

**COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS
MINUTES**

February 3, 2009

10:00 AM –2:00 PM

Conference Room 119 A/B, State Courts Building,
1501 W. Washington St., Phoenix, Arizona

MEMBERS PRESENT

Allison Bones
Dr. Jennifer J. Casaletto
Joan Fox, DDS
Professor Zelda Harris
Laura Horsley
Bridget Humphrey, Esq.
Cheryl L. Karp, Ph.D.
Honorable Joseph P. Knoblock
Cmdr. Scott Mascher
Honorable Dennis Lusk
Patricia Madsen, Esq.
Leah Meyers, GOCYF/DFW
Honorable Wendy Million
Chief Jerald Monahan
Doug Pilcher
Renaë Tenney
Tracey Wilkinson
Honorable Kristi Youtsey Ruiz

TELEPHONIC

Lt. Mark Carpenter
Honorable Cathleen Brown Nichols

MEMBERS ABSENT

Honorable William O’Neil, Chair
Barbara Appenzeller, CPA
Tracey Hannah, Esq.
Honorable Lynda J. Howell
Honorable Jack Peyton
Catherine Shugrue-Schaffner, Esq.

STAFF

Kay Radwanski
Lorraine Nevarez

Guests

Stephanie Mayer, AzCADV
Jannette Brickman, AzCADV
Gloria Full
Maria-Elena Ochoa, GOCYF
Jami Cornish, Community Legal Services
Amy Love, AOC
Kendra Leiby, AzCADV

I. CALL TO ORDER

A. Welcome and Opening Remarks

Judge O’Neil, Chair, was unable to attend the meeting. Judge Million acted as chair and called the February 3, 2009, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) to order at 10:15 a.m. Judge Million welcomed the newly and reappointed members to the committee. Also, Judge Million thanked the previous members on the committee for their time and effort.

B. Approval of Minutes from September 9, 2008

Minutes of the September 9, 2008, meeting of the Committee on the Impact of Domestic Violence and the Courts were presented for approval.

MOTION: Motion was made and seconded to approve the September 9, 2008, meeting minutes. Motion passed unanimously. CIDVC #09-01

II. Morrison Institute Report: Pinal County Domestic Violence Court

Dr. Richard Toon, Morrison Institute, presented the following results of a study of the Pinal County Domestic Violence Court. The main findings in the report are as follows:

- Cases were on average subject to judicial review eight times, resulting in the imposition of sanctions by judges in 47% of the reviews and by probation officers in 21% of reviews. One or more incentives were issued in 69% of the reviews.
- 61 (9%) offenders committed another offense while in the program.
- Offenders showed a statistically significant increase in their coping abilities as measured by the General Self-Efficacy Scale (GSE) during their period of supervision.
- Offenders showed a statistically significant decrease in their propensity for abusiveness to an intimate partner as measured by the Propensity for Abusiveness Scale (PAS) during their period of supervision.
- Offenders showed a statistically significant increase in their satisfaction with the criminal justice system during their period of supervision.
- Approximately 70% of treatment program cases (some offenders entered multiple programs) showed successful completions.
- 78% of offenders were drug-tested during the program; 31% of these had one or more positive results. Methamphetamine/amphetamines and marijuana were the most prevalent substances being abused.
- Program participants in the DV court program were 86% male, 59% Non-Hispanic White, 28% Hispanic/Latino, and an average of 33 years old; 45% were married or separated and the rest were single; 65% were employed full-time and 25% were unemployed; fewer than half had completed high school.
- 76% were convicted of misdemeanor offenses and 24% of felonies. The most common offenses were disorderly conduct (41%), assault (27%), and aggravated assault (10%).

Dr. Toon explained that these results suggest that the program has had positive effects. The study is not longitudinal as the measures were applied at the time offenders had completed the program. To study long-term results, researchers would need a control group, more pre- and post-test results, recidivism data beyond offenders' program involvement, and victim feedback.

III. Community Conversation

Maria-Elena Ochoa, director of the Division for Women, Governor's Office for Children, Youth and Families (GOCYF), and Allie Bones, executive director of the Arizona Coalition Against Domestic Violence (AzCADV), presented a report on a recent Community Conversation. In September 2008, the Governor's Office, Department of Economic Security, and AzCADV formed a partnership and sponsored a community conversation about pressing needs for DV victims. The focus of the discussion was on shelters services, including access as well as safety and protection for families in domestic violence situations. The community conversation, attended by 142 participants representing 11 counties, led to valuable information and recommendations such as having more community collaboration, family-centered approach, training, improved offender treatment, and funding. The goal is to alleviate shelter turn-aways. Although the number of shelter beds has increased since 2005, victim turn-away still is high. Turn-aways occur for other reasons, such as a too-large family, the age and gender of the victim's children, and mental illness. Suggested changes in the justice system included: improved communication between law enforcement and the courts; more free legal services; improved accountability for offenders; one family/one judge case assignment; stronger prosecution; longer sentences for criminal DV offenders, and improved service of protection orders.

IV. Report and Rule Petition of Advisory Committee on Supreme Court Rule 123 and Data Dissemination

Honorable Michael Jeanes, Clerk of the Superior Court in Maricopa County, and Chair of the Advisory Committee on the Supreme Court Rule 123 and Data Dissemination, presented the committee's recommendations.

In December 2007, Chief Justice Ruth V. McGregor established the Ad Hoc Advisory Committee on Supreme Court Rule 123 and Data Dissemination. The Chief Justice charged the committee with examining and making recommendations regarding Rule 123, Rules of the Supreme Court of Arizona, and governing access to records maintained by the judiciary, specifically in the areas of bulk data, database access, data retention, case look-up websites, and any additional Rule 123 issues needing resolution. The committee examined each of these topics and drafted revisions to Rule 123 and the Civil and Criminal Rules that it believes will better serve the public and the court community by providing greater access to court records.

Because of time constraints, the committee was unable to circulate the proposed rule changes for comment to the broader court community prior to filing the petition. However, Mr. Jeanes told CIDVC members that the rule petition has been filed and comments can be posted on the [Court Rules Forum webpage](#) until April 1, 2009. The committee has until May 8, 2009, to submit an

amended petition, if modification is warranted after reviewing comments.

V. Protective Orders and Public Access

Staff discussed compliance with the federal Violence Against Women Act (VAWA) and publication of plaintiff information on the Internet. Pursuant to 18 USC § 2265(d)(3), information that may reveal the identity or location of a person who has obtained a protection order cannot be published on the Internet. Plaintiff information in protection order cases is no longer available on the Arizona Judicial Branch Public Access website. However, the records are public and available for review at the courthouses. The issue has been raised as to whether all protective order cases should be removed from the Public Access website. A recommendation from CIDVC was sought on this issue. The issue also will be presented to the Limited Jurisdiction Committee and the Committee on Superior Court. Some of the circumstances that might warrant removal of all protective orders cases are:

- The true victim gets to the courthouse second and is named as the defendant (part of the DV dynamic, where a victim feels powerless or helpless or does not know how to navigate the judicial system).
- Cross-complaints are filed and orders granted on each. A party's name is protected on the order where he/she is named as Plaintiff but not on the cross order where the party is labeled as Defendant.
- In some circumstances, a defendant does not have an opportunity to contest the order. Example: Plaintiff files on Friday; Defendant is served on the same day and excluded from the residence. On Monday, Plaintiff requests that the order be quashed. Defendant has not had an opportunity to request a hearing because the order was quashed before Defendant could file a hearing request. Defendant's name still appears on Public Access.

Committee members offered the following options:

- Publish only cases in which an order has been affirmed after a contested hearing. This would solve due processes issues regarding the defendant's ability to contest the order.
- Leave the defendant's information and the case history on the Internet because it is helpful to the plaintiff, legal advocates, and for safety planning. For example, law students in the Domestic Violence Clinic at the University of Arizona rely on the site to analyze and prepare cases for court. The information on the site may help a petitioner or the petitioner's legal advocate establish a pattern of domestic violence. The information also is part of the public record.
- As a matter of privacy, remove all protection order cases from the Public Access website.

Staff will continue to research how other states and local court sites are handling remote access to DV cases.

VI. U.S. v. Hayes and the Lautenberg Amendment

Leah Meyers, GOCYF, reported on U.S. v. Hayes and the Lautenberg Amendment. In November 2008, the U.S. Supreme Court heard oral argument on this Fourth Circuit case arising out of West Virginia. In 1994, the defendant, Randy Hayes was convicted of battery upon his wife. The battery was considered a “misdemeanor crime of domestic violence” (MCDV) and, as such, because of the Lautenberg prohibition, Hayes was not permitted to own or possess firearms. The Lautenberg Amendment to the federal Gun Control Act imposes a lifetime ban on a person who has been convicted of a misdemeanor DV offense from possessing, owning, or selling firearms. Ten years after the battery conviction, Hayes was found in possession of a rifle. He was indicted for possession of the firearm after having been convicted of an MCDV. He appealed, arguing that West Virginia’s battery statute is not an MCDV under federal law because it does not contain, as an element, a requirement that the defendant and plaintiff be related to each other. The district court denied Hayes’ motion to dismiss the indictment. He appealed to the Fourth Circuit, which overturned the district court’s decision. The case was then appealed to the U.S. Supreme Court. If the U.S. Supreme Court affirms the district court’s decision, Arizona criminal laws as they apply to DV misdemeanors could be affected. The U.S. Supreme Court’s decision is expected soon.

VII. Workgroup Reports

- A. DV Forms and Process Workgroup (Hon. Elizabeth Finn, Chair) – No update at this time.
- B. DV Resource Book (Hon. Michelle Lue Sang, Chair) – Presentation to the committee under agenda item “DV Resource Book.”
- C. Best Practices (Hon. Wendy Million) - No update at this time.
- D. DV Education Workgroup (Vacant- Chair) – No update at this time.
- E. Legislative Workgroup – The committee decided to disband the workgroup as CIDVC is not proposing legislative changes at present.

VIII. DV Resource Book

Judge Million explained that the Education Services Division, Administrative Office of the Courts (AOC), has taken responsibility for updating the DV Benchbook. However, the Publications Committee of the Supreme Court has asked CIDVC to take over the resources section of the benchbook and publish it as a separate CIDVC-sponsored document. Leah Meyers advised that GOCYF maintains the same information in its “Breaking the Cycle” pamphlet. She said GOCYF updates the information regularly. As GOCYF is performing this task, CIDVC members agreed there is no need for the committee to duplicate the work of the Governor’s Office. Therefore, the DV Resource Book will be discontinued.

IX. AzCADV Cell Phone Project

Allie Bones, AzCADV, informed the committee that the Coalition has partnered with Shelter Alliance to raise money through cell phone recycling. Up to \$30 (or more) will be earned for each donated phone. Shelter Alliance offers environmentally responsible, zero landfill cell phone recycling. Interested members can find out more about the program at http://shelteralliance.net/shipments/?org_name=Arizona%20CADV.%20AZ.

X. AOC Legislative Update

Amy Love, AOC legislative analyst, discussed the court impact of the following proposed legislation:

SB1063: DOMESTIC VIOLENCE VICTIMS; FEE EXEMPTIONS (WARING)

Exempts an individual who is receiving services from a domestic violence shelter from being responsible for various fees related to driver licenses.

SB1068: AGGRAVATED ASSAULT; STRANGULATION AND SUFFOCATION (PATON)

Classifies suffocation and strangulation as aggravated assault.

SB1087: AGGRAVATED DOMESTIC VIOLENCE; VIOLATION (PATON)

Reclassifies a second offense of domestic violence to aggravated domestic violence if it occurs during the 84-month look back period. A second offense of domestic violence within 84 months, instead of a third offense, requires a mandatory minimum of four months in jail. A third, instead of fourth or subsequent, offense of domestic violence within 84 months requires a mandatory minimum of 8 months in jail.

SB1088: DOMESTIC VIOLENCE; DATING RELATIONSHIPS (PATON)

Expands the definition of domestic violence to include current or previous significant romantic or sexual relationships between the victim and defendant. Requires the court to consider the following criteria in order to determine that a relationship is or was serious:

- Type and length of the relationship
- Frequency of interaction
- Length of time since termination.

SB1106: DOMESTIC VIOLENCE; CHILD CUSTODY (PATON)

Authorizes a court granting custody of a child to not consider which of the parents is more likely to allow the child continuing contact with the other parent only if the court determines that one parent is acting in good faith to protect the child from domestic violence or child abuse. Requires

the court to make written findings of fact in addition to considering all of the relevant factors to determine if a person has committed an act of domestic violence. The presumption that the award of custody to a parent who committed an act of domestic violence must be rebutted by clear and convincing evidence. Requires the court to make written findings of fact in determining if the parent has rebutted the presumption and has demonstrated by clear and convincing evidence that being awarded sole or joint custody is in the child's best interest.

SB1120: DOMESTIC VIOLENCE OFFENSES (PATON)

Expands the definition of domestic violence in Title 13 to include several new offenses, including:

- Dangerous crimes against children
- Murder
- Sexual assault
- Burglary
- Criminal damage
- Interfering with judicial proceedings
- Disorderly conduct
- Cruelty to animals
- Preventing use of a telephone in emergency

XI. AzCADV Legislative Update

Kendra Leiby, AzCADV systems advocate, discussed the Coalition's priorities for the current legislation session. She noted that the Coalition is working closely with the AOC on proposed amended language to SB1106, regarding domestic violence and child custody. AzCADV provided an information sheet on its legislative agenda. The priorities listed include:

Budget: The Coalition advocates maintenance of the domestic violence line item, with appropriations toward the greatest represented needs throughout the state being a top priority.

SB1106: domestic violence; child custody: An amendment to ARS § 25-403, stipulating that if a parent is acting in good faith to protect his or her child from witnessing an act of domestic violence or being a victim of domestic violence or child abuse, the Court may not use such action against the parent when determining the best interests of that child in a custody dispute. It also stipulates that if the Court finds that a parent has committed an act of domestic violence, that parent has the burden of proving, by clear and convincing evidence, that parenting time will not endanger the child or significantly impair the child's emotional development.

SB1088: domestic violence; dating relationships: An amendment to the current domestic violence statute to include and recognize victims of domestic violence in a "dating relationship" or a "romantic or sexual relationship." The legislation AzCADV supports will be modeled after Minnesota's, which states: "...in determining whether persons are or have been involved in a significant romantic relationship, ...the court shall consider the length of time of the relationship; type of relationship; frequency of interaction between the parties; and, if the relationship has

terminated, length of time since termination.”

SB1068: aggravated assault; strangulation and suffocation: Due to the fatality potential and the correlation between intentional strangulation/suffocation and homicide in domestic violence cases, AzCADV insists on holding perpetrators accountable for this crime. To do so, AzCADV is supporting legislation that would increase and define the penalties for intentional strangulation and suffocation offenses per domestic violence as a felony 4.

SB1087: aggravated domestic violence; violation: currently in Arizona, if a perpetrator has been convicted of two misdemeanor domestic violence offenses, the third and subsequent domestic violence misdemeanor offense committed within a period of seven years can be charged as a felony. This session AzCADV has introduced legislation making the second and subsequent misdemeanors a felony, enabling prosecution to hold repeat offenders further accountable.

SB1120: domestic violence offenses: Arizona’s current domestic violence statute (13-3601) does not cite a number of crimes as domestic violence and in an attempt to lend the statute more clout, AzCADV has introduced legislation defining burglary, prevention from using a telephone in an emergency, homicide, cruelty to animals, and sexual assault as domestic violence related crimes, given the victim and perpetrator pass the relationship test.

XII. Call to the Public

No public comment.

Announcement: Glendale Police Department STOP Grant - DV Summit and Satellite Broadcast -- The Glendale Police Department received a STOP grant of \$41,000 to develop a satellite broadcast and a domestic violence summit in October 2009. Members of the law enforcement, courts, prosecutors, and advocacy groups will be invited to attend the conference. The goal is to bring these communities together to provide useful information and to create awareness of each group’s role in addressing domestic violence.

XIII. Adjournment

The meeting was adjourned at 1:55 p.m.

Next Meeting:

Tuesday, May 12, 2009

10:00 a.m. – 2:00 p.m.

State Courts Building, Conference Room 119 A/B

**COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS
MINUTES**

May 12, 2009

10:00 AM –2:00 PM

Conference Room 119 A/B, State Courts Building,
1501 W. Washington St., Phoenix, Arizona

MEMBERS PRESENT

Barbara Appenzeller, CPA
Allison Bones
Lt. Mark Carpenter
Joan Fox, DDS
Professor Zelda Harris
Laura Horsley
Honorable Lynda J. Howell
Bridget Humphrey, Esq.
Honorable Joseph P. Knoblock
Honorable Dennis Lusk
Patricia Madsen, Esq.
Honorable Daniel G. Martin
Leah Meyers, GOCYF/DFW
Honorable Wendy Million
Chief Jerald Monahan
Honorable William O’Neil, Chair
Doug Pilcher
Catherine Shugrue-Schaffner, Esq.
Renaë Tenney
Tracey Wilkinson

TELEPHONIC

Cheryl L. Karp, Ph.D.
Honorable Cathleen Brown Nichols
Honorable Kristi Youtsey Ruiz

MEMBERS ABSENT

Commander Scott Mascher
Honorable Jack Peyton
Ms. Marla Randall

STAFF

Kay Radwanski
Lorraine Nevarez

GUESTS

Chief Justice Ruth V. McGregor
Stephanie Mayer, AzCADV
Theresa Barrett, AOC
Gloria Full
Kendra Leiby, AzCADV
Janet Scheiderer, AOC
Honorable Elizabeth Finn

I. CALL TO ORDER

A. Welcome and Opening Remarks

Judge O’Neil, Chair, called the May 12, 2009, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) to order at 10:12 a.m. Judge O’Neil welcomed the members.

B. Approval of Minutes from February 3, 2009

Minutes of the February 3, 2009, meeting of the Committee on the Impact of Domestic Violence and the Courts were presented for approval.

MOTION: Motion was made and seconded to approve the February 3, 2009, meeting minutes. Motion passed unanimously.

II. E-Filing and Protective Orders

Ms. Cindy Cook, Administrative Office of the Courts (AOC), presented the TurboCourt e-filing project. This project is currently developing forms such as Orders of Protection and Injunction against Harassment that will be available for print by petitioners. The TurboCourt e-filing project will allow petitioners to fill out the petition electronically and have it waiting in a queue for retrieval when the petitioner arrives at the court. This endeavor is scheduled for the second phase of the e-filing project to allow the AOC more time to spend on the development of forms and language. As the members of this committee are experts in this area, the AOC would appreciate any input the committee can provide on the forms and language they think should be included for e-filing.

The committee established a workgroup to assist the e-filing project. The members included the following:

- Honorable Elizabeth Finn, Workgroup Chair
- Ms. Tracey Wilkinson
- Bridget Humphrey, Esq.
- Patricia Madsen, Esq.
- Ms. Summer Dalton
- Honorable Lynda J. Howell
- AZCADV Member
- Judge Dennis Lusk

MOTION: To authorize the CIDVC Forms and Processes Workgroup to collaborate with the AOC to develop intelligent forms and language for the electronic filing of protective orders. Motion was approved unanimously.

III. Domestic Violence Related Fatalities 2008

Ms. Stephanie Mayer, Arizona Coalition Against Domestic Violence (AzCADV), presented on the 2008 report of domestic violence related fatalities, trends over the last four years and conclusions from the report. Ms. Mayer noticed that Arizona is on the top ten list in domestic violence homicides. Ms. Mayer explained the importance of having coordinated efforts to close systems gaps by reviewing policies and procedures to make sure they focus around best practices. The report can be viewed on the coalition website.

IV. Legislative Update

Ms. Kendra Leiby, Arizona Coalition Against Domestic Violence (AzCADV), discussed the coalition's legislative priorities and the status of pending legislation. Currently, the legislature is focusing on the FY'10 budget. Some bills have moved through the House and are waiting to transfer to the Senate. No bills have moved through the Senate.

Some bills that may move before the end of session are the following:

- SB#1049--Fingerprinting (sponsored by Senator Linda Gray). There has been no movement on it. However, there is an outcry to act on this bill because it needs to comply with federal law in order for the state not to lose \$150 million in federal funding.
- HB2474--Regarding storage of firearms in motor vehicles on private property. Under this bill, a private property owner could not prohibit a person who lawfully owns a firearm from storing the weapon in a locked motor vehicle on the owner's property

The coalition is in the process of amending the child custody bill that affects A.R.S. § 25-403. The amendment to SB 1106 would add an eleventh custody factor regarding whether there has been domestic violence or child abuse as defined in section 25-403.03 and also deleting requirements for written finding of facts. A proposal to change the standard for rebutting the presumption that custody should not be awarded to a parent who has committed domestic violence will be withdrawn. The proposal would have raised the current standard (by a preponderance of the evidence) to clear and convincing evidence.

V. Domestic Violence Training Summit

Honorable Elizabeth Finn, Glendale City Court, discussed the plans for the upcoming Arizona Domestic Violence Training Summit that the Glendale Police Department is sponsoring on Tuesday, October 6, 2009, at the Glendale Civic Center. The Glendale Police Department, in partnership with the Administrative Office of the Courts (AOC), Arizona Coalition Against Domestic Violence, and other partners, received a STOP Grant award from the Governor's Office to fund the conference. The conference will feature nationally recognized speakers addressing critical and time relevant topics such as protective order issues, assessment, coordinated community responses, stalking, technology, strangulation, sexual assault, teen dating, custody and DV, specialized DV courts and more. A second training opportunity--a satellite broadcast--also will be funded by the grant.

NOTE: Chief Justice Ruth V. McGregor joined the meeting to give Judge O'Neil a certificate of appreciation for all his service and contributions to CIDVC during his six years as chair of the committee. Judge O'Neil's term expires June 30, 2009, at which time he will step down as chair. She also thanked committee members for their service to the Supreme Court during her tenure as chief justice.

VI. Protective Orders and Public Access

Kay Radwanski, Administrative Office of the Courts, presented information regarding internet access to protection orders. To comply with the federal Violence Against Women Act, plaintiff information in protection order cases was removed recently from the Arizona Judicial Branch Public Access website. The issue has been raised as to whether all protective order cases should be removed from the Public Access website. Removal of the information from the website does not affect the public's ability to inspect a file in person at the court. This question was presented to the Limited Jurisdiction Committee (LJC) and the Committee on Superior Court (COSC), and the recommendations of those committees were presented to CIDVC for consideration. LJC members recommended removal of all protective order case information from the website. COSC members recommended that access be limited to those cases in which an order had been affirmed or modified after a contested hearing.

Committee comments included:

- Maintenance of the status quo will not affect the STOP Grant.
- The committee cannot make a judgment on what information should be published on public access.
- If SB327 (currently pending in Congress) moves forward, it will require stricter regulations that will not allow publication of information regarding the issuance, modification, extension, and enforcement of a protection order.
- The committee should consider no access to protective order information as these cases are different from other case types.

After much discussion, the committee voted to maintain the status quo by publishing defendants' information and case history on the Arizona Judicial Branch Public Access website. The recommendations of all three committees will be forwarded to the AOC's Executive Office for consideration.

MOTION: To maintain status quo by publishing the defendants' information and case history on the Arizona Judicial Branch website. Motion approved and seconded. Vote: 22-1-0.

VII. U.S. v. Hayes

Ms. Leah Meyers, Governor's Office for Children, Youth, and Families, discussed the recent decision of the U.S. Supreme Court in the case of U.S. v. Hayes. This case concerns misdemeanor domestic violence offenses and the Lautenberg amendment to the federal Gun Control Act. Ms. Meyers reported that the Supreme Court decided that the criminal statute does not have to include a relationship test for the Lautenberg weapons prohibition to apply. However, the Supreme Court noted that use of the force is an element that must be considered.

VIII. 2010-2015 Strategic Agenda Planning

Ms. Janet Scheiderer, Administrative Office of the Courts (AOC), presented on the next Judiciary Strategic Agenda for Arizona's Courts 2010-2015. The Arizona Judicial Branch has begun development of its Strategic Agenda 2010-2015 process and is seeking input from committee members. Planning of the next Strategic Agenda has been under way even before the Chief Justice announced her retirement. Ms. Scheiderer communicated that recommendations and suggestions are all welcomed but must be received before the August deadline. Committee members have access to the Collaboration Tools website and can make comments online at www.sp2010.courts.az.gov.

The committee established a workgroup to provide input for the Strategic Agenda for the Arizona Judicial Council's consideration. The members include:

- Ms. Allison Bones
- Professor Zelda Harris
- Patricia Madsen, Esq.
- Honorable Cathleen Brown Nichols
- Honorable Joseph P. Knoblock
- Bridget Humphrey, Esq.

MOTION: The members of this workgroup are directed to act as an ad hoc group representing the Committee on the Impact of Domestic Violence and the Courts in contributing input for the draft of the Strategic Agenda for Arizona's Courts 2010-2015. The ad hoc group is charged with crafting a consolidated set of inputs to the Arizona Judicial Council for its consideration not later than August 2009. The motion was seconded and approved unanimously.

IX. Forms Change Discussion

The chair presented on the concern that additional language be added to the front of the protective orders to indicate that modification of an order does not change its expiration date. The committee agreed to add the word "original" to the section titled "Warnings to Defendant" so it reads: This Order is effective for one year from date of original service. The change also will affect the injunctions.

MOTION: To modify language on the protective order forms as proposed. Motion was seconded and approved unanimously.

X. Workgroup Reports

- A. DV Forms and Process Workgroup (Hon. Elizabeth Finn, Chair) – No update at this time.
- B. Best Practices (Honorable Wendy Million) – The workgroup is developing a best practice guide in response to the Morrison Institute Report. The workgroup has broken the report into four sections and is addressing ways to apply best practices to the different sections. The workgroup would like to publish the best practices guide on the Wendell website.
- C. DV Education Workgroup (Ms. Allie Bones) – No update at this time.

XI. Call to the Public

No public comment.

XII. Adjournment

The meeting was adjourned at 1:45 p.m.

Next Meeting:

September 15, 2009

10:00 a.m. – 2:00 p.m.

State Courts Building, Conference Room 119 A/B

**COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS
MINUTES**

September 15, 2009, 10:00 A.M.
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Honorable Lynda J. Howell
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Honorable Joseph P. Knoblock
Honorable Dennis Lusk
Patricia Madsen, Esq.
Leah Meyers, GOCYF/DFW
Honorable Wendy Million
Ms. Marla Randall
Honorable Emmet Ronan, Chair
Honorable Kristi Youtsey Ruiz
Ms. Renae Tenney
Ms. Tracey Wilkinson

MEMBERS ABSENT

Professor Zelda Harris
Ms. Laura Horsley
Bridget Humphrey, Esq.
Honorable Daniel Martin
Commander Scott Mascher
Jerald L. Monahan, Chief of Police
Honorable Kathleen Nichols
Honorable Jack Peyton
Mr. Doug Pilcher
Catherine Shugrue-Schaffner, Esq.

STAFF

Kay Radwanski
Joanne Tucker

Guests

Stephanie Mayer, AzCADV
Gloria Full
Honorable Elizabeth Finn
Heidi Muelhaupt
Katie Komar
Patricia Iniguez
Theresa Barrett, AOC

I. CALL TO ORDER

A. Welcome and Opening Remarks

Judge Ronan called the meeting to order at 10:10 a.m. He then introduced himself as the new chair and gave some background information regarding his education and judicial experience regarding domestic violence cases.

Judge Ronan then asked if there were any changes that needed to be made to the new

membership list. None were mentioned.

Kay Radwanski, AOC staff, announced that the AOC has been advised by the Governor's Office for Children, Youth, and Families that it has received a grant of \$127,505 from the Recovery Act STOP Grant. The grant period goes from September 1, 2009, to March 31, 2011. The grant will fund a position for a specialist in the AOC's Education Services Division. The specialist will work on development of distance-learning training materials for judges, court staff, and law enforcement and will coordinate the second DV Summit.

B. Approval of Minutes from May 12, 2009

Minutes of the May 12, 2009, meeting of the Committee on the Impact of Domestic Violence and the Courts were presented for approval.

MOTION: Motion was made and seconded to approve the May 12, 2009 meeting minutes. Motion passed unanimously. CIDVC #09-006

II. CIDVC's Role as a Standing Committee

Kay Radwanski, AOC staff, gave a presentation explaining how CIDVC functions as one of the standing committees of the Arizona Judicial Council. She discussed:

- Pyramid structure of standing committees as they relate to the AJC.
- The path to approval of proposals decided on by each committee.
- The purpose of CIDVC.
- Membership make up and appointment process.
- Meeting schedules.
- Role of the chairperson.
- Public meeting laws and policies.
- Workgroups and their current projects.
- AOC staff and their functions.

III. Risk Management: Assessing Domestic Violence Suspects Arrested in Phoenix

Bill Hart, a researcher at ASU's Morrison Institute, at ASU discussed a report on how the Phoenix Municipal Court uses a DV screening instrument to assess DV suspects so the court has sufficient information to set pre-trial release conditions. The Morrison Institute's report is available at: <http://morrisoninstitute.asu.edu>.

IV. Proposed Amendments to ACJA § 1-202: Public Meetings - withdrawn from agenda

V. Strategic Plan Workgroup

Kay Radwanski reported on the proposals submitted to Janet Scheiderer, director of the Court Services Division, by the members of the Strategic Plan Workgroup, which met July 27,

2009. CIDVC's suggestions will be considered in development of Chief Justice Rebecca White Berch's strategic plan for the Arizona Supreme Court. Among the proposals were:

- Providing Access to *Efficient*, Fair Justice - Efficiency as it impacts various case types, (for example, "swift" custody hearings may not be in the best interests of children); fairness regarding educating the public about what the courts can and cannot do.
- Protecting Children, Families, and the Community - Consider long-term impact of domestic violence on families and children, particularly in family court cases.
- Technology and the Courts – Increase efficiency in the courts through technology; sharing information, leading to perpetrator accountability
- Partnership opportunities – Acknowledging funding limitations, explore creative opportunities to provide training.

VI. Protective Order Forms

Kay Radwanski reported on the new language approved and signed into law by the Governor to ARS § 13-3601 regarding relationships between litigants in Orders of Protection and Injunctions Against Harassment. By indicating "current or previous romantic or sexual relationship," a petitioner will be eligible for an Order of Protection, rather than an Injunction Against Harassment. The new law is effective September 30, 2009. Because of this legislation, changes had to be made to the petition and the plaintiff's and defendant's guide sheets. Dave Byers, AOC executive director, signed Administrative Directive 2009-26 authorizing changes to the forms. Also, Rule Petition R-09-0026, approved by the Arizona Supreme Court, amends ARPOP R. 6(c)(3)(b) to make the rule conform to the statute.

VII. Workgroup Report: Forms and Processes

The Forms and Processes Workgroup, chaired by Judge Elizabeth Finn, is involved in the electronic filing TurboCourt project. She explained the process of developing "intelligent questions" so that the AOC's vendor, Intreysys, can develop e-filing software for protective orders. Unlike other types of filings, there will be no user fee or filing fee for applying for a protective order electronically. Judge Finn discussed the development of the website's first few pages and the challenges faced by the workgroup.

VIII. AOC Education Services Director

Jeff Schrade, new director of the AOC's Education Services Division, introduced himself to the committee and gave some background information regarding his qualifications. He previously spent nine years at the Arizona Foundation for Legal Services and Education.

IX. Update on the Arizona Supreme Court Strategic Plan

Janet Scheiderer provided a report on the progress of the AJC's strategic plan sub-committee. All of the standing committees were invited to submit ideas for Chief Justice Berch's plan.

The goal of the AJC sub-committee is to meet in October and choose the best ideas from among those submitted and present them to AJC at its December meeting.

X. Workgroup Report: Best Practices

Judge Wendy Million discussed the need for information regarding diversion programs for offenders. She asks for input from law enforcement, prosecutors, and judiciary in response to the Morrison Institute's "System Alert" report. Workgroup members have prepared a draft report that is still a work in progress. The goal is to deliver the report to AJC at its December 3 meeting.

XI. First Call to the Public

- Judge Finn mentioned the October 6, 2009, DV summit and the lack of superior court judges registered. She encouraged participation and registration for the superior court judiciary. She also announced a satellite broadcast being held at the Supreme Court and at various locations around the state on October 27, 2009, from 1:30 p.m. – 4:00 p.m. The summit and the broadcast are funded by a STOP grant received by the Glendale Police department. The Glendale City Court, the Arizona Coalition Against Domestic Violence, and the AOC are grant partners.
- Judge Finn discussed Justice Sandra Day O'Connor's foundation (The O'Connor House) and the use of funds for domestic violence. Justice O'Connor has obtained a \$250,000 grant from the Avon Foundation and plans to use it for a domestic violence initiative. Her group has discussed, among other issues, the need for a centralized database for protection orders. Judge Finn has made Justice O'Connor's group aware that the AOC has such as database. However, access to it is limited. Because of discussion regarding a database, Judge Finn suggested a need for the re-creation of a policy workgroup for CPOR (Central Protective Order Registry) to address access and other issues. After asking for comments from the committee, Judge Ronan authorized reinstatement of the workgroup and asked for volunteers. Judge Finn and Allie Bones volunteered to participate in the workgroup.

XII. Workgroup Report: Education

Allie Bones, workgroup chair, reported that the group has not met yet. They will plan to meet after the October DV summit. Judge Million asked the workgroup to consider the possibility of mandatory DV training for judges. She noted that California is considering such a rule. Ms. Bones noted that Justice O'Connor feels strongly about judicial training. It is a priority identified by her foundation to focus on enhancing Arizona courts in the area.

XIII. AZCADV Legislative Priorities

Allie Bones, Arizona Coalition Against Domestic Violence, discussed her organization's legislative agenda for 2010 and the bills that were passed this year. The following bills were

passed and signed into law:

- SB 1088(romantic or sexual relationship)
- SB 1106(child custody and domestic violence)

For 2010, AZCADV is considering the following legislation:

- To add “dating relationships” to ARS§ 13-3601 by submitting improved language and removing “dating relationships” from Injunctions Against Harassment
- Increase the number of offenses in ARS § 13-3601 by adding:
 1. Murder
 2. Sexual assault
 3. Restricting the use of the telephone in an emergency
 4. Cruelty to animals
- Make strangulation/suffocation a class 4 felony
- Title 36 clean-up language (domestic violence shelters)
- Aligning state law on human trafficking with federal law
- Overhaul of the child custody statutes to resolve discrepancies in the language

XIV. Second Call to the Public

There was no public comment.

XV. Adjournment

The meeting was adjourned at 1:15 p.m.

Next Meeting:

Tuesday, November 10, 2009

10:00 a.m. – 2:00 p.m.

State Courts Building, Conference Room 119 A/B

**COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS
MINUTES**

November 10, 2009

10:00 AM –2:00 PM

State Courts Building, Conference Room 119 A/B

1501 W. Washington St., Phoenix, Arizona

MEMBERS PRESENT

Lt. Mark Carpenter
Elizabeth Ditlevson, proxy for Allison Bones
Gloria Full, proxy for Joan Fox, DDS
Honorable Joseph P. Knoblock
Honorable Dennis Lusk
Patricia Madsen, Esq.
Commander Scott Mascher
Leah Meyers, GOCYF/DFW
Honorable Wendy Million
Chief Jerald Monahan
Doug Pilcher
Honorable Emmet Ronan, Chair
Tracey Wilkinson

TELEPHONIC

Cheryl L. Karp, Ph.D.
Professor Zelda Harris
Marla Randall

MEMBERS ABSENT

Barbara Appenzeller, CPA
Honorable Cathleen Brown Nichols
Laura Horsley
Honorable Lynda J. Howell
Bridget Humphrey, Esq.
Honorable Daniel G. Martin
Honorable Jack Peyton
Catherine Shugrue-Schaffner, Esq.
Renae Tenney
Honorable Kristi Youtsey Ruiz

STAFF

Kay Radwanski
Tama Reily

GUESTS

Jami Cornish, Community Legal Services
Honorable Elizabeth Finn
Theresa Barrett, AOC
Kendra Leiby, AzCADV

I. CALL TO ORDER

A. Welcome and Opening Remarks

With a quorum present, Judge Emmet J. Ronan, Chair, called the November 10, 2009, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) to order at 10:07 a.m.

The following announcements were made:

Judge Ronan acknowledged the departure of members Lieutenant Mark P. Carpenter, Cheryl L. Karp, Ph.D., Honorable Jack Peyton, and Catherine Shugrue-Schaffner, Esq., whose terms on CIDVC expire December 31, 2009. Judge Ronan thanked the members for their service and commitment to the committee.

Judge Ronan informed the committee of the proposed 2010 meeting dates for CIDVC as follows:

Tuesday, February 9, 2010
Tuesday, May 11, 2010
Tuesday, September 14, 2010
Tuesday, November 9, 2010

B. Approval of Minutes from September 15, 2009

The minutes of the September 15, 2009, meeting of CIDVC were presented for approval.

MOTION: To approve the minutes of the September 15, 2009, CIDVC meeting as presented. Motion seconded. Approved unanimously. CIDVC-09-007

II. Workgroup Report: Best Practices

Judge Wendy Million updated the committee on the progress of CIDVC's response to the "System Alert" Report. She stated that the workgroup's report should be completed within the next week, and the final version will be sent to committee members at that time. Judge Million briefly described the composition of the report, noting that it addresses each of the recommendations provided in the Morrison Institute's Report. It includes interactive links to the Morrison Institute's Report and other resources and a comprehensive reference section. The workgroup is exploring getting the report posted on the Wendell website pending AJC approval and is considering various options for publishing. Judge Million stated that although the report is not finalized, the workgroup is requesting CIDVC approve the guide „in concept“ so that it can be presented at the Arizona Judicial Council (AJC) December 2009 meeting.

MOTION: To approve the Best Practices guide in concept. Motion seconded. Approved unanimously. CIDVC-09-008

III. Orders of Protection and Children

Patricia Madsen, CIDVC member, and Jami Cornish, Community Legal Services, spoke to the committee regarding a practice that has been observed in several superior courts when protective orders that include a child/children are issued, wherein there is a time limit placed

on the protection for the child, and often the plaintiff is directed to file an action for custody when that time expires. Ms. Cornish acknowledged that some of these orders are issued in the midst of an ongoing custody case; however, many are not. She explained that the practice is of concern not only because it deprives the child of the full protection he/she is entitled to under the rules and statutes, but it requires the plaintiff to take further action before protection for the child can be re-considered. Ms. Cornish added that under ARPOP, the family court has jurisdiction to *modify* a protective order if a hearing is requested by the defendant; however, the commissioner or the judge issuing the *ex parte* order does not have the authority to do this.

Members discussed several options that might address the issue, including assigning a CIDVC workgroup to assess the problem, looking at how domestic violence education is provided in new judge orientations, and requesting the involvement of the AOC to issue a directive to judicial officers pursuant to the rules and statutes. It was noted that the role of CIDVC is uncertain in judicial conduct situations that concern specific judicial officers.

AOC committee staff offered to seek direction from the AOC director of the Court Services Division as to what options are available to CIDVC. Judge Ronan suggested that in the interim, the Best Practices Workgroup begin looking into the issue.

IV. Reactivation of ARPOP Committee

Patricia Madsen addressed the committee to propose reestablishing an Arizona Rules of Protective Order Procedure (ARPOP) committee or workgroup to review and develop possible rule changes to the ARPOP. Judge Elizabeth Finn, who was a member on the Domestic Violence Rules Committee that produced the ARPOP, volunteered to participate in a workgroup to carry out this task, along with CIDVC members Zelda Harris, Patricia Madsen, and Allie Bones. Judge Ronan authorized the formation of an ARPOP workgroup to proceed with this task.

V. Domestic Violence Fatality Review Teams

Apache Junction Police Chief Jerald Monahan updated the committee on the results of efforts to increase the number of communities utilizing DV fatality review teams. Chief Monahan briefly discussed the history and progress of the various city and county groups that have implemented DV review teams, noting there are currently six teams in place. He reported that endeavors in 2010 will focus on Yavapai, Gila, Graham, and Greenlee counties, as well as securing additional federal participation. Chief Monahan also informed the committee there are plans for bringing a national conference to the Phoenix area in August 2010, and additional information regarding the conference will be provided in the near future.

VI. Service of Protection Orders and Access to CPOR

Judge Finn reported on the progress of the efforts of the Glendale City Court to obtain access to the Court Protective Order Repository (CPOR) database for the Protective Order Service Coordinator position in the Glendale Police Department. She briefly reviewed the purpose of a VAWA grant obtained by Glendale and the role the grant-funded Protective Order Service Coordinator would play. CIDVC's CPOR Policy workgroup held a teleconference meeting yesterday, which included AOC Data Warehouse Manager Robert Roll, who has agreed to participate in the workgroup. The workgroup discussed the various issues involved in providing CPOR access to a non-AOC party, and it was determined that a written agreement would be required to ensure understanding of and adherence to appropriate security procedures. Judge Finn stated that prior to proceeding with this venture, Glendale is requesting approval from CIDVC.

MOTION: To recommend the AOC grant the Glendale Police Department access to the CPOR through the Protective Order Service Coordinator. Motion seconded. Approved unanimously. CIDVC-09-008

VII. Workgroup Report: Forms and Processes

Judge Finn updated the committee on the workgroup's progress in developing requirements for electronic filing of protective orders. She reported the workgroup completed their review of the prototype and created a set of Arizona requirements that will be delivered to Intresys for consideration in further development activities. Intresys had built a prototype to assist the workgroup in developing the requirements. It is anticipated that Intresys will then send the completed application to the AOC for testing in early 2010.

VIII. AzCADV Legislative Priorities

Kendra Leiby, AzCADV, discussed the coalition's legislative agenda for 2010. The following are some of the issues that will be addressed:

- Child Custody – statute review and clean-up
- Domestic violence offenses - adding several additional offenses to A.R.S. § 13-3601
- A.R.S. § 12-1809 – to remove the term „dating“
- A.R.S. § 13-3601 – to add the term „dating“
- Human Trafficking – to model the state code after the federal code
- Predominant Aggressor – to address mutual incidents of domestic violence
- Gun Show Loophole – to address unlicensed private gun sellers
- DRC Seat – to establish a Domestic Relations Committee (DRC) position for a representative from a statewide coalition on sexual assault
- Victims' Rights - allowing advocates to provide information to the court with the victim's verbal permission

X1. Workgroup Report: Education

Elizabeth Ditlevson, AzCADV, serving as proxy for Allie Bones, reported that the workgroup has not yet met; however, the workgroup may be called upon to assist a specialist in the AOC's Education Services Division. A specialist will be hired to develop distance learning training modules for judges and court staff and will organize the second DV Summit. The AOC will fund the position through a STOP Grant issued under the Recovery Act.

X. Counting Time on Protective Orders: State v. Lychwick Court of Appeals, Division One)

Kay Radwanski, committee staff member, reported on a recent case in which the Arizona Court of Appeals ruled that the calculation of time in a protective order does not include the date the order is served; rather, the time calculation begins on the following date. She provided the details of the case, State v. Lychwick, in which the defendant contacted the plaintiff, who had obtained an Injunction Against Harassment (IAH) against him. The IAH was served on the defendant on January 17, 2006. The defendant threw a package in the plaintiff's driveway on January 17, 2007. The defendant was convicted of aggravated harassment. He appealed, arguing that the IAH had expired on January 16, 2007. Division One, Court of Appeals, held that the date of service is not included in the one-year calculation; therefore, the order expired on January 17, 2007. Defendant's conviction was affirmed.

XI. Call to the Public

No public comments offered.

X11. Adjournment

The meeting was adjourned at 11:45 a.m.

Next Meeting:

February 10, 2010

10:00 a.m. to 2:00 p.m.

Arizona State Courts Building

Conference Room 119 A/B