

Commission on Victims in the Courts

Friday, March 13, 2020

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

Conference Room 345 A/B

1501 West Washington Street

Phoenix, Arizona 85007

Present: Judge Ron Reinstein (chair), Michael Breeze, Colleen Clase, Judge Maria Elena Cruz, Kirstin Flores, Leslie James, Jane Nicoletti-Jones, Christina Spurlock, Judge Richard Weiss

Telephonic: Kimberly Chichester, Jon Eliason, Vanessa Helms, Judge Kellie Johnson, Captain John Leavitt, Dan Levey, Chief Rod McKone, Elizabeth Ortiz, William Owsley, Jennifer Runge, Judge Patricia Starr

Absent: Timothy Agan, Sydney Davis, Sergeant James Markey (ret.), Karen Rasile, Judge Antonio Riojas

Presenters/Guests: Elise Kulik, Chris Groninger, Kay Radwanski, Judge Winthrop

Staff: Theresa Barrett, Sabrina Nash, Susan Pickard, Administrative Office of the Courts (AOC)

I. REGULAR BUSINESS

- A. **Welcome and Opening Remarks** - With a quorum present, the March 13, 2020, meeting of the Commission on Victims in the Courts (COVIC) was called to order at 10:05 a.m. by Judge Ronald Reinstein, Chair.
- B. **Approval of Minutes** - The draft minutes from the October 18, 2019 meeting of the COVIC were presented for approval.
Motion: To approve the October 18, 2019 minutes as amended. **Moved:** Mr. Michael Breeze. **Second:** Mr. Jon Eliason. **Vote:** Passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. **AZPOINT: Arizona Protective Order Initiation and Notification Tool**

Kay Radwanski, AOC Senior Policy Analyst, provided the background and history of the AZPoint project which went into effect January 1, 2020, and highlighted that Protective Orders are to be serviced with 72 hours. Once the court grants the petition the courts transmit the Order of Protection to law enforcement for service. AOC registers protective orders with the National Crime Information Center and is the central repository for protective orders. The AOC partnered with ACJC to implement the goals of the legislature to automate and increase the number of Orders of Protection and Injunctions Against Harassment that are served and reported to NCIC. ACJC obtained grant funds to assist AOC ITD with the technological aspect of creating a web portal. Ms. Radwanski discussed the three portals of AZPOINT.

- **Petition Portal** – is a guided interview to help the petitioner complete the document, which is stored in the portal for up to 90 days to give the petitioner time to edit the document and create a safety plan. The site is accessible on multiple devices, generates a petition confirmation number and has a floating safety button that allows the petitioner to quickly close the document if needed without losing information already entered. The petitioner files at the court of their choice unless a family court case is pending in which case the must filed with that court. The court downloads the forms from the portal.
- **Clerk Portal** – allows court staff to accept and print Petition documents completed via AZPOINT using the petition confirmation number supplied by the petitioner.
- **Service Portal** – permits law enforcement to search for the protective order by a court’s Case Number, print the servicing packet order and the service of process information form if the protective order was completed via AZPoint. Law enforcement will be able to search and enter a declaration of services after the order has been served and can transfer the service assignment from one agency to another.

Ms. Radwanski noted that the AZPOINT portal will be translated into Spanish soon.

B. Legislative Update

Elise Kulik, AOC Legislative Analyst, stated that the legislature was halfway through this session. In response to COVID-19 the legislature is closing its galleries and limiting public access. Some legislators are self-quarantining which may impact upcoming votes on legislation. She reported the legislature hoped to complete the budget before the COVID-19 emergency escalates. She presented the following update on bills in process:

- **HB2411 Convictions; penalties; surcharge distribution** - is a technical bill attempting to errors in distribution to the fund.
- **HB2414 Appropriations; alternative prosecution; diversion programs** - is an appropriations bill to expand diversion program.
- **HB2538 Health care workers; assault; prevention** - now includes health care workers to the list of protected individuals and has passed out of the House.
- **HB2581 Dangerous; incompetent person; evaluation; commitment** - closes the loophole for those who cannot be restored to competency.
- **HB2649 Prisoners; mental health transition program** – creates a mental health transition pilot program to provide eligible inmates with transition services in the community.
- **HB2808 Functionally literate inmates; release eligibility** – modifies release conditions and credits for inmates.
- **SB1172 Sex offender registration; requirements; vehicles** – decreases the time to register to within three days of adjudication.
- **SB1278 Victims’ privacy; criminal case information** – clarifies 2014 statute that gives the victim the right not to testify regarding any identifying or locating

information in a court proceeding unless the victim consents or it is court ordered.

C. Domestic Violence Legal Document Preparers (DVLDP) Pilot Program

Chris Groninger presented on the Domestic Violence Legal Document Preparers (DVLDP) Pilot Program. The pilot's goal is to provide more access to free legal help to that that could not afford it and provide a means to assist Legal Aid with its high-volume needs. Ms. Groninger discussed the Administrative Order and the structure of the program. Participants will be lay legal advocates that have experience and training working in family law, housing, and debt collection issues. Currently lay legal advocates do similar work, but do not have the capacity to help scribe the documents and give information at the level they can as a DVLDP. Participants will take a substantive law test on the limited scope of the work they are allowed by AO to engage in and will then work under the supervision of a legal aid attorney for those serviced by legal aid agencies before becoming certified to work without attorney supervision.

Ms. Groninger answered questions from members about the details of the program from qualifications to limits on the services that can be offered.

D. Restitution Topics

Yuma Restitution Court.

Judge Cruz provided an update on her returning to the bench in Yuma County to hold restitution court. This was the second restitution date of the year. The court is keeping statistics to compare with the prior restitution court in Yuma and to inform the newly formed workgroup from COVIC. The workgroup will work on a bench book for Superior Court Restitution Court. In closing, Judge Cruz discussed the potential for retired judges volunteering as pro tems for other restitution courts around the state.

Discussion on cite and release statute and victim's rights.

Kirstin Flores reported on a concern that was recently raised in her office. The office created a victim's rights waiver form that is provided to law enforcement to allow a victim to opt in for their pre-conviction rights. The form requires the officer provide notice of an initial appearance upon arrest or cite and release. The form states on a cite and release the suspect can appear in court before the initial appearance date. After research, ARS 13-3903(f) as well as the Arizona traffic complaint say the same thing. So the question arose as to who would then notify a victim that the suspect was at court and having an initial appearance.

Ms. Flores wanted to ask the group if anyone has or is aware of a practice where the court notifies victims and whether this should be addressed with legislation. Chair Reinstein noted that in doing restitution complaint reviews there are issues that arise when a defendant comes in on a misdemeanor and has an initial appearance and pleads and is sentenced all at once. He noted the *Klein* case that states victims' rights apply to misdemeanors. Captain Leavitt stated in his county there have been past efforts to have iPads, one where the suspect is being held before being cited and released and one that can be taken to the victim in field. But he is not sure such a practice was in place still.

The question was whether the statute should be amended to prevent the ability of suspect to go to court before set hearing date, so victim does not miss an opportunity to appear as allowed by victims' rights statutes. It was noted that the language allowing persons to appear before a set date is often used by persons passing through the state or are in the state short term, such as for vacation, so any change to statute needs to consider this. Others shared that they have similar issues with persons coming through and wanting to resolve, so the courts have to scramble to determine if they can reach a victim.

Suggested that there be increased education to the bench and that if a victim case the court has to ensure that there is notice to any victim.

E. Case Updates

Judge Reinstein passed on case updates to allow time to address other agenda items.

F. AVCV's Rule Change Petition seeking to integrate Rule 39 throughout the rules of procedure

Judge Reinstein indicated the Justices wanted the Commission to review and provide input, even if after the comment period ends (noting the petition was not in meeting materials so may need to address at June meeting). Colleen Clase did a brief summary of the petition to assist members in preparation for a vote at June meeting. The petition seeks to integrate victims' right into the rules versus having them only in Rule 39. This is the third year this petition has been filed. This year the petition states clearly that a victim is not a party and that Rule 39 would remain in place versus eliminating it once its provisions are integrated into other rules based on feedback to the petition in prior years.

Members briefly discussed positions and asked questions about the petition. Members also discussed other ways to ensure judges are more informed and experienced in applying and addressing appropriately victims' rights as provided in Rule 39.

III. Good of the Order: There was no other business or topic raised by the members.

Call to the Public: None present.

Adjournment: Meeting adjourned at 12:00 p.m.

Next Meeting:

Friday, June 12, 2020

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 West Washington Street

Phoenix, AZ 85007

Commission on Victims in the Courts

Friday, June 12, 2020

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

Virtual Meeting

1501 West Washington Street

Phoenix, Arizona 85007

Approved October 16, 2020

Appearing virtually: Judge Ron Reinstein (chair), Timothy Agan, Michael Breeze, Kimberly Chichester, Colleen Clase, Judge Maria Elena Cruz, Sydney Davis, Judge Ronda Fisk (proxy for Judge Patricia Starr), Kirstin Flores, Vanessa Helm, Delia Hiser (proxy for Christina Spurlock), Leslie James, Judge Kellie Johnson, Sandra Klotz (proxy for Jennifer Runge), Captain John Leavitt, Dan Levey, Sergeant James Markey (ret.), Chief Rod McKone, Jane Nicoletti-Jones, Elizabeth Ortiz, William Owsley, Karen Rasile, Judge Antonio Riojas, Judge Richard Weiss

Absent: Jon Eliason, Judge Evelyn Marez

Presenters/Guests: Justice Bill Montgomery, Elise Kulik, Mark Perkovich, Judge Maria Elena Cruz, Kirstin Flores, Colleen Clase, Rosanna Cortez, Teri Munn, Cathy Clarich

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

I. REGULAR BUSINESS

- A. **Welcome and Opening Remarks** - With a quorum present, the June 12, 2020, meeting of the Commission on Victims in the Courts (COVIC) was called to order at 10:05 a.m. by Judge Ronald Reinstein, Chair.
- B. **Approval of Minutes** - The draft minutes from the March 13, 2020 meeting of the COVIC were presented for approval.

Motion: To approve the March 13, 2020 minutes. **Moved:** Colleen Clase.

Second: Michael Breeze. **Vote:** Passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update

Elise Kulik, AOC Legislative Analyst, stated that in March the legislature passed a skinny budget with no new initiative funding beyond what was funded last year to enable agencies to continue to operate. She stated that the legislature is unsure of what the pandemic's impact will be on state general fund revenue. The legislature went sine die two weeks ago and unfortunately no AJC supported House Bills were approved and will need to be presented again next year. The only bill of interest to COVIC to pass the legislature is SB1441: Protection orders; modification; residence possession. This legislation allows the court to give a party in an order of protection exclusive use of the residence while the order of protection is in effect. If the party awarded exclusive use

of the residence moves out, they are required to notify the court that they moved within five days of the move. The other party, not granted exclusive use of the residence, can petition the court in writing for a hearing to determine possession of the residence. There is discussion that the governor may call for a special session to deal with COVID related legislation or the budget.

B. STRIVE – Sustainable Technology Resources & Interventions for Victim Empowerment

Mark Perkovich, Assistant Director, NAU-Family Violence Institute, provided a brief history. In 2018, the Family Violence Institute received a \$750,000.00 grant from the National Crime Victim Law Institute. Arizona created STRIVE whose purpose is to link crime victims in rural communities via technology. The National Crime Victim Law Institute funded three programs; STRIVE, Montana’s Legal Services Association and South Carolina’s Victim Assistance Network. STRIVE was set up in the rural communities of Santa Cruz, Cochise and Yuma counties. Our goal is to connect crime victims with low and pro bono representation in criminal court. Mr. Perkovich stated that they are currently applying for a new grant from the Office for Victims of Crime (OVC) of 1.5 million that will allow STRIVE to expand into Pima county and increase access to justice for crime victims throughout the rural communities in Arizona. AZPOINT has been a positive resource for our rural victims. STRIVE currently has a mobile app in beta testing to increase availability of services to victims. Mr. Perkovich briefly outlined the legal services provided and thanked their community partners.

C. Restitution Court Bench Book – General Jurisdiction

Judge Maria Elena Cruz, Court of Appeals, reported that a workgroup was created to develop a restitution court bench book for the general jurisdiction courts. Workgroup members are Judge Patricia Starr, Dan Levey, Kirstin Flores, Chief Rod McKone, Richard Jones and Randall Udelman. Meetings were held in April and May and the next meeting will be on June 26, 2020. The workgroup anticipates having a draft of the bench book completed and ready to share at the October COVIC meeting.

D. Victim’s Rights Assessment; Waiver Concerns

Kirstin Flores explained that the AOC removed the Victim’s Rights Program and the Arizona Criminal Justice Commission’s Victim Compensation was removed from CJEF and a new fine/fee of \$9.00 was created that is assessed to remedy the reductions that were affecting the victim community. It has been recently noticed by the Attorney General’s Office that the fee was being waived regularly in Pima. Concern was shared that this waiver of an important fee could be happening in other city/county courts. Two questions were discussed, (a) whether this is a practice statewide, and (b) whether the issue could be addressed so that these funds are not negatively impacted as these funds are a critical need for victim’s services.

Discussion: included training judicial officers that the \$9.00 fee is available for mitigation only not community restitution and can be waived. The AOC list of priority fines and fees that can be adjusted to give higher priority to the \$9.00 fee to lessen the chances it will be waived. It was suggested perhaps legislation was needed to amend

the statutory fee to be non-waivable. COVIC members will continue to research this issue and report back at the next meeting.

E. Rule 39 Petition

Colleen Clase, Arizona Voice for Crime Victims (AVCV), reported that AVCV has filed a petition to amend the Arizona Rules of Criminal Procedure by fully integrating the rights guaranteed to victims by the Arizona State Constitution throughout each applicable rule provision. Rule 39 addresses victim's rights but does not adequately provide guidance to judges and criminal law practitioners on how the rules apply to various scenarios in criminal proceedings. AVCV believes that it would be extremely beneficial to judges and criminal law practitioners to know how a decision to continue a motion affects the rights of victims and impacts the duties of the defendant, victim and the courts within the criminal justice process and this could be accomplished by integrating various rights into procedural rules themselves. A clarification to the petition specifically states that victims are not parties in the case, which was a concern voiced in a prior rule petition seeking to make these same changes. The Chair, Judge Reinstein (ret.) sought COVIC's position on the petition to report to the Court for the August Rules Agenda. Ms. Clase made a motion.

Discussion: Whether concerns raised by AVCV are more of a training issue. The risk of unintended consequences if changes are made to the Criminal Rules of Procedure. This petition has been rejected four times in the past.

Motion: To support the petition as amended. **Moved:** Colleen Clase. **Vote:** 11 yes; 13 no.

F. Roundtable Discussion: COVID-19 and Impact on Victims in the Courts

Judge Ronda Fisk reported that Maricopa county superior court is holding weekly criminal justice stakeholder meetings. In addition, they have a criminal department COVID-19 task force that meets regularly to address issues that are brought to the attention of the task force. They are focusing on how to get victims access to hearings, they are currently using GoToMeeting and they are piloting a program with Microsoft and For the Record (FTR) that allow victims to appear in a proceeding virtually. While participating in the meeting there is a component that would allow the victim's right attorney to meet and confer with the victim. They are converting some appearance hearings into non-appearance hearings, unfortunately some pre-trial conferences have been vacated due to COVID-19 restrictions on in courthouse visits.

Kirstin Flores thanked Judge Fisk on ensuring that victim's rights are in the forefront in Maricopa County Superior Court's work. She received positive feedback on victims attending on the court's bridge line. Victim's advocates in Pima county are also expressing positive feedback. Issues that victims are experiencing are with the court calendar being erratic with cases being calendared and then falling off the calendar. Victims are concerned about homicide sentencing hearings; not getting notice of

hearings five days before and the hearings being continued the day before the hearing with little or no notice. This is having an impact on victims, caseload and travel. It was noted a large part of this issue is related to COVID-19 outbreaks in jails and the subsequent inability to transport an in-custody defendant. It was also noted there is a lack of clarity regarding whether advocates can attend hearings in person or virtually.

Rosanna Cortez stated her agency was running into similar experiences with the lack of consistency in superior courts. Some courts will call the victim to testify and others will ask the victim to call in, some judges indicate that only the victim can attend in person hearings and others are indicating that the victim and a support person can attend in person hearings.

Judge Kellie Johnson stated that she will bring the victims, victim advocates and homicide survivors concerns to the attention of Judge Liwski for consideration in the scheduling of hearings and continuances.

Judge Maria Elena Cruz asked if there was a database of all judges around the state assigned to criminal calendar? Judge Cruz proposed:

- The creation of a list of email addresses for criminal presiding judges and judges assigned to criminal cases, which is updated regularly to assist with disseminating information to criminal judges regarding victim's rights.
- COVIC create a letter to the courts on the impact victims are seeing due to the COVID-19 pandemic changes that are being made in the courts.

Judge Fisk thanked COVIC for the information about the impact COVID related changes are having on victims and stated that she would share the information with her court. She noted that judicial officers are also frustrated with the necessary COVID changes and the fluidity of the situation. She noted that every time there is an outbreak in a detention center it impacts the courts ability to hold hearings and therefore affects the court calendar.

Rod McKone stated that the chief probation officers meet weekly to discuss the impact COVID has had on how they operate. Primarily they contact probationers virtually or by phone. They have waived some of the draconian contact standards with good results. They are concerned about addicts on probation getting the support they need.

Bill Owsley stated that when they went to video hearings more juveniles participated in hearings as they are tech savvy and are not in school and easier to communicate with.

Jane Nicoletti-Jones noted that they are maintaining contact with victims via video chat or by phone. There are challenges for victims living in tribal communities who are still in lockdown or who have limited access to the telephone or internet.

John Leavitt stated that law enforcement is limiting the arrest of individuals if it is not a violent crime. Law enforcement is also concerned about substance abusers because the price of methamphetamine has doubled. Many addicts are switching to oxycodone which is really fentanyl, which is resulting in more deaths in Pima county. He noted for the first time in Pima County fentanyl-related deaths outpaced methamphetamine deaths.

III. Good of the Order:

Dan Levey noted that bill 1278 (Victim's right to privacy; confidential information) had passed the Senate and the House judiciary and was scheduled to be heard by the full house and is now on hold due to the pandemic. The bill will be resubmitted next year.

Collen Clase mentioned that the third habeas petition for Clarence W. Dixon, the defendant who murdered Leslie James' sister twelve years ago, was denied. He has exhausted all his appellate remedies and has is sitting on death row.

Justice Bill Montgomery, who attended the meeting to learn more about the Commission's work, thanked COVIC for letting him participate and thanked members for the work that they do on COVIC. Judge Reinstein suggested that Justice Montgomery come back and talk about himself in a future meeting.

Call to the Public: None present. Staff reported no emails requesting opportunity to speak were submitted.

Adjournment: Meeting adjourned at 12:09 p.m.

Next Meeting:

Friday, October 16, 2020

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

State Courts Building, Room 119

1501 West Washington Street

Phoenix, AZ 85007

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Approved March 12, 2021

Appearing virtually: Judge Ron Reinstein (chair), Timothy Agan, Ray Hanna (proxy for Michael Breeze), Kimberly Chichester, Judge Maria Elena Cruz, Judge Jill Davis, Sydney Davis, Jon Eliason, Kirstin Flores, Rosanna Cortez (proxy for Vanessa Helms), Judge Brian Ishikawa (ret.), Leslie James, Judge Kellie Johnson, Captain John Leavitt, Dan Levey, Sergeant James Markey (ret.), Elizabeth Ortiz, William Owsley, Karyn Rasile, Judge Antonio Riojas, Jennifer Runge, Christina Spurlock, Judge Patricia Starr, Kent Volkmer, Judge Richard Weiss (ret.)

Absent: Chief Rod McKone, Randall Udelman

Presenters/Guests: Hirsch Handmaker, MD; Jonathon Lifshitz, PhD; Jamie Balson, Cathy Clarich, Laura Conover, Beth Green, Mark Meltzer, Kay Radwanski, Malissa (member of the public, last name unknown)

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

I. REGULAR BUSINESS

- A. **Welcome and Opening Remarks** - With a quorum present, the October 16, 2020, meeting of the Commission on Victims in the Courts (COVIC) was called to order at 10:03 a.m. by Judge Ronald Reinstein, Chair.

Judge Reinstein introduced new committee staff: Teri Munn, AOC; and four new members: Judge Jill Davis, Justice of the Peace, Lake Havasu Justice Court; Judge Brian Ishikawa (ret.), Maricopa County Superior Court; Randell Udelman, Arizona Crime Victim Rights Law Group; Kent Volkmer, Pinal County Attorney; and also introduced guest Laura Conover, County Attorney Elect of Pima County. In addition, Judge Reinstein thanked Colleen Clase, Judge Evelyn Marez, and Jane Nicoletti-Jones for their service on the commission.

- B. **Approval of Minutes (taken out of order)** - The draft minutes from the June 12, 2020, meeting of the COVIC were presented for approval.

Motion: To approve the June 12, 2020, minutes as amended. **Moved:** Judge Richard Weiss. **Second:** Ms. Elizabeth Ortiz Esq. **Vote:** Passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Restitution Court Bench Book – General Jurisdiction

Dan Levey, executive director, Arizona Crime Victim Rights Law Group, provided the background and history of the general jurisdiction restitution court bench book developed by the workgroup as a tool to aid the courts. Dan Levey thanked the members of the workgroup for the time spent dedicated to working on this bench book. It was highlighted that restitution is both embedded in the constitution and is an important aspect of crime victims' rights. By having a bench book to aid the courts, victims will also be aided in getting prompt restitution, while offenders are held accountable. Court monitoring of offenders' payments has been shown to increase offender compliance with restitution orders and helps victims to feel better informed.

Judge Cruz, chair of the workgroup, noted the workgroup wanted to put the information together in one place for superior court judges, highlighting that the point is to get individuals into restitution court who are able to pay and choose not to. Incarcerating individuals who are unable to pay would undermine confidence in the court system and the process.

Discussion: Close monitoring was mentioned as increasing the likelihood of offenders completing and being compliant with restitution. How are these individuals monitored? It was noted, in prison what's deposited in their wage or trust account is taken per statute and policy; however, when they're sentenced to probation or on parole they're monitored for compliance with restitution, which is a condition of them making monthly payments. Issues arise though when no monitoring is occurring. Additional inquiry was made as to whether or not it would be possible in the future to combine the limited and general jurisdiction bench books into one? Due to the role of probation at the superior court level versus the limited jurisdiction court level, it was determined further discussion at a later date would be needed.

B. Victims' Rights and Restitution Court Bench Book

Kirstin Flores, Office of the Attorney General, reported that the limited jurisdiction victims' rights and restitution court bench book undergoes a review for updates on an annual basis and a small workgroup has been put together to complete this year's annual review. Workgroup members include Judge Michael Bluff, Amy Bocks, Shannon Campodonico, Dan Levey, and Randall Udelman. Other members who would like to join the workgroup should contact Kirstin. The first meeting of the workgroup will be held on October 23, 2020. The workgroup anticipates having a listing of recommended changes to the AOC by the end of the month.

Discussion: The topic of functional equivalent of actual damages from civil actions and what happens when a civil judgment issued for the victim doesn't state whether or not there's an economic loss under the criminal law was raised. When this occurs, economic loss captured by an undesignated civil judgment results in the victim not being made whole for that amount. Dan Levey noted this topic does come up from time to time, and

when it does, they encourage both the clients and civil attorneys to put in the civil judgments that it's for pain and suffering and not an economic loss so the result is not an offset to the restitution. Judge Reinstein noted this might be a topic that any of the members who have contact with lawyers in the civil arena could raise.

C. National Sexual Assault Kit Initiative

Jim Markey, sergeant (ret.) Phoenix Police Department and consultant for RTI International, provided the history and background of the National Sexual Assault Kit Initiative (SAKI), thanking Jon Eliason for spearheading the Maricopa County grant application for this project. The National Sexual Assault Kit Initiative is a DOJ funded grant that was initially solicited in 2015 for a three-year period, for a total of \$2 million dollars in funding, with 20 sites originally participating. Law enforcement, local government, any tribal government, non-law enforcement agencies acting as fiscal agents, and prosecutors' offices are eligible to apply. Purpose areas that may be applied for are a comprehensive approach to unsubmitted sexual assault kits, SAKI for small agencies (less than 25 personnel), the collection of lawfully owed DNA, and the investigation and prosecution of cold case sexual assaults. One of the foremost priorities of SAKI was and continues to be the reengagement of victims whose cases may have been open for years. This includes utilizing a victim-centered approach with advocacy and community-based assistance to reengage. Additional effects of this project have been requirements for audits, state statutes for mandatory kit submission and tracking of kits (some states providing funding and some not for these purposes), and mandatory training in sexual assault for agencies for investigators and leadership. Additionally, early offender identification and prosecution has resulted in the offender being off the streets and not committing further crimes. In Arizona, there were three grants provided to Maricopa County initially in addition to the county attorney's office, the City of Phoenix, and Pima County.

D. Intensive Probation Workgroup Proposal Re: Restitution Issues

Judge Reinstein (chair), reported that approximately 35 years ago intensive probation statutes (IPS) were enacted in the legislature. As a result of the need for a review of these statutes and per recommendations stemming from the Pew Charitable Trusts Public Safety Performance Project, a workgroup was recently formed to review the IPS statutes of ARS §§ 13-913 through 13-919. The workgroup comprises the adult probation chiefs around the state, the adult probation services division of the AOC, and COVIC members Judge Reinstein and Rod McKone. A draft revision to the definition of intensive probation in ARS § 13-913 has been made, which emphasizes the requirement that payment of restitution be made. A similar draft revision to ARS § 13-914 emphasizing the requirement of the offender to make payment of restitution was also made.

E. Concussions in Victims of Intimate Partner Violence

Jon Eliason, deputy attorney, Maricopa County Attorney's Office introduced Hirsch Handmaker, MD and Jonathan Lifshitz, PhD, representatives of the CACTIS Foundation

and faculty members at the college of medicine in Phoenix. The doctors presented on three issues: 1) traumatic brain injury that occurs from assault 2) the Maricopa County Collaboration on Concussion from Domestic Violence (MC3DV) approach and 3) epidemiology of traumatic brain injury (TBI) related to intimate partner violence (IPV). The importance of training for police officers in relation to the recognition of concussions was highlighted as concussions often go undiagnosed in relation to incidents of domestic violence. Clinical symptoms of brain injury include cognitive, somatic, and emotional. As such, suggestions to treat anyone who is the victim of an assault as though they have traumatic brain injury symptoms until evaluated and proven healthy have been made. The MC3DV collaboration involving law enforcement, county attorneys, health care, social workers, scientists and their work in this field has been recognized by the U.S. Government Accountability Office (GAO) as one of three sites in the U.S. doing this work. This work resulted in a national collaborative.

Discussion: Clarification was provided to members regarding Near Point of Convergence (NPC) and its role as an investigative tool police officers may use to record the neurological function of the victim.

F. Rule 39 Restyling Committee

Judge Reinstein reported that for multiple years the Arizona Voice for Crime Victims (AVCV) had petitioned the court to amend Rule 39 of Arizona Rules of Criminal Procedure, which is the court's victims' rights rule. The court did not act on this petition as they continued it. A workgroup will be formed which will be chaired by Justice Gould and vice chaired by Judge Reinstein. The comprehensive review and rule drafting work will most likely begin in January or February of 2021.

G. Update on ARS § 12-116.08; \$9.00 Victims Rights Assessment Waiver/Mitigation

Kirstin Flores provided some background information regarding the \$9.00 victims' rights assessment discussion that took place during the June 12, 2020, COVIC meeting. In June concerns were shared specific to the waiver of this assessment. Per this discussion the AOC reviewed documentation previously provided to the courts as relates to this statute also reviewing the statute itself. A memorandum was issued to the courts clarifying that the \$9.00 victims' rights assessment cannot be waived or mitigated.

H. Arizona Caselaw and Court Opinions Update

Judge Reinstein provided a brief case law and court opinions update summary of cases heard over the last six to eight months for: State v. Steven Randall Morgan, State v. Vivek A. Patel, E.H. v. The Honorable D. Slayton, State v. James R. Lapan Jr., State v. The Honorable K. Cooper, Abelardo Chaparro v. David C. Shinn, and Lynn Fox-Embrey v. The Honorable D. Neal.

III. Good of the Order:

Dan Levey provided information regarding discussions held with the clerks and ACJC specific to the possibility of tracking and maintaining statistics related to restitution

orders and collection of restitution payments on a statewide basis. This would include all general and limited jurisdiction courts.

Call to the Public: None present.

Adjournment: Meeting adjourned at 11:51 a.m.

Next Meeting:

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