

## Commission on Victims in the Courts

**Friday, January 20, 2012**

**APPROVED - Minutes**

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

State Courts Building

1501 W. Washington

Phoenix, AZ 85007

Conference Room 119 A&B

### **Members Present:**

Hon. Ronald Reinstein (*Chair*)

Mr. James J. Belanger

Mr. Michael Breeze

Hon. Peter Cahill

Ms. Shelly Corzo

Ms. Sydney Davis

Ms. JoAnn Del Colle (*telephonically*)

Ms. Karen Duffy

Cpt. Larry Farnsworth

Hon. Elizabeth Finn

Ms. Daisy Flores (*telephonically*)

Ms. Leslie James

Mr. Dan Levey

Hon. Evelyn Marez

Hon. Anna Montoya-Paez

Ms. Pam Moreton

Ms. Kim MacEachern, *proxy for*

*Ms. Elizabeth Ortiz*

Mr. Douglas Rayes

Hon. Antonio Riojas, Jr

Hon. Richard Weiss

Mr. Errol Dimenstein

*(proxy – David Sanders)*

Ms. Cindy Nelson

*(proxy – Dr. Kathryn Coffman)*

### **Members Absent:**

Hon. William O'Neil

Ms. Keli Luther

### **Staff:**

Ms. Carol Mitchell

Ms. Jerri Medina

### **Presenters/Guests:**

Mr. Jerry Landau, *Legislative Officer*

Ms. Erin Hertzog, *Government Affairs Intern*

Ms. Kim Knox, *Maricopa County Finance*

Ms. Dimple Smith, *Lead Victim Advocate*  
*Pima County*

## **I. Regular Business**

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

The January 20, 2012 meeting of the Commission on Victims in the Courts (COVIC) was called to order by Chair, Honorable Ronald Reinstein, at 10:07 a.m.

### **B. Approval of September 30, 2011 Minutes**

Minutes from the September 30, 2011 Commission on Victims in the Courts meeting were presented for approval.

**MOTION:** To approve the September 30, 2011 Commission on Victims in the Courts minutes as presented. *Motion seconded and passed unanimously.*

## **II. Announcements**

The Chair made the following announcements:

### *2012 Reappointment process*

The 2012 reappointment/appointment selection process has begun. If you are up for reappointment please contact Carol Mitchell as to your availability going forward on the committee. If you know anyone that would like to become a member of COVIC, please give their name and information to either Hon. Ron Reinstein or Carol Mitchell.

### *Judicial Conference Committee*

Judicial Conference Committee for the Supreme Court asked COVIC to sponsor a presentation on victims' issues. The conference committee requested a balanced viewpoint on victimization and victims' rights issues. The conference committee approved a proposed presentation bringing in guest speakers to speak based on their type of victim experience.

Mr. Brooks Douglass (*played Heaven's Rain movie clip*) would represent a "victim of a crime". The second type that we are looking at is a "victim of the system", an exonerated person who was wrongly convicted. We have four names under review for final selection.

Last year at the conference, we did a full presentation on eye witness identification with Jennifer Dysart from the John Jay College of Criminal Justice in New York City.

### *Court of Appeals Openings & Applications*

Applications are being accepted for two vacancies created on Division One of the Arizona Court of Appeals by the retirement of Judge Daniel Barker and the resignation of Judge Patrick Irvine. Court of Appeals needs more applications and must have a constitutional list before the final applicants can be sent to the Governor for appointment. They have extended the application period to January 31, 2012. Attached is a link to the website where the application can be downloaded. <http://www.azcourts.gov/jnc/ApplyforaVacancy.aspx>

### **III. Presentations**

#### **A. Guilty Pleas/Factual Basis**

Hon. Evelyn Marez presented a request to incorporate a court practice for victims. It is generally felt that a victim wants to hear the defendant admit to the crime and acknowledge the harm done from committing the crime. To do this, defendants would be asked to read or state the factual basis of the crime in court with the victim present. Even the smallest statement as in “this is what I did”, helps.

There was discussion with several variations on how a defendant could state a factual basis. It was generally felt the defendant should not “ad lib” the factual basis, this tends to become too lengthy.

A key discussion point was on how to signal the judge or prosecutor that a victim is in the courtroom and how to facilitate attention to the factual basis statement. In justice and city courts there are times when an attorney is not present during proceedings to notify the judge with the only process being the reading of the departmental report. Most judges have had training on victim issues through judge orientation and we can add this specific topic to the annual training.

Also a concern was raised about the judge reviewing the factual basis of the case with the defendant in such a way that it turns into an Alford plea.

Many judges prefer to have the defense attorney or the prosecutor establish the facts of the crime. Then, judges can ask the defendant directly if the facts were correct and admit they committed the offense.

#### **B. Maricopa County Criminal Court Tower**

Hon. Douglas Rayes, Presiding Judge spoke on the new Maricopa County Criminal Court Tower and its benefits to the court community. Phoenix is the 4<sup>th</sup> largest trial court in the United States with more than 222,000 cases filed in fiscal year 2011. The court house has been designed with separate traffic flows for each of the stakeholders: public, judicial officers/staff and in-custody defendants. Extensive planning went into designing the courts to ensure that victims feel safe from encountering the defendant, defendant’s family or the press in both the courtroom and within public areas like a restroom.

Courtrooms are also setup with more security areas for the in-custody defendants.

There are also rooms behind the courtrooms for the attorneys to meet without going several floors upstairs to the judge’s chambers.

This new court tower is seen as one of the most victim-friendly courts in the country as many suggestions received from victim focus groups during the planning stage, were incorporated.

### **C. Legislative Session Update**

Mr. Jerry Landau, Legislative Liaison and Erin Hertzog, Government Affairs Intern gave a preliminary update of upcoming bills that affect victims' rights.

HB 2432 mandates the surety be relieved from liability, if the defendant fails to appear as required, so long as the defendant is surrendered by the surety or bail bond agent before or within thirty days after the defendants' failure to appear. It requires the bail bondsmen to go out and look for the defendant to force them to appear within the 30 days instead of losing the bond money. APAAC is opposing it.

HB 2550 is a request from Pima County attorney's office, expanding the definition of a criminal offense in relation to crime victims' rights to include misdemeanor, or petty offense.

HB 2556 is putting into statutes that restitution "may" be done at the time restitution is ordered instead of at the time of sentencing.

HB2558 clarifies the order of restitution and doesn't prevent the victim from filing a civil claim.

HB 2559 is the reading of victims' rights at the daily commencement of criminal docket. The intent was to expand the victims' rights to all victims of all crimes, even ones in limited jurisdiction courts.

HB 2615 affect changes in the period of limitation to 35 years after the minor reaches 18 for a civil action for the recovery of damages as a result of sexual offense, sexual exploitation, or incest.

## **IV. Old Business**

### **A. Victim ID Protection Rule petition update**

COVIC is working on a rule petition to put victim initials in lieu of full names on all charging documents, court pleadings, minute entries, transcripts, all motions filed by either side in cases that have child victims and adult sexual assault victims. This petition has been presented to various committees within the last month in which all have unanimously approved in concept. Their recommendation is to continue moving the petition forward and COVIC established a workgroup to raise and address concerns.

The intent of this petition is to minimize access to the names of specific types of crime victims in public and online court records information. There is no intent to make it so impersonal that only the victim's initials are used in any proceedings. COVIC filed the initial petition as a two-step process with comments due April 2<sup>nd</sup> 2012.

From those findings, COVIC may file an amended petition on May 7<sup>th</sup> 2012, with an additional comment period extended until June 4<sup>th</sup> 2012.

There are issues that we will ask guests to participate in by bringing in their knowledge, expertise and feedback such as, representatives from the First Amendment Coalition.

Discussion on several of the issues that have already been presented to the committee:

- In smaller or rural communities the use of initials is not enough to conceal identity and may need to use pseudonyms, “minor relative”
- Researching cases that have initial only in the defense of a defendant
- Use of a confidential data sheet accessible by courts, prosecutors and attorneys only (currently being used in family court)
- Availability and use by the press including bloggers
- Use of victim names in open court and impact on transcripts

Santa Cruz County held a meeting to work with court staff and prosecutors to focus on using initials only going forward on victim cases. However, the use of pseudonyms will be on a case by case basis until they can work out a permanent solution.

COVIC members are asked to present the Victims Rule ID information to any other committees they are involved in and bring all issues from those meetings back to the COVIC workgroup for review.

## **V. New Business**

### **A. Video presentation – 2011 Justice and Law Enforcement Medal Recipient**

National Institute of Justice launched the National Missing and Unidentified Person System (NamUS) in 2009. Chuck Heurich won the award on behalf of the system and Judge Reinstein wanted to show a video about what’s being done on behalf of the unidentified victims.

NamUS is a powerful, fully searchable online Justice Department database used for investigating and solving missing and unidentified person cases nationwide. It is the one place where everyone across the country interested in solving such cases – law enforcement, medical examiners’ offices to coroners’ offices, victims’ advocates and families can share information.

NamUS provides unprecedented access to fully searchable information reaches across jurisdictional lines and often provides investigators with new data. In addition, the system automatically cross-searches the missing against the unidentified, and presents potential matches to investigators, dramatically reducing search time.

## **B. Notice to Victim**

Hon. Elizabeth Finn would like COVIC to consider creating a workgroup on victim information collection at time of incident or investigation. There was discussion on how victim notification was hampered due to lack of information gathered at either the time of the incident or in the initial police investigation. Judge Finn would like to have a workgroup research and come up with a “best practices” guideline for law enforcement and/or victim advocates who have the initial contact with a victim during the investigation. COVIC will refer to the Administration of Justice workgroup.

## **C. Law Enforcement Patrol Notification**

Dan Levey informed COVIC, that he and Judge Douglas Rayes are in a group that has met at the Attorney General’s office discussing possible ways to ensure the conditions of release are given to law enforcement patrol. There have been times when law enforcement patrol does not have a copy of the judicial order in a “no contact” situation. This is especially important when responding to a domestic violence incident or cases involving a prior victim of a crime. They are looking to develop a way of keeping court orders in “real time” similar to the warrants process.

## **D. DNA Collection**

Judge Reinstein has been meeting with Kent Catani, Attorney General’s office and Joe Sciarotta, Chief Counsel with Governors office on issues regarding DNA money and the law that requires that DNA to be taken at time of arrest. We have asked the Governor’s office to include the DNA money into this year’s budget which is a surcharge of 7% of every fine in the state. When the DNA money was swept into the general fund it slowed down the analysis of any sample that had been collected and created a large backlog. This makes the state database and CODIS not as rich as it should be. Also, kits are not being provided to law enforcement, so in an arrestee case the DNA is not being collected as required by law. However, Department of Corrections and Adult Probation offices are still administering DNA kits at their own costs.

## **VI. Adjournment**

**MOTION:** To adjourn presented. *Motion seconded and passed unanimously.* The meeting adjourned at 11:43 a.m.

# Commission on Victims in the Courts

**Friday, May 11, 2012**

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

State Courts Building

1501 W. Washington, Phoenix, AZ 85007

Conference Room 119 A&B

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**Present:** Judge Ronald Reinstein, Chair, James Belanger, Michael Breeze, Judge Peter Cahill, Dr., Kathryn Coffman, Shelly Corzo, Sydney Davis, Karen Duffy, Captain Larry Farnsworth, Judge Elizabeth Finn, Leslie James, Keli Luther, Judge Evelyn Marez, Sergeant Jim Markey, Pam Moreton, Judge William O'Neil, Doug Pilcher, Judge Douglas Rayes, Judge Richard Weiss, Cindy Winn, Barbara Marshall (proxy for Elizabeth Ortiz), Libby Bissa (proxy for JoAnn Del Colle), Kirstin Flores (proxy for AG's Office),

**Absent/Excused:** Daisy Flores, Judge Anna Montoya-Paez, and Judge Antonio Riojas, Jr.

**Presenters/Guests:** Chief Barbara Broderick (Probation), Betty McEntire (SOS Address Confidentiality Program), and Amy Love (AOC)

**Staff:** Carol Mitchell (AOC), Jerri Medina (AOC)

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## I. Regular Business

### A. Welcome and Opening Remarks

The May 11, 2012 meeting of the Commission on Victims in the Courts (COVIC) was called to order by Chair, Honorable Ronald Reinstein, at 10:06 a.m.

Welcome newest members Cindy Winn and Sergeant James Markey, retired. Recognized David Sanders, from Pima County and Dan Levy, from the Attorney General's Office for their past service to COVIC.

Chair also recognized Keli Luther, who received the Distinguished Service Award from the Attorney General's Office for Victim Advocacy. She received the award during Victim's Rights Week events here in Arizona. And Barbara Broderick, Chief Probation Office in Maricopa County through the Adult Probation Office in which the department received the National Crime Victim Service Award for their financial compliance unit which collected over \$11 million dollars in restitution alone. This unit has become a model for other cities.

### B. Approval of January 20, 2012 Minutes

The chair called for any omissions or corrections to the minutes from January 20, 2012, meeting of COVIC, there were none.

**The draft minutes from the January 20, 2012, meeting of COVIC were presented for approval.** Motion was seconded and passed.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Voice of the Victim-Probation perspective

Barbra Broderick, Chief of Maricopa Adult Probation discussed Restitution Court: A Victim Centered Approach to Restitution Collection in Maricopa County, Arizona article published in the Perspectives "Voice of the Victim" magazine. She is also a member of the Victim Issues Committee which was established over 20 years ago with the intent to bring the voice of the victim to the national level.

Chief Broderick requested any victim recommendations be brought to the American Probation and Parole Association (APPA) Victim Issues Committee enabling them to develop it on a statewide level. This committee is charged with increasing victim sensitivity among probation and parole professionals; relevant topics selected for APPA Training Institutes; and to develop a working paper.

APPA held a public listening session in 2010 at a national level on victim issues looking for input and to gain knowledge from these particular areas: crime victims and survivors; increase community corrections professionals' knowledge and appreciation of crime victims' and survivors' experiences; obtain input about how APPA and its member agencies can collaborate.

A recommendation report based on collective testimony at the APPA Public Hearing which identified these 10 areas:

1. Collaborative Planning
2. Public Safety Strategies
3. Identifying Information
4. Respect Cultural Diversity
5. Time to Prepare
6. National Automated System
7. Due Diligence
8. Victim Impact Statements
9. Developing Partnerships
10. Offender Accountability

The National APPA conference will be held in Phoenix in January 2013. Would COVIC like to have a panel at the conference on a particular topic? With the possibility of a group effort, we can put something together.

Discussion and questions:

*Is there federal pending legislation that we can support that would allow restitution to be collected from federal tax refunds?* Barbara Broderick will send that information to the chair for distribution to full committee.

*What can you share with the victim and at what point?* Barbara will send the information she has that is geared toward the probation department to the committee for their reference.

The new domestic violence strangulation program with Scottsdale healthcare and several police departments will bring awareness to this issue. It will have an impact on the probation department's future case load.

## B. Address Confidentiality Program (ACP)

Ms. Betty McEntire presented the new Address Confidentiality Program that rolls out June 4, 2012. At that time they will start enrolling the domestic violence and sexual assault victims. Arizona is the twenty-seventh state in the United States to do this type of program. It is a self funded program through the fines imposed at the time of sentencing.

ACP will provide two critical services:

- 1) A legal substitute mailing address listed below
  - a. 1901 West Madison Street, Apt ###
- 2) A mail forwarding service

ACP will only release the victim's actual home address upon a court order. Any victim address information released to individuals or departments pursuant to a court order must produce their adopted written procedures that keep the victim's address confidential within their departments.

This system will allow victims and survivors to go into hiding for their safety with peace of mind that they can still get mail. There are specific criteria required to become enrolled in the program:

- Must have relocated within 90 days prior or plan to relocate 90 days after application date.
- Victim must maintain the connection with the courts or victim advocates.

They have a very flexible applicant assistance training program in which we provide training to victim advocates, shelters and can host an online webinar.

## C. Legislative Session Update

Ms. Amy Love, Administrative Office of the Courts (AOC) Legislative Liaison, gave a preliminary update of bills that affect victims' rights from this legislative session.

For summaries of bills please see [APPENDIX A](#)

## III. Old Business

### A. Victim ID Protection Rule petition update

Hon. Ron Reinstein, Chair COVIC discussed activities of the Victim ID Protection workgroup and the petition timeline through the court. We have been working on the rule petition to put victim initials or pseudonym identifier in lieu of full names on all written court documents for victims of sexual assault cases or minor victims only. We are expecting more comments from this next period and will bring them forward to review prior to final presentation of the petition to the court.

The workgroup decided to include families of deceased child victims thus allowing for the choice to opt out based on their families' needs. We have also included the use of victim identifiers for both transcripts and minute entries which were not in our preliminary petition.

This petition does not prohibit use of names within the court proceedings and victim's names will be on the "FTR" court records. It will be up to the prosecutors to implement redaction or blocking of victim's names based on the victim's known preferences.

This petition is not retroactive and most likely will be implemented sometime in 2013. COVIC may work with police departments at a later date on revision of the form 4 used by police. Work group may also look to compile a best practices educational document after the rule petition goes into effect for victim advocate groups, judicial and police reporting areas. Also discuss the "timing" of asking this question to victims during the information gathering process on whether they want to opt out of victim identification.

The chair called for approval of amended petition to move forward and requested if there were any comments or revisions requested; there were none.

**The amended draft Victim ID Protection Rule petition was presented for approval.** Motion was seconded and passed.

#### IV. New Business

##### A. Solicitation for future Commission issues and projects

*(Moved to next COVIC meeting, ran out of time)*

#### V. Other Business

##### A. Good of the Order/ Call to the Public

Comments offered by Judge Finn on how can we do a better job of notifying victims who are not related to their abusers? She would like to see us develop a best practices guideline for standard victim notifications through some type of joint effort or a COVIC workgroup. Captain Larry Farnsworth would like to be a part of that plan with the sheriff's department and we can start putting some things together.

Anyone interested in information about the New Song Center for Grieving Children which is a peer group organization which helps kids through the grieving process, see Sydney Davis and she'll get information to you. It is age specific and geared toward any type of child going through the grief. It is a wonderful resource for children to know that there are others out there like them.

##### B. Motion: To adjourn at 12:25pm. Motion was seconded and passed.

C. Next Committee Meeting Date:  
Friday, September 14, 2012  
10:00 a.m. to 12:00 p.m.  
State Courts Building, Room 119 A/B  
1501 W. Washington St., Phoenix, AZ 85007

**APPENDIX A**  
**Commission on Victims in the Court**  
**Legislative Update May 11, 2012**

Chapter 65: transition programs: domestic violence (Sen. Biggs)

Prohibits an inmate convicted of a domestic violence offense from eligibility in the Arizona Department of Corrections transition program. Currently ADC has a transition program for eligible inmates who have not been convicted of a sexual or violent offense, arson or DUI.

Effective 3/ 21/ 12 Title affected: 31

Chapter 102: victim restitution; civil actions (Rep. Vogt)

An order of restitution in favor of a person does not preclude the person from bringing a separate civil action proving damages in excess of the amount of the restitution order that is actually paid. The statute previously read "...in excess of the amount of the restitution order," not only what was actually paid.

Title affected: 13

Chapter 153: crime advocates; privileged communications (Sen. Shooter)

Prohibits a crime victim advocate from disclosing any communication made by or with the victim including when others are present unless the victim provides written consent. Removes the ability for a crime victim advocate to disclose information regarding compensation or restitution unless the victim provides written consent.

Modifies the definition of "crime victim advocate".

A victim may provide written or verbal consent to allow the crime victim advocate to disclose any communication to a prosecutor or law enforcement agency. The information must be disclosed to the defense attorney only if it is exculpatory, rather than simply discoverable..

Titles affected: 8 and 13

Chapter 208: prisoners; payment for drug testing (Rep. Gowan)

Authorizes the Department of Corrections and the Board of Executive Clemency to require a person pay the reasonable costs for participation in a drug testing program as a condition of a person's probation (interstate compact), parole or community supervision.

Titles affected: 31, 41

Chapter 243: victims' rights; courtroom posting (Rep. Vogt)

Extends the requirement victims' rights be posted in each court to Justice of the Peace and Municipal Courts.

Statute Amended: A.R.S. § 13-4438

Title affected: 13

Chapter 268: victims' rights; criminal offense; interviews (Rep. Vogt)

Modifies the definition of criminal offense for victim's rights purposes to include a petty offense or a local criminal ordinance violation.

Titles affected: 8 and 13

Chapter 269: criminal restitution order (Rep. Vogt)

Requires the court to retain jurisdiction for the purposes of ordering, modifying and enforcing the manner in which court ordered restitution is paid until paid in full or completion of the defendant's sentence. Authorizes the Superior Court, in its discretion to enter a criminal restitution order at the time the defendant is ordered to pay restitution instead of at the completion of the defendant's sentence or probation. Requires the defendant to make all payments on a criminal restitution order issued by the Superior Court to the Clerk of the Court.

Resets the priority of distribution on a criminal restitution order to monies owed on the order first, followed by interest. Applicable to all criminal restitution orders in effect on April 1, 2013. Clarifies that the priority provisions for a CRO do not impact other court obligations imposed pursuant to law

Delayed effective date: April 1, 2013. Title affected: 13

Chapter 277: murder; domestic violence; inheritance (Rep. Mesnard)

Permits the decedent's estate to petition the court to establish a constructive trust on the property or estate of the killer in order to secure payment of all damages and judgments from conduct that resulted in the conviction of either spouse in which the other spouse or a child was the victim. Defines "felonious and intentional."

Title affected: 14

SB1127: child custody factors (Sen. Allen)

Makes enumerated changes to and reorganized the statutes governing custodial determinations. Changes references of "custody" to "legal decision-making" and references of "visitation" to "parenting time." Defines "in loco parentis," "joint legal decision-making," "legal decision-making," "legal parent," "parenting time," "sole legal decision-making," and "visitation."

Requires the court to adopt a parenting plan that is consistent with the child's best interests, provides for both parents to share legal decision-making and that maximizes each parents' respective parenting time. Prohibits the court from preferring one plan over the other because of the parent's or child's sex. Requires the court to consider whether one parent intentionally mislead the court to cause an unnecessary delay, to increase the cost of litigation, or to persuade the court to give a custody or a parenting time preference to that parent. Outlines what must be included in the proposed parenting plans. If the parents are unable to agree on any element to be included in a parenting plan then it is the court's responsibility to determine that element. Allows the court to determine other factors that are necessary to promote and protect the emotional and physical health of the child. Lists the factors that the court must consider when determining the level of decision-making.

Establishes a new section on third party rights. Lists examples of when the court must sanction a litigant for costs and reasonable attorney fees. Allows the court to take other actions against a litigant.

Title affected: 25

## Commission on Victims in the Courts

**Friday, September 21, 2012**

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

State Courts Building

1501 W. Washington, Phoenix, AZ 85007

Conference Room 119 B

APPROVED: 01/25/2013

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**Present:** Judge Ronald Reinstein, Chair, Michael Breeze, Shelly Corzo, Sydney Davis, Captain Larry Farnsworth, Daisy Flores-*telephonically*, Kirstin Flores, Keli Luther, Jim Markey, Judge Anna Montoya-Paez-*telephonically*, Pam Moreton, Elizabeth Ortiz, Judge Douglas Rayes, Judge Antonio Riojas Jr.-*telephonically*, Judge Richard Weiss, Cindy Winn

**Absent/Excused:** James Belanger, Judge Peter Cahill, Dr. Kathryn Coffman, JoAnn Del Colle, Karen Duffy, Judge Elizabeth Finn, Leslie James, Judge Evelyn Marez, Judge William O'Neil, Doug Pilcher

**Presenters/Guests:** Kim Knox, Maricopa County Finance; Mark Meltzer, AOC; Scott Loos, Maricopa County Superior Court; Amy Wood, AOC

**Staff:** Carol Mitchell, AOC; Jerri Medina, AOC

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### I. Regular Business

#### A. Welcome and Opening Remarks

The September 21, 2012 meeting of the Commission on Victims in the Courts (COVIC) was called to order by Chair, Honorable Ronald Reinstein, at 10:03 a.m.

Judge Reinstein welcomed newest member Kirsten Flores, Director of the Attorney General's Office Victim Services Division. He also announced that JoAnn Del Colle will soon be retiring from the City of Phoenix.

Judge Reinstein thanked Shelly Corzo and Keli Luther for speaking at the new judge orientation last week on victims' issues. Shelly was able to share her impact statement that she personally dealt with as a victim.

#### B. Approval of May 11, 2012 Minutes

The chair called for any omissions or corrections to the minutes from May 11, 2012, meeting of COVIC, there were none.

The draft minutes from the May 11, 2012, meeting of COVIC were presented for approval. Motion was seconded and passed.

### C. Approval of 2013 COVIC Meeting Dates

January 25, 2013

May 17, 2013

October 25, 2013

Motion was seconded and passed.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Criminal Restitution Orders – Frequently Asked Questions

Ms. Kim Knox, Maricopa County Finance Collections Unit discussed the frequently asked questions developed by Maricopa County that are currently on their website. She went on to explain that Maricopa has one of the top restitution collection rates across the United States.

This list compiled of “Frequently Asked Questions” is for the restitution collections website, below is the link to the pdf version on the Maricopa County website:

<http://www.maricopa.gov/Finance/PDF/Financial%20Services/Collections/CCU%20FAQ%20120718.pdf>

It is available to all to put it on other victim websites or create a direct link to the Maricopa County website. Additionally, she shared how Maricopa handles cases and continued to offer her expertise with other counties seeking more information.

<http://www.maricopa.gov/Finance/collections.aspx> - (pdf file)

### B. Update from the Committee on the Impact of Wireless Mobile Technology and Social Media on Court Proceedings

Mr. Mark Meltzer, Administrative Office of the Courts (AOC) discussed revisions to Rule 122 which applies to the use of cameras in the courtroom. The committee decided to look at the rule in its entirety as it impacts courts with this new technology. The committee has been unable to find any other statute or rule that prohibits the photography of crime victims. If this committee has knowledge of a statute please forward that information back to the wireless committee. Below are a few of the issues that have been identified and he is seeking COVIC’s input on how best to proceed.

The wireless committee is considering a rule that allows the judge to address camera coverage directly with the victim; thus allowing the victim the right to privacy, dignity and freedom from harassment.

The committee considered three scenarios:

- 1) blanket coverage for all victims,
- 2) each victim has a right to decline camera coverage through discussions with the judge,

- 3) allowing the victim to request “no camera” in advance of trial.

COVIC committee members discussed the process of serving notice of victims’ choices verses victim notification at the trial. The committee preferred a blanket coverage rule to “opt out” verses to “opt in” for what is considered a victim’s constitutional right to privacy. A statute that is similar to the juror provision currently in place. With the preference of opting out as the choice, the victim does not have the responsibility to request the privacy.

The wireless committee modified the media request to seven days prior to the trial date or at the minimum 48 hours in special circumstances.

#### C. Technical Revision to A.C.J.A §5-204

Ms. Carol Mitchell, Administrative Office of the Courts (AOC) discussed minor changes to ACJC §5-204. AOC adopted an amendment that revised the definition of victim, added notice posting requirements and other technical changes based on the last legislative session.

#### D. Language Access and Victim Issues

Mr. Scott Loos, Interpreter for Maricopa County Superior Court, explained the planning process that Maricopa does to ensure smoother interpreter services for a victim and/or the witness during court procedures. The Interpreter Department of Maricopa County uses some of the following policies and procedures which have been aided by the use of an IGA with their county justice partners:

- An early identification of interpreter needs for the victim/witness which enables victims to present their case in court.
- Victim access to translated materials prior to the court date enabling them to understand and know what to expect throughout the case process.
- The appointment of a separate interpreter for the both defendant and the victim/witness.
- The use of “interpreter” days as a calendaring control tool.

Mr. Loos encouraged other courts to assess their language services. Judge Reinstein asked if AOC would survey courts and Carol Mitchell agreed to look at the Language Access Plans submitted by each county.

#### E. Language Access Update

Ms. Carol Mitchell shared initiatives handled through the Administrative Office of the Courts in the language access arena. The Supreme Court issued Administrative Order 2011-96 which required all courts to evaluate current procedures regarding language access and produce and adopt a written Language Access Plan. Each plan should detail what happens when Limited English Proficient (LEP) speaking people go to various court proceedings and how they can acquire access to court proceedings.

The AOC has provided resources to the courts through various roles; such as training on interpreter issues in new judge orientation, the use of statewide language access bench cards and the statewide interpreter registry and listserv. The registry is a

database that courts can use to find interpreters. The listserv is an email distribution list of court staff that deal with interpreter issues and anyone on the listserv can email out a request for a language ± specific interpreter and receive almost an immediate response. AOC also joined the National Consortium which gives us access to other states and their information regarding interpreters of rare languages. Additionally, courts have access to telephonic language line services available through the statewide contract procurement office, and a language identification card to be used at points of public contact.

AOC's role is more along the lines of resource consolidation, resource stratification and realistic assessment of what each county can do to provide better services. AOC held a summit in June of this year, discussing language access which included a guest speaker from the Colorado AOC who had recent dealings with the Department of Justice on the language access deficiencies for the state of Colorado. A Code of Ethics for Interpreters was one project that came out of this summit and we have recently started a workgroup to begin development. Document translation is another area we hope to look at in the future and evaluate resource consolidation in this area as well.

Most interpreters for lesser languages reside within Maricopa County or the larger metro areas which increases interpreter costs due to long travel times. AOC is considering a remote video interpreting pilot project with other outlying counties. By having an interpreter video conference room at the AOC, we hope to greatly reduce costs to the courts through the use of as technology a tool for interpreters which has been successful in both Maricopa County and Florida Courts.

The National Center of State Courts is hosting a National Language Access summit in October and Arizona is sending five representatives from our state who will participate. Carol will share any updates regarding language access in the future.

### III. Old Business

#### A. Victim ID Protection Rule petition update

Hon. Ron Reinstein, discussed activities of the Victim ID Protection workgroup and the rule petition continuance timeline of the Supreme Court. The continuance gave us time to meet with media to review the petition and any objections to the proposal. Specifically, the media's position is that the victim should have to "opt in" vs. "opting out". COVIC wants to automatically use initials unless the victims choose to opt out of this protection. There is also discussion on deceased child victims and should that victim have the same right as other victims considering most victim families want the child's name known for use of bringing attention to the case or issue. Also discussed Form 4's which may have the victim's name which can be redacted; however, if it is submitted as part of the case file with the victim's name intact it then becomes part of the official court record. Another meeting is set for October 4<sup>th</sup> with another possible tweaking of the petition. The petition must be revised by November 16<sup>th</sup> to make it to

the December 8<sup>th</sup> rules agenda. We may ask for a delayed implementation to allow court entities across the state to prepare.

A motion was sought to give the authority to the workgroup to work toward resolution of this issue on behalf of COVIC. Motion was seconded and passed.

#### IV. Other Business

##### A. Good of the Order/ Call to the Public

Captain Larry Farnsworth is working on victims issues with the county attorney's office for victims to be heard. He may propose a "Form 5" for victims only which would be similar to a "Form 4" and might include a victim's preferred method of contact, do they want to make a statement, etc. This would be an opportunity to help fill the gap in the system regarding initial appearance notification and victim safety issues. This would be something that law enforcement would collect with the Form 4 as part of the documentation process.

Judge Reinstein suggested that Keli Luther and Captain Farnsworth put a proposal together to submit to the committee at the next meeting for a potential workgroup project.

Kirstin Flores, Arizona Attorney General's Office announced the law enforcement training for Victims' Rights 101, advance training and schedule is posted on the Attorney General's website. We plan to have a section focused on the initial arrangement hearing training for victims' in the future on AZPost. It is not mandatory for police officers; however, they will be able to receive credit for attending.

**B. Motion:** To adjourn at 12:10pm. Motion was seconded and passed.

##### C. Next Committee Meeting Date:

Friday, January 25, 2013

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

State Courts Building, Room 119 A/B

1501 W. Washington St., Phoenix, AZ 85007