. He stated that there has been a recurring misinterpretation of A.R.S. § 25-403.03, in which it is assumed that when a judge finds the presence of domestic violence, it creates a rebuttable presumption against joint legal decision-making that applies to all findings of domestic violence. However, both the bench card and the Court of Appeals, Division 2, opinion assert that the court is precluded from awarding joint legal decision-making only if it makes a finding of significant domestic violence or a significant history of domestic violence. Judge

Cohen also announced that the bench card will be presented at the Family Law Institute Conference in 2024.

- **Hodges v. Hodges** – This case involved an Order of Protection (OP) that specifically mentioned domestic violence crimes of trespassing and harassment, and the Court of Appeals found that the specific elements of each of the crimes were not explained or proven during the hearing. Judge Million stressed that from this case, it is important to ensure that every element is discussed and proven when citing two specific statutes. Judge Cohen also recommended disseminating the definition of domestic violence as enumerated in A.R.S. § 13-3601, which references numerous statutes, to ensure that all elements of a domestic violence crime have been established.
- **Castro v. Carter** – In this case, an OP was granted and was later modified at a contested hearing to allow for contact and parenting time for the child involved. The downside for the defendant is that the OP, which does not expire until two years from date of service, cannot be changed again at the defendant's request, making parenting time more restrictive. Judge Million stated that there are issues with including parenting time parameters in OPs because the order is then used for purposes for which it was not designed.

E. Strategic Agenda Planning

Based on the presentation at the February meeting about the upcoming Strategic Agenda for Vice Chief Justice Timmer, Judge Million opened the floor for suggestions from CIDVC members. This included any high-level topic areas, specific projects, or tangible goals. In the past, topics were recommended that related to OPs (including those in tribal jurisdictions), prohibited possessors, mandatory domestic violence training for judges and court staff, development of treatment and supervision models, bench cards, and education and guides for those interacting with the legal system for domestic violence cases.

Ideas from the members included expanding the library of bench cards, pushing for mandatory annual domestic violence training for judges and court staff, guide sheets and pamphlets for both plaintiffs and defendants (on topics such as contested hearings, first time interacting with the court, helpful reminders, etc.), providing more guidelines and self-service help for self-represented parties, ensuring that access to justice is available for both plaintiffs and defendants, having facility or trauma animals available in the court, creating opportunities for discussions among different stakeholders, creating more coordination among the courts, and encouraging coordinated community responses to domestic violence.

The issue of defendants withdrawing their hearing request the day of the hearing to avoid losing their firearms was also discussed. It was agreed that this was a topic that needs to be investigated to ensure that the experience is safer and more productive for both parties. Based on this, it was suggested that the mandatory training that is given to judicial officers include this topic. Other curriculum ideas that were considered involve dynamics of domestic violence, coercive control versus situational violence, the link between animal abuse and domestic violence, definitions of domestic violence and high-conflict cases, risk factors, and protective order procedures.

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

Judge Million discussed reinvigorating the four workgroups: Family Law, Criminal Law, Protective Orders, and Domestic Violence Offender Treatment. She proposed that each workgroup have tangible goals, including one presentation for a CIDVC meeting each year (such as the workgroup itself presenting on a topic or bringing in a subject matter expert to present),

two articles for the newsletter, one idea for the Judicial Education Conference, and one education project (such as a bench card or a video).

New members, who will be appointed on July 1, will also be joining the workgroups. Judge Million asked that a poll be sent out so members can choose a workgroup.

- **Family Law Workgroup** – Patricia Madsen and Judge Cohen provided a reminder that the workgroup will be presenting at the Judicial Conference on June 28, 2023, using scenes from two television shows, *Maid* and *Big Little Lies*, as the foundation for a discussion on how domestic violence is portrayed in media and perceived by law enforcement and the court. Judge Cohen also informed the members that the presentation is designed in a way that allows for replication, and it can be presented to any group as needed.

For *CIDVC News*, Ms. Radwanski reported on the good reception received following the latest issue and highlighted the articles that were included. For the July issue, members were given June 30 as the deadline for submitting articles to ensure that there is enough time for editing and formatting. Judge Million also provided some ideas about what the members could write about, such as conciliation courts and obstacles that probation officer and law enforcement may face when working with domestic violence cases.

III. OTHER BUSINESS

A. Announcements

Ms. Radwanski provided an update on AZPOINT, sharing that on June 9, the public-facing petition portal will be launched with an updated look and a Spanish translation. This updated version, combined with plainer language, allows for a better user experience and more understanding of the materials. A first-time user who is using a court device will be able to access AZPOINT without having to go through the process of creating a profile. If the user returns to AZPOINT again, the user will have to complete the full account verification process. Also, at the end of June, the servicing agency and court staff portals will be launched as a combined application with an updated user interface. Courts will have read-only access to other courts' orders, allowing court clerks to search for protective orders issued by other courts or a history of domestic violence.

Call to the Public (taken out of order): Sarah Leone addressed the committee.

- #### B. Next Meeting.
- Tuesday, September 12, 2023; 10:00 A.M. Hybrid meeting.

The meeting adjourned at 12:15 p.m.

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Minutes

September 12, 2023; 9:00 a.m.

Telephonic: Judge Wendy Million (chair); Elaine Armfield; Judge Marianne Bayardi; Det. Pierre A. De La Ossa; Judge Alison Ferrante; Judge Ronda Fisk; Judge Catherine A. Gaudreau; Joshua Halversen; Anna Harper; Judge Statia D. Hendrix; Dr. Joi Hollis; Lt. John M. Johnson; Dr. Cedar Kile; Patricia Madsen; Leah Meyers; Amy Offenber; Dana Owens; Pearl Puente; Judge Sharron L. Sauls; Charles R. Seyffer; Emily C. Uline-Olmstead; Kristi Ward; Danielle Washington-Wright; Tracey J. Wilkinson

Absent/Excused: Lynn Fazz; Judge Dyani Juarez; Officer Christopher L. Malast

Presenters/Guests: Liana Garcia

Administrative Office of the Courts (AOC) Staff: Theresa Barrett; Veronica Gonzales; Kay Radwanski

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The September 12, 2023, 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 welcomed and introduced Judge Ronda Fisk, Dr. Cedar Stagner Kile, and Dana Owens as new members, and thanked Judge Dyani Juarez, Judge Sharron Sauls, Lynn Fazz, and Anna Harper for agreeing to serve another term for CIDVC. Judge Bruce Cohen, Judge Debra Phelan, Deborah Fresquez, Ashley Klaas, and Rebecca Strickland will not be returning, and they were also thanked by Judge Million for their service.

B. Approval of Minutes

The May 9, 2023, CIDVC meeting draft minutes were presented for approval.

Motion: To approve the May 9, 2023, meeting minutes as presented. **Moved:** Judge Alison Ferrante. **Seconded:** Dr. Joi Hollis. **Vote:** Passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Discussion: Orders of Protection and Confidential Addresses

Det. Pierre De La Ossa, Tucson Police Department, led the discussion on Orders of Protection (OP) and confidential addresses. He shared that when an OP has a confidential residential address and the plaintiff has been granted exclusive use of the residence, this causes difficulty in trying to figure out which address is protected and who is and is not supposed to be at that address. Also, Det. De La Ossa expressed that at the Tucson Police Department, only detectives have access to AZPOINT. In instances where a patrol officer needs to check the Service of Process Information Form (SOP) for the address, they are unable to do so through AZPOINT and instead must call their records department.

Kay Radwanski, AOC staff, explained that previously, the residential address was confidential

only if the defendant did not know the address. The law has since changed; the current statute states that the plaintiff's residential address is confidential unless ordered otherwise by the court. For a plaintiff filing for an OP through AZPOINT, the data passes through the system to the SOP and allows law enforcement to view the address; however, when a plaintiff does not use AZPOINT to complete the petition documents, the SOP form is not populated with data. The AZPOINT team is working on a solution. For courts that use the AJACS case management system, the plaintiff's residential address is intentionally blocked from appearing on the court documents, and court staff cannot override this field and enter an address. If the judge grants an exception and allows inclusion of the confidential residential address, it can be entered under "other orders" in AJACS. Ms. Radwanski advised that other police departments allow officers to have AZPOINT access; if Tucson Police Department wishes to change their policy on access, officers can be given permission upon request. Various levels of permission exist in AZPOINT.

After discussion, the conclusion reached is that training on confidential addresses is needed. The other option would be to ask the legislature to revise the statute.

B. AZPOINT: Version 2

In June 2023, an upgraded petition portal of AZPOINT debuted for the public. Upgrades included:

- A Spanish translation of the entire site.
- Easier login process with a person's username being an individual's email address.
- No email verification being needed for first-time users who are using a court computer. (However, those who are using a device other than a court computer will still need to verify their email.)
- Progress bar and auto-save available when filling out forms.
- Additional links to resources for finding a victim advocate, legal advice, and safety planning.

The Court Clerk portal has been combined with the Servicing Agency portal. With the combined portal, court clerks can now access data about protective orders across the entire state. This can reduce the number of orders with conflicting terms when each party to a case seeks their own protective order.

C. Legislative Update

Liana Garcia, director, AOC Government Affairs, shared a final update on various bills of interest to CIDVC from the most recent legislative session. Bills that were passed by both chambers and signed by the governor will take effect on October 30, 2023.

- **HB 2312: Women's shelters; male employees; liability** – stated that there is no liability for gender discrimination in a facility that (1) prohibits a biological male employee from being in the presence of a woman or a woman's minor children who live in the facility and (2) has a sole purpose of providing a safe and stable shelter for women or women with minor children. In other words, facilities and shelters for women are not legally responsible for refusing to employ male employees. The bill was vetoed by the governor.
- **HB 2482: Sexual assault kits; victim notification** – appropriates \$7.6 million from the general fund in FY2023-24 to the Law Enforcement Crime Victim Notification Fund. This expands the software that can be used by law enforcement agencies using monies from the fund. This bill will also appropriate \$400,000 from the general fund in FY2023–2024 to the

- state treasurer, allowing for the evaluation, certification, and payment of any costs associated with the fund, and it will also establish the Sexual Assault Kit Study Committee. This bill was passed by both chambers and signed by the governor.
- **HB 2516: Child abuse; investigations; forensic interview** – allows an individual who takes a child into custody because of exigent circumstance to have the child forensically interviewed by a trained forensic interviewing professional, instead of a licensed physician or health care provider. This bill was passed by both chambers and signed by the governor.
 - **SB 1304: Home arrest; electronic monitoring** – would permit an inmate who is sentenced to at least two years of imprisonment and who has served at least one year of the sentence imposed by the court to be eligible for the Home Arrest Program if they meet specified criteria, such as whether the inmate was convicted of a felony that was not a serious offense and whether the person has not been convicted of a dangerous crime against children or a sexual offense. This bill was held in the House and did not pass.
 - **SB 1582: Lifetime injunction; petition; procedures** – states that a conviction that is set aside or sealed does not affect the validity of a lifetime injunction and does not prohibit a victim from submitting a petition to the court requesting a lifetime injunction. This bill covers elements that were missed when Kayleigh’s Law was passed in 2022, such as allowing a victim to request a lifetime injunction even after a sentence has been given or after a conviction has been set aside or sealed. This bill was passed by both chambers and signed by the governor.

It was also noted that during the 2023 legislative session, SB 1061 and SB 1176, which expand confidentiality and a privacy protection program to include elected officials and election officers and healthcare professionals, respectively, were also passed. Legislative proposals are currently being vetted for the next session, and discussion ensued about possible proposals for changes in A.R.S. 13-911, relating to the sealing of arrest, conviction, and sentencing records.

D. ACJA § 5-209: Court-Approved Domestic Violence Offender Treatment Programs; Arizona Supreme Court Rules Agenda

Judge Million provided an update on the proposal to add a new section—5-209: Court-Approved Domestic Violence Offender Treatment Programs—to the Arizona Code of Judicial Administration (ACJA). This proposal was passed and took effect in July. She proposed that CIDVC develop training and education on this subject for limited jurisdiction judges and create a bench card for the Judicial Conference next June.

E. Judicial Education: 2024 Judicial Conference

Discussion ensued about ideas for the Judicial Conference. CIDVC typically sponsors two domestic violence-related sessions at the annual conference. Judge Fisk agreed to reach out to the Stalking Prevention, Awareness, and Resource Center (SPARC) about presentations they offer specifically for judicial officers and county attorneys. These presentations include information about different tools used for stalking and the interplay of stalking and domestic violence statutes.

Judge Million invited CIDVC members to think about other speakers they would want to propose. Suggestions must be sent by October 1 to allow for planning and approval by the Judicial Conference Planning Committee. Ideas discussed included national speakers and sessions on firearms transfer and conditions of release. Judge Catherine Gaudreau also shared that after the Justices of the Peace/Magistrates Conference she attended last week, materials created by CIDVC would be posted on the justices of the peace and magistrates’ webpages.

F. Workgroup Reports; *CIDVC News*

Judge Million discussed reinvigorating the workgroups: Family Law, High Risk and Lethality, Protective Orders, Domestic Violence and Rural Courts, and Domestic Violence Offender Treatment. A list of the workgroups will be sent out to CIDVC members as a poll so members can decide which workgroup they would like to be a part of.

- **Family Law Workgroup** – Patricia Madsen provided an update on a presentation and a bench card that this workgroup put together for the June 2023 Judicial Conference. She reported that the presentation, which focused on protective orders and the experience of domestic violence survivors in court, had great feedback overall, but there were a few negative comments. Overall, though, the main takeaway is that mandatory domestic violence training is necessary for judicial officers, from which discussion ensued, including about how domestic violence is linked to other types of court cases and what can be done to training mandatory. On the latter point, it was suggested that it could be mandated under federal law, and examples of relevant cases (e.g., family, criminal, juvenile, and probate) would be helpful. Members decided to continue this discussion at the next meeting.

The Family Law workgroup does not have any current projects; however, a presentation on the traumatized brain and how it affects communication in a court context was explored.

For *CIDVC News*, the workgroups were asked to contribute articles for the next issue, and the length of an article should be between 500–750 words. Deadline for submissions is October 6.

III. OTHER BUSINESS

A. Announcements

Judge Million informed the members that the next CIDVC meeting will be virtual and proposed that there be an in-person meeting for the February or May meeting. The 2024 meeting schedule was announced: February 13, May 14, September 10, and November 5.

Call to the Public: Camille Swanson and Alamu Manickam addressed the committee.

B. Next Meeting. Tuesday, November 14, 2023; 9:00 A.M. Virtual meeting.

The meeting adjourned at 10:32 a.m.

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Minutes

November 14, 2023; 9:00 a.m.

Telephonic: Judge Wendy Million (chair); Elaine Armfield; Judge Marianne Bayardi; Det. Pierre A. De La Ossa; Judge Ronda Fisk; Judge Catherine A. Gaudreau; Joshua Halversen; Judge Statia D. Hendrix; Dr. Joi Hollis; Dr. Cedar Stagner Kile; Patricia Madsen; Leah Meyers; Amy Offenber; Dana Owens; Pearl Puente; Judge Sharron L. Sauls; Charles R. Seyffer; Kristi Ward; Danielle Washington-Wright; Tracey J. Wilkinson

Absent/Excused: Lynn Fazz; Judge Alison Ferrante; Deborah Fresquez; Anna Harper; Lt. John M. Johnson; Judge Dyani Juarez; Ofcr. Christopher L. Malast; Emily C. Uline-Olmstead

Presenters/Guests: Liana Garcia

Administrative Office of the Courts (AOC) Staff: Theresa Barrett; Veronica Gonzales; Kay Radwanski

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The November 14, 2023, 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.

B. Approval of Minutes

The September 12, 2023, CIDVC meeting draft minutes were presented for approval.

Motion: To approve the September 12, 2023, meeting minutes as presented. **Moved:** Dr. Joi Hollis. **Seconded:** Judge Ronda Fisk. **Vote:** Passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Potential Legislation Related to Parenting Time Orders and Domestic Violence

Liana Garcia, AOC legislative liaison, shared that several legislators are interested in the family legal decision-making arena, specifically regarding allegations of abuse, parental alienation dynamics, and eliminating the use of any type of intensive, mandatory family reunification camps. There have not been any formal proposals yet, but the overall ideas for legislation are related to Kayden's Law, which originated in Pennsylvania but was later incorporated as a federal law as a provision to the Violence Against Women Act (VAWA). How Kayden's Law was incorporated federally outlines additional funding for states that conform their laws to follow what was adopted federally. This includes requiring judicial training and education related to domestic violence for judicial officers and staff and prohibiting family court from entering orders that seek to address parental alienation by way of intensive family unification therapy.

Parental alienation is the idea that one parent alienates the child against the other parent by coaching the child and convincing them of negative perceptions of the other parent. In some family court arenas, alienation is offset by orders of sole custody of the child for a period of time, which allows breaking up the contact between the alienating parent and the child and

giving parental time to the disfavored parent. Kayden's Law, however, seeks to eliminate that practice, and there are some therapeutic interventions that are designed toward family court judges when it comes to parenting time orders, and this is what legislators are interested in.

Other related potential legislation includes examining standards of evidentiary review and providing avenues for experts that testify in family court to provide advice to judges on these matters. These experts would also be held at a similar evidentiary standard. Discussion ensued about clarification on Kayden's Law, parental alienation in criminal cases, and how legislators can work more with the court system.

B. Review: Proposed Revisions to ACJA § 1-302

Judge Million discussed an amendment to ACJA § 1-302: Education and Training that proposes mandatory domestic violence training for all judicial officers and staff. This proposal is for a code section, similar to the code section on court-approved domestic violence offender treatment programs that was previously approved. Previous efforts to change the code have been unsuccessful, but including Kayden's Law as reasoning to support the need for the proposal, there may be a better chance of success for approval. With this code section and Kayden's Law, Arizona would be compliant with federal law, allowing for more funding from the federal government.

This proposal, as presented, would require any judge, clerk, or staff who serves the court in the areas of family, juvenile, probate, or criminal law and Orders of Protection would be required to complete three hours of domestic violence training every two years. For the next strategic agenda, CIDVC has recommended mandatory domestic violence training for judges and court staff, and it is hoped that Vice Chief Justice Ann Timmer, who is expected to become Chief Justice in 2024, will include CIDVC's proposal in her strategic agenda. The strategic agenda is still in the drafting process, but if this initiative is included, CIDVC's proposed code change will have more weight.

Discussion ensued about the existing code section, the difference between injunctions and Orders of Protection as related to what trainings will cover, adding injunctions into the language of the proposed code change, how broad the code section should be, why this current draft starts with a low number of required training hours, if staff should be required to complete fewer hours than judges, and whether required training should be three hours per year or six initial hours of domestic violence and six initial hours of child abuse with four hours of subsequent training every two years.

Formal action on the proposal was postponed until revisions have been made, after giving consideration to points raised in discussion. The proposed revisions to ACJA § 1-302 will be presented again at the February meeting.

C. Review: Protective Order Forms and Bench Card/Forms

Kay Radwanski, AOC staff, presented on proposed changes to various protective order forms. ACJA § 5-207 mandates courts to use only AOC-approved protective order forms, and it further authorizes David Byers, AOC administrative director, to approve the forms. Mr. Byers considers CIDVC's recommendations when deciding whether to approve forms changes.

On the Plaintiff's Guide Sheet, Defendant's Guide Sheet, and Order of Protection (OP) forms, references to service on or after September 24, 2022, should be removed. In the 2022 legislative session, ARS § 13-3602 was amended to increase the duration of an OP to two years.

The statutory change affected any OP served on or after the effective date of September 24, 2022. More than a year has passed since the effective date, so the reference to the effective date can be removed.

On the Plaintiff's Information Sheet, a line for listing the business name was included because this information is necessary when filing an Injunction Against Workplace Harassment.

On the General Petition form, a proposal was introduced to change the title to "General Petition for Protective Order" and remove the checkboxes where the plaintiff indicates which type of protective order the plaintiff is requesting. The removal of these checkboxes is being proposed because plaintiffs sometimes choose incorrectly, resulting in amended petitions having to be filed and updates made in case management systems and AZPOINT. Discussion ensued about a different title for the form, whether computer systems would have to be updated because of this change, if judges would have to be the ones to decide which protective order to issue, how AZPOINT determines which type of protective order is being requested based on the plaintiff/defendant relationship, and whether this change serves the plaintiffs themselves.

There was a consensus that the changes to the Plaintiff's Guide Sheet, Plaintiff's Information Sheet, Order of Protection, and Defendant's Guide Sheet were beneficial, but the changes made to the General Petition form need to be reviewed and reworked. Regarding the Plaintiff's Guide Sheet, the appropriateness of including language that addresses juveniles who are requesting protective orders was discussed.

The bench cards will be presented and reviewed at the February meeting.

D. 2024 Judicial Conference; Workgroups; CIDVC News

Judge Million advised that the Stalking Prevention, Awareness, and Resource Center (SPARC) is willing to provide two sessions at the 2024 Judicial Conference. SPARC has agreed to a presentation about stalking as it relates to domestic violence and another session on the use of electronics by stalkers. Judge Million is also proposing that CIDVC sponsor a third session on the new code section regarding the process courts must follow in approving domestic violence offender treatment programs. These sessions for the Judicial Conference must be approved by the Judicial Conference Planning Committee.

Because scheduling for workgroup meetings has proven to be difficult given the varying time conflicts that members have, Judge Million suggested that perhaps the groups should be consolidated and that projects that CIDVC is interested in pursuing should be based on volunteers from the members instead of assigned to certain workgroups. Potential volunteer projects include updating bench cards and scripts in bench books and writing articles for *CIDVC News*. Discussion ensued about the status of workgroups, including the pros and cons of dismissing the workgroups in favor of a more volunteer-based system. It was decided that the workgroups can be discussed in more detail at the February meeting.

III. OTHER BUSINESS

A. Announcements

Judge Million informed the members that the next CIDVC meeting on February 13, 2024, will be in person. The meeting schedule for 2024 was also announced: February 13, May 14, September 10, and November 5.

Call to the Public: Rachel Cardona, Silver Newton, Kristan Landry, Angela Nielsen, and Michelle

Fox addressed the committee.

- B. **Next Meeting.** Tuesday, February 13, 2024; 10:00 a.m., Conference Room 119 A/B, Arizona State Courts Building.

The meeting adjourned at 11:02 a.m.