

Commission on Victims in the Courts  
DRAFT MINUTES  
Friday, February 5, 2010  
10:00 a.m. to 12:00 p.m.  
State Courts Building  
1501 W. Washington Street  
Phoenix, AZ 85007  
Conference Room 345

**Members Present:**

Mr. Paul Ahler  
Hon. Lex Anderson  
Mr. James J. Belanger  
Ms. Patricia Bigwood  
Mr. Michael Branham  
Dr. Kathryn Coffman  
Ms. Sydney Davis  
Hon. Gary Donahoe  
Cpt. Larry Farnsworth  
Ms. Daisy Flores  
Ms. Leslie James  
Mr. Dan Levey  
Ms. Keli Luther  
Hon. Anna Montoya-Paez  
Mr. Doug Pilcher  
Mr. Paul Prato  
Hon. Ronald Reinstein (Chair)  
Hon. Antonio Riojas, Jr.  
Mr. David Sanders  
Hon. Richard Weiss

**Members Absent:**

Ms. JoAnn Del Colle  
Ms. Karen Duffy  
Hon. Andrew Gould  
Hon. William O'Neil  
Ms. Hilary Peele

**Presenters/Guests:**

Ms. Samantha Alcocer  
Ms. Lori Ginsberg  
Ms. Maria Hoffman  
Ms. Caroline Lutt-Owens  
Ms. Katy Proctor  
Ms. Sharon Tillman

**Staff:**

Ms. Carol Mitchell  
Ms. Kimberly Reid

## **I. Regular Business**

### **A. Welcome and Opening Remarks**

The February 5, 2010 meeting of the Commission on Victims in the Courts (COVIC) was called to order by Chair, Honorable Ronald Reinstein, at 10:05 a.m.

Congratulations were offered to Judge Weiss for being named the new presiding judge of the Superior Court in Mohave County.

National Crime Victims' Rights Week is taking place in April. The Attorney General's Office will be presenting distinguished service awards. Nominations will be accepted through February 12, 2010. Please see Addendum A.

Members were reminded of the importance of ensuring a quorum at each meeting and were asked to use the online RSVP form available at <http://www.supreme.state.az.us/covic/agenda-minutes.htm>

### **B. Approval of November 6, 2009 Minutes**

Minutes from the November 6, 2009 Commission on Victims in the Courts meeting were presented for approval.

**MOTION:** To approve the November 6, 2009 Commission on Victims in the Courts minutes as presented. *Motion seconded and passed unanimously.*

## **II. Business Items / Potential Action Items**

### **A. Legislative Update**

Ms. Katy Proctor reviewed pending legislation as described in Addendum B. At this time the Supreme Court has not taken a stance on any of these bills.

Discussion:

- Mr. Paul Ahler stated that HB 2525 was set for a hearing but was pulled from the calendar. His office does not support this bill in its current form.
- Mr. Dan Levey also discussed two additional bills. Representative Lujan introduced a bill to create a homicide memorial at Wesley Bolin Plaza. He also introduced a bill to make escape from a state hospital by a sexually violent person a felony when it is currently a misdemeanor.

### **B. Children in the Court Update**

As the chair of the Children in the Court Workgroup, Dr. Kathy Coffman explained that the workgroup has been working for an extended period of time on the proposal for enhanced guidelines/standards of practice for attorneys who represent children in dependency, guardian and

termination proceedings. The current suggestion has been to turn the recommendation over to each county to form their own standards. Concerns have been expressed about having 15 different sets of standards in the state. Chief Justice Rebecca White Berch and Mr. Dave Byers suggested that one option is to refer the proposal to the Committee on Juvenile Court where the Court Improvement Advisory Workgroup can determine the best way to proceed. There are at least three options for implementing the standards. The presiding juvenile judges recommended that the presented administrative order be signed by the Chief Justice requiring each county to adopt their own standards. Another option is to forward the proposal to the State Bar Association, and a third option is to have the legislature handle the proposal.

Ms. Maria Hoffman, Director of the Legislative Office of Family Advocacy, explained her various experiences with child advocates and guardian ad litem (GALs). She noted many cases in which there was no contact between the children, foster parents and the attorneys/GALs. She believes that the proposal is a wonderful idea; however, the Legislature's concern with the proposal is that it does not say how the standards will be enforced.

Ms. Caroline Lutt-Owens, Director for Dependent Children Services for the Administrative Office of the Court, explained that Court Improvement Advisory Workgroup of the Committee on Juvenile Court is comprised of presiding juvenile judges, attorneys and advocates so it would be an appropriate forum to move the proposal forward.

Discussion:

- Judge Reinstein briefly reviewed the statewide standards proposed in 2000 and questioned the need for some of the detailed requirements, such as standard 8 and some of the training mandates
- Judge Weiss supports a statewide standard and believes that the size of the county should not determine the level of service the children receive. He would also like to see Mental Health Child Family Team's added to the requirement of this standard.

**MOTION:** To refer the proposed administrative order and statewide standards from 2000, to COJC as drafted by the subcommittee. *Motion seconded and passed unanimously.*

### **C. Appellate Court Update**

Judge Reinstein gave an update on behalf of Judge Timmer, Chief Judge of Court of Appeals, Division One. A group of staff reviewed appellate court opinions in search of victim names that need to be redacted. The group reviewed a number of cases and anything that was found to be questionable has been sent to Judge Timmer for review. She will be reviewing those cases this month and will work with the publishers to replace names with initials if necessary.

Discussion:

- Ms. Keli Luther asked the group to be considerate of this issue in all documents associated with any case. She suggested using initials or the word "victim" in place of the victim's full name. Many of these documents are now available on the Internet and it is very difficult to remove names at a later date.

**ACTION ITEM:** Mr. Ahler will request that a discussion of the use of initials in all documents be placed on the APAAC meeting agenda.

## **D. Evidence Based Practices Presentation**

Ms. Kathy Waters, Director of Adult Services for the Administrative Office of the Courts, gave a brief presentation on evidence based sentencing. Trainings on the subject have been conducted to attorneys throughout the state.

Evidence based practices are practices that have been proven to work by research. Probation departments throughout the state are now using techniques that are proven to help reduce recidivism. An assessment, based on risk and need principles, is conducted as soon as possible after the offender enters the system. The results from the assessment are used to inform the sentencing judge in the presentence report. There needs to be a balance of nurturing and punitive attitudes to reduce effectively recidivism in most probationers.

Discussion:

- Mr. Michel Branham stated that since these practices have been introduced in the juvenile arena, recidivism has declined ten percent in one year.
- Last year's goal of reducing adult probationers' technical violations by five percent resulted in actual reductions close to 12 percent.
- In Indiana, a similar program known as Thinking for a Change teaches offenders how to change their cognitive thinking. The program has resulted in greatly improved recidivism rates.
- Ms. Daisy Flores explained that victims sometimes have a hard time understanding evidence based practices. Some of them view it as the courts coddling the offender.
- Judge Weiss would like to see a change in statute that would create a restitution order at the time of sentencing.
- Mr. Levey would like to see restitution paid off before offenders are released from probation. He believes that after release from probation, it is more difficult to collect restitution.

## **E. Strategic Planning- SAVIN project**

Ms. Carol Mitchell presented a possible grant opportunity to develop a statewide victim notification system. It is similar to a previous system used in the state. Victims would be able to sign up and get a phone call or email notification about upcoming court dates and incarceration status changes of the offender. Hawaii, Vermont and Virginia have similar programs.

Discussion:

- Mr. Levey's concern with automated systems notifying victims is the lack of personal contact. The victim is not able to ask questions at that time and need to make a separate phone call if they have any questions. He also worries about victims finding out that the offender is being released from prison by a computer, versus a person.

**ACTION ITEM:** Mr. Ahler will request that a discussion of the SAVIN grant be placed on the APAAC meeting agenda.

## **F. Work Group Updates**

### **1. Restitution**

Mr. Levey explained that in Maricopa County, the Department of Corrections (DOC) collections increased by 62 percent in 2009. It is believed to be attributed to the new legislation allowing restitution to be collected from monies received while in DOC.

Ms. Keli Luther stressed the importance of using the specific language requested by DOC in the restitution order, otherwise the restitution may not be collected from this source. Judge Reinstein would like to explore ideas of how to disseminate this information to judges throughout the state.

**ACTION ITEM:** Members of the committee will send Ms. Mitchell the specific language they use in order to collect restitution from monies received while in DOC. She will disseminate this information to the group.

## **III. Business**

### **A. Next Meeting:**

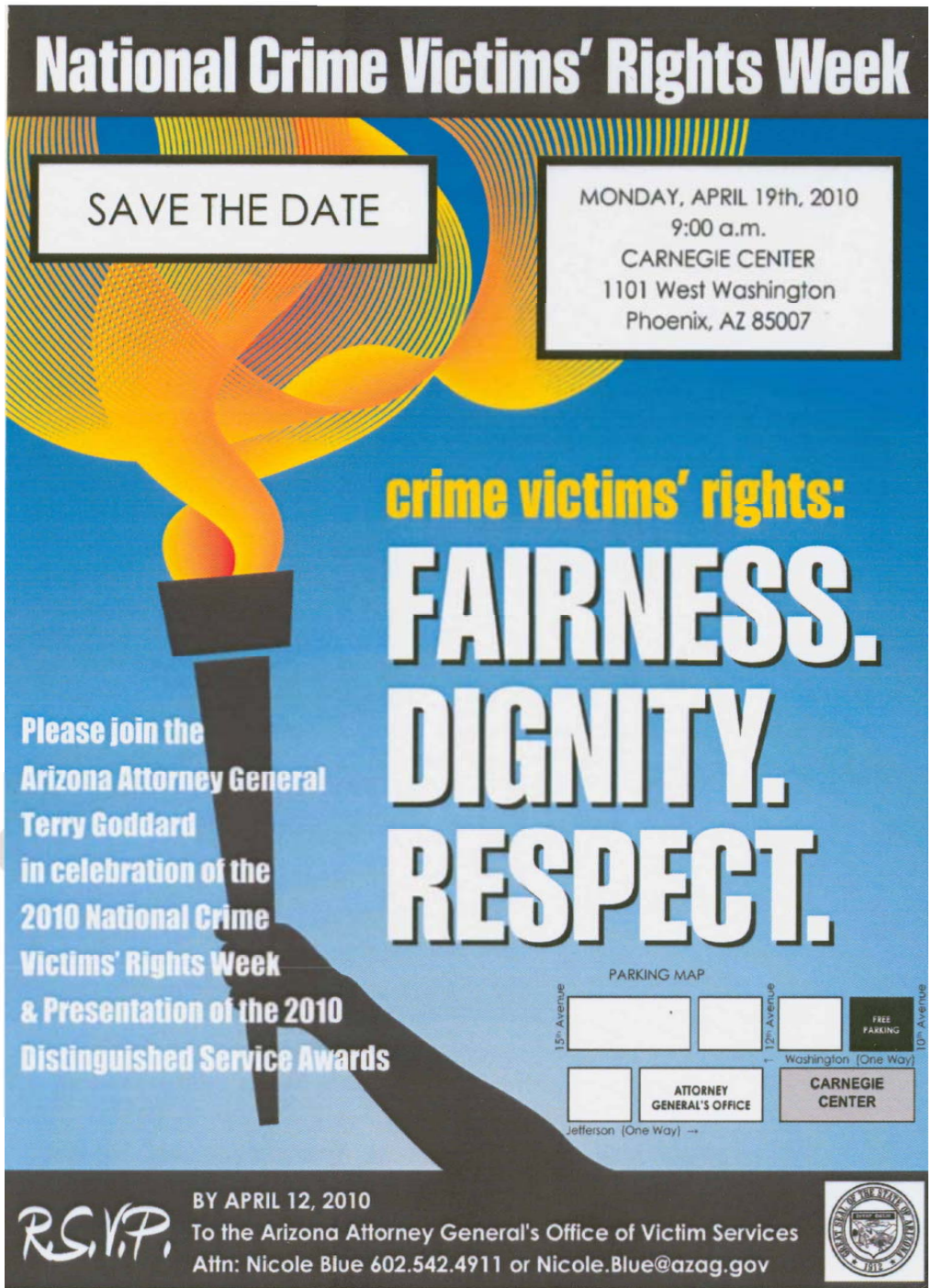
May 14, 2010  
10:00 a.m.  
State Courts Building  
Phoenix, AZ 85007  
Conference Room 345 A/B

### **B. Call to the Public**

Mr. Ahler would like to inform the members of COVIC that there is a Sentencing Reform Committee being headed up by Representative Ash. The next meeting is scheduled for February 27 and the agenda is mostly defense topics. He believes it would be helpful for victim advocates to be present.

### **C. Adjournment**

The meeting adjourned at 12:11 p.m.



# National Crime Victims' Rights Week

**SAVE THE DATE**

MONDAY, APRIL 19th, 2010  
9:00 a.m.  
CARNEGIE CENTER  
1101 West Washington  
Phoenix, AZ 85007

**crime victims' rights:**  
**FAIRNESS.**  
**DIGNITY.**  
**RESPECT.**


Please join the  
Arizona Attorney General  
Terry Goddard  
in celebration of the  
2010 National Crime  
Victims' Rights Week  
& Presentation of the 2010  
Distinguished Service Awards

**PARKING MAP**

15th Avenue | 12th Avenue | 10th Avenue  
Jefferson (One Way) → | Washington (One Way) | FREE PARKING

ATORNEY GENERAL'S OFFICE | CARNEGIE CENTER

**RSVP** BY APRIL 12, 2010  
To the Arizona Attorney General's Office of Victim Services  
Attn: Nicole Blue 602.542.4911 or Nicole.Blue@azag.gov



## **Commission on Victims in the Courts**

Review of Current Legislation

February 5th, 2010

### **HB 2525; life sentence; parole eligibility (Rep. Ash)**

A person convicted of murder and sentenced to life in prison for an offense that was committed before August 8, 1973 is eligible for parole after serving 25 calendar years. If the person was convicted of any other offense and is serving a sentence that runs consecutively to the murder conviction the person is eligible for parole only to the consecutive sentence. The two aforementioned parole eligibilities are to take effect immediately on the effective date of this section. Directs the state department of corrections to notify all persons who are eligible for parole under this section of their parole eligibility within 30 days after the effective date of this section. Contains an intent clause and an emergency clause.

Title affected: 13

### **SB 1035; parental rights; termination; hearing (Sen. Waring)**

Requires guardian ad litem to meet with the minor at least once after the petition to terminate parental rights has been filed and before the initial hearing. Strike everything amendment adopted to include an appointed attorney in this provision, and to make the meeting requirement more stringent so that the guardian ad litem or attorney must meet with the minor as soon as possible following the appointment.

Title affected: 8

### **SB 1037; sentencing; natural life imprisonment (Sen. Waring)**

Removes life with the possibility of release after 25 years as a sentencing option for first degree murder.

Title affected: 13

### **SB 1055; victims' rights; disclosure of information (Sen. Paton)**

Includes the court in the list of entities to which a crime victim's information may be disclosed by an advocate providing services to the victim if consented by the victim and in the furtherance of any victim's right.

Title affected: 13

Commission on Victims in the Courts  
DRAFT MINUTES  
Friday, May 21, 2010  
10:00 a.m. to 12:00 p.m.  
Judicial Education Center  
541 E. Van Buren B-4  
Phoenix, AZ 85004  
Silver and Turquoise Rooms

Members Present:

Hon. Lex Anderson  
Mr. James J. Belanger  
Ms. Patricia Bigwood  
Ms. Libby Bissa- Proxy for Ms. JoAnn Del Colle  
Ms. Shelly Corzo  
Mr. John D'Amico- Proxy for Cpt. Larry Farnsworth  
Ms. Sydney Davis  
Ms. Karen Duffy  
Ms. Daisy Flores  
Hon. Andrew Gould  
Mr. Dan Levey  
Hon. Anna Montoya-Paez (telephonically)  
Hon. William O'Neil  
Ms. Elizabeth Ortiz- Proxy for Mr. Paul Ahler  
Mr. Doug Pilcher  
Hon. Ronald Reinstein (Chair)  
Mr. David Sanders  
Ms. Sarah Vasquez- Proxy for Mr. Michael  
Branham  
Hon. Richard Weiss

Presenters/ Guests:

Hon. Gary Donahoe  
Hon. Sally Duncan  
Mr. Bob James  
Ms. Brittany James  
Ms. Barbara Marshall  
Ms. Beth Rosenberg

Staff:

Ms. Carol Mitchell  
Ms. Kimberly Reid

Members Absent:

Dr. Kathryn Coffman  
Ms. Leslie James  
Ms. Keli Luther  
Mr. Paul Prato  
Hon. Antonio Rojas, Jr.

## I. Regular Business

### A. Welcome and Opening Remarks

The May 21, 2010 meeting of the Commission on Victims in the Courts (COVIC) was called to order by Chair, Honorable Ronald Reinstein, at 10:04 a.m.

Judge Reinstein introduced Shelly Corzo as the newest public member of COVIC. She explained that she was initially immersed in the court system after her husband was murdered six years ago. She was unfamiliar with the criminal justice system and was forced to navigate through it during the very difficult time. She is enthusiastic about working with COVIC and bringing her victim perspective.

### B. Approval of February 5, 2010 Minutes

Minutes from the February 5, 2010 Commission on Victims in the Courts meeting were presented for approval.

MOTION: To approve the February 5, 2010 Commission on Victims in the Courts minutes as presented. Motion seconded and passed unanimously.

## II. Business Items / Potential Action Items

### A. Legislative Update

Ms. Katy Proctor provided a written summary of victim related legislation. (See Addendum A).

Discussion:

- Ms. Beth Rosenberg discussed that SB 1266 addresses "sexting" with teenagers. The bill differentiates the various types of sexting and varying severity levels; otherwise, it would have placed a large burden on the juvenile justice system to handle all forms of sexting the same.
- Judge Reinstein said there might be a challenge to the legislation based on the fact that the bill dealt with the admissibility of expert opinion testimony, which normally is within the jurisdiction of the Supreme Court's rule making power.
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### B. Children in the Court Update

Ms. Beth Rosenberg is currently working with the Committee on Juvenile Court's Committee Improvement Project (CIP) which has been tasked with determining how to implement the child representative standards that COVIC's subcommittee originally drafted. Simultaneously, the legislature was working on SB 1035 and limited the scope of the bill because court committees were working on addressing them within the judicial branch. SB 1035, mandates that guardian ad litem (GAL) or

attorneys must see the child they are representing prior to each hearing. The CP has drafted additional standards to apply to all appointed GALs and attorneys:

- Explain their role (GAL or attorney) and what it means to the child
- Inform the child, in an appropriate manner, about the nature of the court hearing, the possible outcomes of the hearing and the child's right to attend court and speak to the judge
- See the child before the preliminary protective hearing, or within 14 days after
- Meet with the child prior to any substantive hearing (the specific substantive hearings are outlined in the proposal)
- Check on the child's placement, if the child is under the age of five, or unable to communicate verbally
- Maintain contact with the child's caretakers
- Go to foster care review boards, child protective service staffing and mental health child and family teams to the extent possible

Upon showing of extraordinary circumstances, the judge may modify any of these requirements on a case-by-case basis. The recommendation also includes a training and continuing education requirement. The recommendation will go to the Committee on Juvenile Courts in June for their approval.

Discussion:

- Judge Weiss explained an administrative order dictating that every county has to implement standards for parents in dependency cases also.
- Judge Montoya-Paez stated that Santa Cruz and Cochise Counties have been working together to provide classes that would most likely meet the training requirements.

### C. Rule 10.5 Petition

The Supreme Court Rules Committee referred the rule petition back to COVIC for comment and the Commission has received periodic updates about the proposed rule. At this time, Maricopa County Attorney's Office does not plan to withdraw their petition. Ms. Barbara Marshall, from the County Attorney's Office, explained the current Master Calendar system. Although it differs from the previous Case Transfer system that led to the proposed rule change, there are continuing issues with cases not starting on the scheduled trial date. This uncertainty creates unnecessary stress and financial burdens on victims.

Judge Gary Donahoe, former Presiding Criminal Judge for Maricopa County Superior Court, believes that delayed cases are not an issue. He provided a hand out of the monthly average of delayed cases, please see Addendum B. There were 640 cases in 10 months. 118 cases (18%) didn't start within a day of the firm trial date. Prior to the Master Calendar system around 28% were delayed. He believes that this is a great improvement and because this is a resource issue, a rule change is not appropriate. The court had 16 lengthy trials and resolved roughly 60 capital cases in the past 14 months. The court is committed to firm trial dates and believes this rule will inhibit the progress that has already been made.

Discussion:

- Judge O'Neill expressed that his original concern with the rule petition is that this is a Maricopa County issue and this rule should not apply to other counties.
- Doug Pilcher believes that this rule would adversely affect his court (Phoenix Municipal), as they use a master calendar system as well.

MOTION: To recommend a rejection of the petition as presented and refer the policy change to the Maricopa County officials. Despite support of the concept, the Commission believed the current proposal will not accomplish that goal of moving cases forward in a timely manner and may cause further delay at the victim's expense. Furthermore, since most crime victims do not have an attorney, the interest of the state and defense, and not the victim, may be the priority when deciding to continue proceedings for the full five days. Motion seconded and passed unanimously.

#### D. Victim Rights' Notification Issues

Mr. Dan Levey introduced Brittany James, the Attorney General's Victim Rights' Compliance Officer that deals with alleged victim rights complaints. She explained that the two most common complaints are 1) victims not being notified about continuances and 2) victims not receiving notification of sentencing results within fifteen days after the hearing.

As cases get continued, the prosecutor's offices assert they are not provided timely notice to relay that information to the victim. Victims are going to court and finding out once they get there that the case will not proceed on that day, leading to frustration with the system.

The most common reason for delayed sentencing notification is delayed minute entry updates at the court level. In some courts it is taking more than fifteen days to get the information entered.

#### Discussion:

- Judge Andrew Gould explained that most of the rural courts are still adjusting to the new case management system, AJACS, which has created some delay with entering minute entries and other case information.
- Multiple court members believe that waiting for minute entries is not an acceptable excuse for delaying sentencing notification to victims.
- It was shared that the sentence notification can be sent prior to the minute entry being entered into the case management system.

ACTION ITEM: Ms. Elizabeth Ortiz, acting director of the Arizona Prosecuting Attorney's Advisory Council (APAAC) will bring these victim notification issues up at a future APAAC meeting.

#### E. Work Group Updates

##### 1. Restitution

The restitution website, [www.azcourts.gov/restitution](http://www.azcourts.gov/restitution), is now up and running.

Mr. Dan Levey explained that there will soon be three judges in Maricopa County conducting restitution court. Judge Steinle's program has caught the attention of other counties and states. In 21 months, restitution court has collected nearly a quarter of a million dollars. A copy of the Memorandum

of Restitution Delinquency was provided in Addendum C. This memorandum may be sent to the court once the offender is six months in arrears.

Ms. Carol Mitchell, Mr. Levey and Judge Reinstein worked on disseminating the language to Presiding Judges and Clerks that should be used when ordering restitution which will be paid from monies received by defendants while incarcerated. This minute entry language was necessary to ensure that Department of Corrections is able to collect restitution.

There is still a concern that each county is handling restitution differently when a case is on appeal.

#### 2. Administration of Justice

With Judge O'Neil volunteering to serve as chair, the workgroup is now looking for members. Mr. James Belanger, Ms. Shelley Corzo, Mr. Dan Levey and Honorable Richard Weiss all expressed interest in serving on the workgroup. Ms. Barbara Marshall expressed that someone from the Maricopa County Attorney's Office would be a good fit as well.

### III. Business

#### A. Next Meeting:

October 1, 2010

10:00 a.m.

State Courts Building

Phoenix, AZ 85007

Conference Room 119

#### B. Call to the Public

Ms. Daisy Flores discussed an article that was in the Arizona Republic today about prosecution that is at odds with the victims or victim representatives (see Addendum D for the article that spurred this discussion). She would like APAAC to look at this issue as well and help address incidents when victims are at odds with the county attorney. Judge O'Neil suggested that perhaps it is time to relocate the victim advocate offices and separate them from the county attorney's office. Many members expressed interest in this topic and various ideas were discussed. It was suggested that the administration of justice workgroup look further into this issue.

#### C. Adjournment

The meeting adjourned at 12:03 p.m.

## Addendum A

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### **Commission on Victims in the Courts**

Legislative Summary

Friday, May 21 2010

#### **SB 1035; Guardian ad litem; child; hearings (Sen. Waring)**

If the court appoints a guardian ad litem (GAL) or attorney for a minor, the GAL or attorney must meet with the minor at least once before the preliminary protective hearing (PPH), if possible, or within 14 days after the PPH. Directs the GAL or attorney to meet with the minor before all other substantive hearings. Allows the judge to modify these requirements for any substantive hearing upon a showing of extraordinary circumstances.

Statute amended: § 8-221

#### **SB 1055; Victims' rights; disclosure of information (Sen. Paton)**

Includes the court in the list of entities to which a crime victim's information may be disclosed by an advocate providing services to the victim if the victim consents and the disclosure is in the furtherance of any victim's right.

Statute amended: §13-4430

#### **SB 1095; Access to child; notification (Sen. L. Gray)**

Requires a child's parent or custodian to immediately notify the other parent or custodian if the parent knows that a convicted or registered sex offender or a person who has been convicted of a dangerous crime against children may have access to the child. The parent or custodian must provide written notice to the other parent or custodian should they find out that a sex offender or person who has committed dangerous crimes against children has access to the child. Requires the educational program and proposed parenting plan to include a statement that each parent has read, understands and will abide by the notification requirements outlined above.

Statutes amended: §§ 25-351, 25-403.02, 25-403.05

#### **SB 1189; Admissibility of expert opinion testimony (Sen. Leff)**

In a civil and criminal action, expert testimony regarding scientific, technical or other specialized knowledge may only be offered by a qualified witness. In order for the testimony to be admissible the court must determine that:

- The witness is qualified as an expert on the subject matter based on knowledge, skill, experience, training or education
- The witness reliably applied the principles and methods to the facts of the case
- The opinion will assist the trier of fact in understanding the evidence or determining a fact in issue
- The opinion is based on sufficient facts and data and is the product of reliable principles and methods

In order to determine whether the testimony provided by a qualified witness is admissible, the court shall consider, if applicable whether the expert opinion and its basis can be tested and have been subjected to peer reviewed publication, the rate of error of the expert opinion and its basis and the degree to which the opinion and its basis are accepted in the scientific community.

In essence, legislatively applies Daubert to Arizona, however, the bill requires the judge to apply the above enumerated factors if applicable; Daubert provides discretion to the trial judge as to whether to apply the factors.

Statute created: § 12-2203

SB 1266; Juveniles; communication devices; sexual material (Sen. Paton)

Establishes a new offense, Unlawful use of an electronic communication device by a minor. It is unlawful (delinquent act) for a juvenile to either intentionally or knowingly use an electronic communication device to transmit a visual depiction of a minor that depicts explicit sexual material. The offense is classified as either a Petty Offense or Class 3 misdemeanor depending on whether one or multiple images are transmitted. It is also unlawful for a juvenile to intentionally or knowingly possess a visual depiction of a minor that depicts explicit sexual material and that was transmitted to the juvenile through the use of an electronic communication device. This offense is classified as a Petty Offense. It is not a violation of the latter provision if the juvenile did not solicit the visual depiction, the juvenile took reasonable steps to destroy or eliminate the visual depiction or report the visual depiction to the juvenile's parent, guardian, school official or law enforcement officer, and the juvenile did not provide the visual depiction to another person.

A second offense, committed after adjudication for a first offense of either violation is a Class 2 misdemeanor. A prior diversion counts as an offense.

"Electronic Communication Device" has the same meaning as in §13-3560, "Explicit Sexual Material" means material that depicts human genitalia or that depicts nudity, sexual activity, sexual conduct, sexual excitement or sadomasochistic abuse as defined in 13-3501, and "Visual Depiction" has the same meaning as in §13-3551.

Adds a new provision to Aggravated Assault, committing an assault under circumstances that would result in a domestic violence offense by intentionally or knowingly impeding the normal breathing or circulation of blood of another person either by applying pressure to the throat or neck or by obstructing the nose and mouth either manually or by an instrument. The offense is classified as a Class 4 Felony.

Permits the court to grant a petitioner of an order of protection the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the petitioner, the respondent or a minor child residing in the residence or household of the petitioner. Also permits the court to order the respondent to stay away from the animal and to forbid the respondent from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect or otherwise disposing of the animal.

Eliminates the requirement that the court provide a written notice of the effect of a second or subsequent offense to a defendant who is found guilty of a first domestic violence offense.

Adds the following to the predicate offenses for domestic violence:

- First and second degree murder,
- Manslaughter,
- Negligent homicide,
- Sexual assault,
- Intentionally or knowingly subjecting an animal in the person's care or control to cruel neglect, cruel mistreatment or abandonment that results in serious physical injury to the animal
- Intentionally or knowingly preventing or interfering with the use of a telephone by another person in an emergency.

Statutes amended: §13-1204, 13-3601

Statute enacted: §8-309

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DRAFT

## Addendum B

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	Before Master Calendar	Master Calendar
Cases Continued Due to Judge Availability (Monthly Average)	12	4
Started Trial One Day After FTD	7	4
Started Trial Two Days After FTD	2	0
Started Trial Three or More Days After FTD	3	0

DRAFT

# Addendum C

## MEMORANDUM OF RESTITUTION DELINQUENCY

TO: **The Honorable Judge Smith** | DIVISION: **CRJ00**  
FROM: **Joseph Jones Probation Officer, APO** PHONE: **602-619-0000** DATE: **08-06-2009**  
DEFENDANT: **Steven Smith** CASE NUMBER: **CR2000-000000-000**  
Probation Start Date: **01-01-2008** Probation Length: **Three Years**  
Reinstatement/Extension Date: Probation Length: From:

RESTITUTION ORDER: **\$1,000.00**

MONTHLY PAYMENT: **\$50.00**

BALANCE DUE: **\$980.00**

DELINQUENCY TO DATE: **\$100.00**

Pursuant to Administrative Order No. 94-16, the Court is hereby notified that the aforementioned Defendant is delinquent in an amount totaling two full court ordered monthly payments of restitution.

The delinquency/nonpayment is attributed to:

- Unemployment  Underemployment  Medical Problems  Inpatient Treatment  Incarceration  
 Other:

The delinquency/nonpayment is expected to last at least **6 months**. No Court action is recommended at this time. In an effort to remedy the delinquency/nonpayment the defendant will be referred to:

- Job Search  Collections Unit  Payment Plan  Budget Class  Restitution Court

A Petition to Revoke Probation was considered based upon the financial non-compliance. However, given the action outlined above, this officer will continue to work with the probationer to ensure regular payments. If it becomes necessary, further notification to the Court will be made via a memorandum or Petition to Revoke Probation.

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### DIRECTION:

- Approved as recommend above  
 Prepare and Submit a Petition to Revoke Probation with:  Summons  Bench Warrant  
 Direct the defendant to appear before this Court, pursuant to ARS 13-810, on \_\_\_\_\_ at \_\_\_\_\_ at the following address and courtroom: \_\_\_\_\_  
 Take the Following Action: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, **20**\_\_\_\_, \_\_\_\_\_  
Judge of the Superior Court

## Addendum D

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### Daughters' rights complicate murder case

They believe father, accused of bludgeoning mother, is innocent

by **Dennis Wagner** - May. 21, 2010 12:00 AM

The Arizona Republic

PRESCOTT - There is a reason Katie and Charlotte Democker want the man accused of murdering their mother out of jail.

The defendant is their father, Steven Democker, who is now on trial in a case that could lead to the death penalty if the wealthy investment adviser is convicted.

Yavapai County sheriff's deputies gathered enough circumstantial evidence to file charges in a murder mystery that has horrified, captivated and divided Prescott from day one. They contend that Steven savagely beat his ex-wife, artist Carol Kennedy, in her Williamson Valley home nearly two years ago. They say Steven, 56, searched the Internet for information on how to disguise a homicide and bought books on how to disappear as a fugitive afterward.

"The circumstantial evidence against defendant is overwhelming," deputies say in court papers.

The sisters say their dad is not guilty - a position that puts them at odds with prosecutors in a legal battle over their rights as crime victims.

"My father, my dad, is the most compassionate, supportive, brilliant man I know," Charlotte, now 18, wrote in a prepared statement to the judge, provided to *The Arizona Republic* by her attorney. "If there is one thing I just know, it is my father is not capable of what he is accused of."

Under the Victim's Bill of Rights, a constitutional amendment adopted by Arizona voters in 1990, the young women are entitled to confer with prosecutors about decisions in the case. But, because the sisters are aligned with the defense, the Yavapai County Attorney's Office pressed them to renounce their rights, then declined communications with them.

Chris Dupont, the sisters' attorney, said they want no publicity but have been thrust into a constitutional controversy. "This is not a story about them having to choose sides," Dupont added. "They loved their mother. They love their father. And they believe he is innocent."

Steven Democker's trial is now in its third week of jury selection in Prescott. Testimony is expected to last three months, with more than 100 witnesses scheduled.

None of them will place Steven at the scene. Neither his fingerprints nor DNA was found. The murder weapon is missing.

Still, deputies gathered reams of information and statements which, they say, prove that he used a Callaway No. 7 Big Bertha III golf club to end years of financial feuding with Kennedy, whom he had recently divorced.

Defense attorneys Larry Hammond and John Sears answer in court papers that Steven had no financial motive to kill his ex-wife. They say police botched the investigation. And

they point out that DNA from three unidentified men, not Steven, was found beneath the victim's fingernails.

#### Grim death of Carol Kennedy

Kennedy, a psychotherapist, painter and former Prescott College faculty member, lived alone in a house on North Bridle Path, in an oak-dotted rural neighborhood a few miles north of Prescott.

Court records describe the final day of her life:

On July 2, 2008, she completed an evening jog through the hills and sat down for a phone call with her mother in Nashville.

Ruth Kennedy told detectives her daughter mentioned Steven's failure to pay alimony and discussed plans to see a lawyer. Twenty minutes into the conversation, at 7:59 p.m., there was an exclamation - "Oh, no!" - and the line went dead.

Ruth tried calling back but got no answer. She phoned other relatives. She dialed Steven, leaving a message. Finally, she contacted the Sheriff's Office.

A deputy arrived at the house and pointed his flashlight through a window, illuminating Carol Kennedy's body on the floor in a pool of blood. Someone had toppled a bookcase and moved a ladder to make it appear she had fallen.

The autopsy found Kennedy's skull was fractured in 50 or more places by at least seven blows, consistent with the strike of a golf club.

"The severity of the injuries suggests her attacker was in a rage," a search-warrant

affidavit notes. "Rage often suggests a relationship between the attacker and the victim."

Moments after the body was found, Charlotte, then 16, arrived at the house with her boyfriend. Charlotte was on a cellphone with her dad when deputies advised that her mother was dead. She dropped the phone.

A deputy began speaking with Steven, who explained that family members had asked him to check on his ex-wife, but he sent Charlotte because he didn't feel comfortable doing it.

Steven then asked about his daughter: "She hasn't . . . what kind of state is Carol in? She hasn't seen Carol, has she?"

After driving to the house, Steven volunteered that he and Kennedy had gone through a difficult divorce. He was paying \$6,000 a month to his ex-wife, plus most of a 401(k) valued at \$190,000. They had exchanged text messages earlier in the day, disputing the finances.

Still, Steven said he and his wife had chatted amicably over coffee a few days earlier.

"We were talking about starting to date again," he said. "I loved Carol."

Asked where he'd been, Steven told deputies he had gotten a flat tire while mountain biking on dirt trails, starting 1 1/2 miles from his wife's house, at 6:30 p.m., ending 10 miles away and three hours later.

As the interview continued, Steven wondered aloud: "So, I'm a suspect?"

At Kennedy's house, deputies noticed loosened lightbulbs in the laundry room.

They took impressions of footprints near the house leading to bicycle tracks that stopped about 100 yards away.

At the same time, Yavapai County Medical Examiner Philip Keen was examining the body. He observed indentations in Kennedy's head that might have been left by a golf club.

With that information, and while Steven was still being questioned, investigators returned to his house. Pictures taken in his garage during the first visit, hours earlier, showed a golf-club cover on a shelf in the garage. When they returned, however, the cover was gone.

The investigation dragged on for weeks. Detectives found that Steven was the beneficiary of Kennedy's life-insurance policies, worth \$750,000. They contacted experts who said tracks at the scene were similar to treads on Steven's bike tires, but not a conclusive match. They learned that the shoe prints were of the same type as a pair Steven once owned.

On Oct. 23, 2008, after nearly three months, detectives arrested Steven Democker in Phoenix at his UBS Financial Services office, where he worked as a financial adviser, taking home \$300,000 to \$500,000 a year. Steven, who had no history of violence, asked how deputies could believe that he "just suddenly erupted in a blind rage after 5 1/2 years of relatively amicable separation."

Deputies asked about the missing golf-club cover. Steven said he did not remove the item from his garage, He said he found it one day later, in a friend's car, and gave it to his attorney. Without elaborating, he added, "There is an explanation."

During the arrest, detectives told Steven they knew he'd applied for a replacement passport by claiming the original was lost, when in fact he had surrendered it to authorities. They asked him to explain his purchase of books with titles such as "How To Disappear Until You Want To Be Found." They also wondered why his motorcycle was packed for travel, with a map of Mexico.

Steven said he had no alibi and feared arrest, so, in a time of panic, he made plans to abscond. "It was stupid, fear-based stuff," he said.

Defense lawyers, in turn, accuse police and prosecutors of blindly focusing on the ex-husband and not looking at Kennedy's tenant, whom they say was involved with drug trafficking.

Opposite sides of the courtroom

During jury selection last week in court, Ruth Kennedy listened attentively beside a Yavapai County victim's advocate, awaiting the day she will testify against her former son-in-law.

As the hearing proceeded, Charlotte slipped into the courtroom. Spotting her grandmother, the teenager flashed a smile and gave a tender hug.

Later, Ruth returned to a seat reserved for victims. Charlotte followed, walking past her grandmother to a bench behind the defense table, backing her dad.

Under Arizona law, the Democker sisters are guaranteed treatment with dignity and a right to confer with prosecutors. According to court records, however, the daughters were blocked from contact with their father

for weeks after his arrest and pressured to renounce their rights as victims. Prosecutors declined to comment for this story.

Dupont, the lawyer for the daughters, said state lawyers feared they might be a conduit of information to the defense. As recently as April, he complained to the court that his clients' rights were being violated and that prosecutors "tried to punish the girls for taking a contrary position."

Keli Luther, senior counsel for the non-profit Arizona Voice for Crime Victims, said there are occasional cases where children of defendants are at odds with the state's attorney. Unlike other witnesses, victims are entitled to attend court proceedings, receive police reports and request information from prosecutors.

"It makes it more challenging," Luther said. "But they still have a constitutional right to protect, whether it's awkward or not."

Richard Lougee Jr., a Tucson attorney, said prosecutors take advantage of the law when victims are gung-ho for a conviction.

"But when the victim backs off and doesn't want blood," he added, "very often a prosecutor will simply cut them out of the process."

Dupont said Charlotte Democker finally was granted a private audience last month with Yavapai County Attorney Sheila Polk, who listened as Charlotte's representatives asked for dismissal of the death-penalty petition. When the session ended, Dupont said, Polk made a quip about the length of the presentation. "That was it," Dupont said. "Her response to the whole thing was to make a joke about the death penalty, right in front of Charlotte's face."

Commission on Victims in the Courts

DRAFT MINUTES

Friday, October 1, 2010

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

State Courts Building

1501 W. Washington

Phoenix, AZ 85007

Conference Room 119

Members Present:

Mr. Paul Ahler  
Mr. James J. Belanger  
Ms. Patricia Bigwood  
Mr. Michael Branham  
Dr. Kathryn Coffman  
Ms. Shelly Corzo  
Ms. Sydney Davis  
Ms. Daisy Flores  
Ms. Leslie James  
Ms. Keli Luther  
Mr. Dan Levey  
Hon. William O'Neil  
Mr. Doug Pilcher  
Mr. Paul Prato  
Hon. Ronald Reinstein (Chair)  
Hon. Antonio Rojas, Jr.  
Mr. David Sanders  
Hon. Richard Weiss

Presenters/ Guests:

Hon. Sally Duncan  
Ms. Patience Huntwork  
Ms. Linda King  
Ms. Caroline Lutt-Owens  
Mr. Mark Meltzer  
Ms. Elizabeth Ortiz  
Hon. Roland Steinle  
Hon. Ann Scott Timmer  
Mr. Daniel Woolston

Staff:

Ms. Carol Mitchell  
Ms. Kimberly Reid

Members Absent:

Hon. Lex Anderson  
Ms. Karen Duffy  
Cpt. Larry Farnsworth  
Hon. Andrew Gould  
Hon. Anna Montoya-Paez

## I. Regular Business

### A. Welcome and Opening Remarks

The October 1, 2010 meeting of the Commission on Victims in the Courts (COVIC) was called to order by Chair, Honorable Ronald Reinstein, at 10:05 a.m.

Judge Reinstein announced that Judge O'Neil is retiring from his superior court judge position at the end of the year because he has taken the position of State Disciplinary Judge.

Mr. Doug Pilcher has retired of the City of Phoenix and will be moving to the private sector.

14 members are up for reappointments in the spring and Ms. Carol Mitchell will contact those members prior to the reappointment period. Two appointments are currently awaiting the Chief Justice's signature; Honorable Douglas Rayes and Ms. Elizabeth Ortiz.

### B. Approval of May 21, 2010 Minutes

Minutes from the May 21, 2010 Commission on Victims in the Courts meeting were presented for approval.

MOTION: To approve the May 21, 2010 Commission on Victims in the Courts minutes as presented. Motion seconded and passed unanimously.

### C. Approval of 2010 Meeting Dates

February 4

May 20

September 17

December 9 (only if needed for an administrative code change)

MOTION: To approve the proposed meeting dates. Motion seconded and passed unanimously.

## II. Old Business

### A. Children in the Court Update

Honorable Richard Weiss presented the proposal approved by the Court Improvement workgroup of the Committee on Juvenile Courts regarding Attorney Standards for Child Representatives (Addendum A). Comments can be posted at [www.AZCIP.org](http://www.AZCIP.org).

Ms. Caroline Lutt-Owens encouraged members to comment and distribute the information to other groups that might be of interest.

Discussion:

- ☐ Honorable Sally Duncan expressed concern that, as written, these standards only apply in dependency cases where as, guardian ad litem are appointed in various types of cases, including criminal. She also expressed concern that best interest attorneys, who perform the same task as GALs, may not be included in the proposal. She would like all child representatives be held to these standards.
- ☐ Judge Reinstein acknowledged the workgroup should expect to receive comments/ concerns regarding the training requirement for attorneys in rural counties.
- ☐ Ms. Keli Luther believes that the trainings should include information about The Victim Bill of Rights and issues that come up in criminal and family law cases.

## B. Victim Identification Protections

Judge Ann Scott Timmer, Chief Judge of Court of Appeals, Division One, formed a volunteer committee to review old Court of Appeals cases in WestLaw in search of victims' names for redaction. The committee found 311 cases and Judge Timmer took the necessary steps to change the full names to initials in these records.

While reviewing cases, concern grew over victim identification issues regarding incest cases. Because of the relation to the defender, initials do not necessarily disguise the identity of the victim; Judge Timmer proposes using "minor relative" instead of the initials.

Victim protection issues are becoming more prevalent as minute entries and briefs are now posted online. Thompson-Reuters is aware that this is an issue and they try to screen cases for victim names before they publish the documents.

Judge Reinstein informed the Commission of a recent case in which the victim's name was listed in the verdict along with a graphic description of the offense. Judge Timmer suggested informing judges of the issue in new judge orientation and the criminal bench books.

### Discussion:

- ☐ APAC has added an informational item about victim identification protections to their next Council Meeting agenda.
- ☐ Judge Duncan believes that there should be a rule that simply states that in all juvenile victim cases, initials will be used in all court documents.
- ☐ Ms. Luther suggested including a mandatory check box indicating if a child victim is involved when cases are filed electronically to help identify these cases and keep the victim's identification from being posted.
- ☐ Mr. Paul Prato believes that the age of the victim when the offense occurred should determine the child victim protections, not the age of the victim when the offense comes to light.
- ☐ Karen Duffy submitted written comments stating victims' names were found in various case documents in Pima County. She believes that an effective date should be included in any rule change to determine if retroactive corrections need to be made.

**ACTION ITEM:** Judge Reinstein is referring this issue to the Administration of Justice Workgroup to look into a code section or rule change to mandate initials be used.

## C. Rules Update

Ms. Patience Huntwork provided an overview of recent rule decisions. Detailed information is available online at [azcourts.gov](http://azcourts.gov) under the Court Rules Forum.

1. Rule 10.5- The petition was to change victim notification guidelines upon continuance. The court rejected the proposal in accordance with COVIC's comment that the goals of the petition were good but the proposed solution would be detrimental to the issue.
2. R09.0032- Adds an additional 20 days for the defense in a capital case to prepare his/ her brief.
3. R09.0033- Eliminated the requirement that appellate counsel representing a defendant in a capital direct appeal have prior experience as counsel in post conviction relief proceedings. This arose because of the difficulty to find adequate counsel in capital cases.
4. R09.0037-Petition to amend Rule 10.2- allows a party in a capital case to request a change of judge when a case is administratively reassigned to a new trial judge. This is currently allowed in criminal cases but not in capital cases. Ms. Huntwork suggests that COVIC makes a comment before the end of the comment period in early December.
5. Rule 10.012- proposed by Capital Case Oversight Commission- expanded the time to trial in capital cases from 18 months to 24 months. Some COVIC members were opposed to this change.
6. R09.0045- proposed change to the Rules of Protective Order that would repeal the rule allowing a judge to prevent the defendant from possessing firearms during the injunction against harassment. This was rejected by the Supreme Court, but has been referred to the Family Law Committee of the State Bar. Mark Armstrong is the contact for the State Bar Family Law Committee.

## III. New Business

### A. Proposed Rule for Guilty Pleas by Mail

As part of Chief Justice Rebecca White Berch's five year plan to improve access to justice, the Limited Jurisdiction Courts Committee, drafted a rule change that would allow defendants in certain traffic case types to submit guilty pleas by mail. This is to address violations such as expired out-of-state registration, suspended license and boating and fishing violations. This would not include any violations involving a victim or that would require jail time.

Motion: To support the proposed rule as presented. Seconded and passed unanimously.

### B. Defense Initiated Victim Outreach Presentation

Ms. Linda King shared her experience as a victim survivor as a result of the loss of her daughter and step-daughter. Her experience with the justice system has led her to become a Defense Initiated Victim Outreach (DIVO) advocate. Victims want information, compensation, participation, protection and help from the criminal justice system. DIVO challenges the traditional mind sets of who can meet victims' needs. In the DIVO process there is a victim specialist that will convey information from the victim to the defense attorney at the victim's request.

Discussion:

- ☐ Judge Reinstein explained that under the Arizona Constitution and rules, defense attorneys are not allowed to initiate contact with the victims.
- ☐ Mr. Dan Levey has concerns that the program is housed under the Federal Defender's office in Arizona which he believes creates a conflict of interest. He also believes it needs to be victim initiated and he has heard of times when it is not, for example, unsolicited letters sent to victims.
- ☐ Ms. King explained that in Texas and Georgia the organization is housed in a non-judicial agency such as university law schools.
- ☐ Ms. Luther explained that her office, Arizona Voice for Crime Victims, does something very similar to this as victims' attorneys.
- ☐ Mr. James Belanger is a proponent of the goals of this system. Major benefits come from increased communication between all parties of the justice system.
- ☐ Judge Duncan believes in a truly neutral location of housing the victims advocates because the victims are the neutral party in the case. Because we have an adversarial justice system, it is hard to have a neutral advocate role within it.

## IV. Workgroup Updates

### A. Restitution

Mr. Levey reminded all that the restitution website, [www.azcourts.gov/restitution](http://www.azcourts.gov/restitution) has been up and available to the public.

As reported by the Arizona Department of Corrections, \$471,000 has been collected in Maricopa County within 20 months. This is a result of the new statute that allows mail money to be collected from inmates to pay restitution.

#### Restitution Court Update

Honorable Roland Steinle of Maricopa County Superior Court explained that his court has collected \$149,000 in delinquent restitution in the first 9 months of 2010, with two judges devoting one and a half hours a month.

Judge Steinle urged the courts to use the criminal restitution order as another powerful tool in the fight to collect restitution. Because of the multiple probation continuances that some offenders receive, Judge Steinle suggests a statute change that would allow for criminal restitution orders to state that restitution is due upon sentencing as opposed to release from probation and record it. In Maricopa County, an automated filing system records the restitution with the County Recorder, Motor Vehicle Division and the Secretary of State. Because of the lien, the restitution will be collected from the sale price of a motor vehicle or real estate. Currently, this process doesn't occur until the restitution is delinquent by multiple years.

Given definable consequences for violating probation by missing restitution payment, offenders begin to pay their restitution. In the state of Michigan, all fines, fees and restitution are due at the date of sentencing.

An article was published in the paper to announce the implementation of restitution court in Pima County and immediately, restitution payments spiked. Mr. David Sanders informed Judge Steinle that Pima County's restitution court was inspired by Judge Steinle and his work.

#### B. Administration of Justice

The Administration of Justice Workgroup has been drafting language to amend Rule 39, to enhance victim' understanding of information and opportunities available to them. The workgroup continues to collaborate on this issue.

### V. Business

#### A. Next Meeting:

February 4, 2010

10:00 a.m.

State Courts Building

Phoenix, AZ 85007

Conference Room 119

#### B. Call to the Public

#### C. Adjournment

The meeting adjourned at 12:10 p.m.

# Addendum A

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## Finalized Draft of The Attorney Standards for Child Representation

Pursuant to Article VI, Section 3, of the Arizona Constitution, the following Standards for Dependency Cases (the Standards) are issued under the authority of the Supreme Court of the State of Arizona. All attorneys and guardians ad litem appointed to represent children in dependency cases in the State of Arizona shall adhere to these Standards. Privately retained attorneys shall become equally familiar with these Standards. In developing the Standards, the Court considered best practices within Arizona and well-accepted standards developed by nationally recognized organizations. In particular, the standards for representation outlined in the American Bar Association's Standards for Practice for Lawyers Who Represent Children in Abuse and Neglect Cases, the National Association for Counsel for Children's Revised Version of the ABA Standards, and the Resource Guidelines published by the National Council for Juvenile and Family Court Judges were instructive in developing the Standards for Arizona. In addition to adhering to the Standards for Dependency, Arizona attorneys and guardians ad litem should be familiar with and consult these national standards and references to ensure the highest standard of practice in this important area of the law.

Arizona Courts shall have broad discretion in enforcing the Standards and to impose sanctions when appropriate. Attorneys providing representation in Arizona may also be subject to sanctions under the Arizona Rules of Professional Conduct for failure to adhere to the Standards. Sanctions may include the removal of the attorney or guardian ad litem from a particular case or from representation of children for a period of time.

1. Attorneys appointed for children shall make clear to children and their caregivers whether their appointment is as a guardian ad litem or as an attorney and the ethical obligations associated with their role
2. Attorneys and guardians ad litem shall inform the child, in an age and developmentally appropriate manner, about the nature of the proceedings, the attorney's role, that the child has the right to attend hearings and speak to the judge, the consequences of the child's participation or lack of participation, the possible outcomes of each hearing, and other legal rights with regards to the dependency proceeding and the outcomes of each substantive hearing.
3. Attorneys and guardians ad litem shall participate in discovery and file pleadings when appropriate and attorneys must develop the child's position for each hearing. The duties of the attorney and guardian ad litem may include identifying appropriate family and professional resources for the child, as well as subpoenaing witnesses, and the attorney and guardian ad litem shall inquire of the child regarding potential placements and communicate this information to Child Protective Services as appropriate.
4. The attorney and guardian ad litem shall meet in person with the child before the preliminary protective hearing, if possible, or within fourteen (14) days after the preliminary protective hearing.

Thereafter, the attorney and guardian ad litem for the child shall meet in person with the child and have meaningful communication before every substantive hearing. Substantive hearings include all preliminary protective hearings, all periodic review hearings, permanency hearings, any hearings involving placement, visitation or services, or any hearing to adjudicate dependency, guardianship or termination. If the child is under the age of 5 or is not able to communicate effectively, meetings should include observations within each placement home. At each substantive hearing the attorney or guardian ad litem shall inform the court as to the child's position concerning pending issues and, if the child is not present, an explanation for the child's absence. In all cases, attorneys and guardians ad litem for children should also communicate with placements, and if practicable, observe the placement.

Upon a showing of extraordinary circumstances, the judge may modify this requirement for any substantive hearing.

5. Attorneys and guardians ad litem shall also maintain contact with caretakers, case managers, service providers, daycare providers, CASAs, relatives and any other significant person in the child's life as appropriate in order to meet the obligations of informed representation of the child.

6. To the extent possible, attorneys and guardians ad litem should attend or provide input to Child Protective Services staffings, Foster Care Review Board reviews and Child and Family Team meetings.

7. Attorneys and guardians ad litem may use appropriately trained support staff to assist in the performance of the duties listed herein unless otherwise required by law. The support staff performing these duties must adhere to these standards.

8. Attorneys and guardians ad litem should promptly identify any potential and actual conflicts of interest that would impair their ability to represent a child. Either the attorney or the guardian ad litem shall, if necessary, move to withdraw or to seek the appointment of an additional attorney or guardian ad litem if they deem such action necessary.

9. Attorneys and guardians ad litem shall be knowledgeable of the child welfare and public systems and community-based service providers and organizations serving children (e.g. behavioral health, developmental disability, health care, education, financial assistance, counseling support, family preservation, reunification, permanency services and juvenile justice). Attorneys and guardians ad litem shall be knowledgeable about how these services are accessed and shall advocate for such services as appropriate for the child.

10. Attorneys and guardians ad litem shall be familiar with the substantive juvenile law. Attorneys and guardians ad litem shall stay abreast of changes and developments in relevant federal and state laws and regulations, Rules of Procedure for the Juvenile Court, court decisions and federal and state laws concerning education and advocacy for children in schools. Attorneys and guardians ad litem shall complete an introductory six (6) hours of court approved training prior to their first appointment unless otherwise determined by the presiding judge of the juvenile court for good cause shown and an additional two (2) hours within the first year of practice in juvenile court. All attorneys and guardians ad

litem shall complete at least eight (8) hours each year of ongoing continuing education and training. Education and training shall be on juvenile law and related topics, such as child and adolescent development, (including infant/toddler mental health), effects of substance abuse by parents and by and upon children, behavioral health, impact on children of parental incarceration, education, Indian Child Welfare Act, parent and child immigration status issues, the need for timely permanency, the effects of the trauma of parental domestic violence upon children and other issues concerning abuse and/or neglect of children. Some or all of this training and continuing education may qualify as mandatory Continuing Legal Education under State Bar of Arizona requirements.

Attorneys shall provide the judge with an affidavit of completion of the six (6) hour court approved training requirement prior to or upon their first appointment as attorney or guardian ad litem for a child after the adoption of these standards. The affidavit of completion shall include a list of courses including the name of the training, the date of the training, the training provider, and the number of hours for each course.

All attorneys shall file annually an affidavit with the presiding judge certifying their compliance with this section. Such affidavit shall be filed concurrently with the affidavit of compliance with State Bar MCLE and shall include a list of courses including the name of the training, the date of the training, the training provider and the number of hours for each course.