

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

February 9, 2010

10:00 a.m. – 2:00 p.m.

State Courts Building, Room 119 A/B
1501 W. Washington St. Phoenix, AZ 85007

MEMBERS PRESENT

Allison Bones
Joi Davenport
Dr. Kathy S. Deasy
Joan Fox, DDS
Gloria Full
V. Michele Gamez, Esq.
Professor Zelda Harris
Honorable Lynda J. Howell
Bridget Humphrey, Esq.
Honorable Joseph P. Knoblock
Patricia Madsen, Esq.
Commander Scott Mascher
Leah Meyers, GOCYF/DFW
Chief Jerald Monahan
Heidi Muelhaupt
Honorable Cathleen Brown Nichols
Doug Pilcher
Marla Randall
Honorable Emmet Ronan
Honorable Kristi Youtsey Ruiz
Andrea K. Sierra
Renaë Tenney
Tracey Wilkinson

MEMBERS ABSENT

Laura Horsley
Honorable Dennis Lusk
Honorable Daniel G. Martin
Honorable Wendy Million

STAFF

Kay Radwanski
Lorraine Nevarez
Tama Reily

GUESTS

Theresa Barrett, AOC
Jannette Brickman, AzCADV
Leslee Garner, Education Services
Division, AOC
Gabriel Goltz, Education Services
Division, AOC
Jeff Schrade, Education Services
Division, AOC
Dr. Neil Websdale, NDVFRI

I. CALL TO ORDER

A. Welcome and Opening Remarks

Honorable Emmet Ronan, chair, called the February 9, 2010, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) to order at 10:15 a.m. Judge Ronan welcomed the newly and reappointed members to the committee. They are Joi Davenport, Dr. Kathy Deasy, Gloria Full, V. Michele Gamez, Heidi Muelhaupt, Andrea Sierra, and Tracey Wilkinson.

B. Approval of Minutes from November 10, 2009

Minutes of the November 10, 2009, CIDVC meeting were presented for approval.

MOTION: Motion was made and seconded to approve the November 10, 2009, meeting

minutes. Motion passed unanimously.

II. Petition to Amend the Arizona Rules of Protective Order Procedure

Honorable Elizabeth Finn, Glendale City Court, reported on a petition she filed to clarify Arizona Rules of Protective Order Procedure (ARPOP) Rule 4(B)(5)(b) regarding when cases should be transferred from a limited jurisdiction court to a superior court. The rule applies when there is no action pending in a family court but there is an active custody order applicable to a child, designated as a protected person on the protective order. Judge Finn's proposed rule change would require limited jurisdiction courts to transfer any protective order case in which a child named as an "other protected person" is the subject of an active custody, parenting time, or visitation order. Her goal is to avoid limited jurisdiction and superior courts from issuing conflicting orders.

Committee Comments/Questions

- Would the change in the language in the petition apply to vulnerable adults?
A: The revision does not contemplate that question.
- When a case involving pending family law issues is transferred to superior court, the judge has jurisdiction under Title 25. Would this be an avenue around filing a modification of a custody order? Would the superior court hear this as an Order of Protection? If parties wanted to change their custody order, would the parties still have to file the appropriate paper work?
A: Judge Finn was not in the position to answer the questions. However, committee member Patricia Madsen recently presented this petition to the Committee on Superior Court for comment. Ms. Madsen received the following comments:
 - ✓ Some superior court judges did not feel they have jurisdiction to act on a custody action without an independent Title 25 petition being filed. Also, they did not see the benefit of the protective order being transferred to superior court if neither party had asked to modify a Title 25 action.
 - ✓ Concerns were raised about safety. COSC members were concerned that a petitioner who went to a municipal or justice court for a protective order would be sent to a superior court instead, when there is no pending action in superior court.
 - ✓ Questions were raised about proper venue if neither party currently lives in the county where the custody order had been issued. The parties would have to litigate in the original county that issued the custody order, regardless of their current residence.
 - ✓ The proposal would expand the rule to include Injunctions Against Harassment that would affect an active custody case, even if a party on the IAH is not named in the active custody order.
- Who is entitled to the notice of the hearings in the superior court? When additional people being brought into the family court hearings who are not parties to the custody order, are the parties left unaware? The Clerk of Courts Office would have to make sure the parties have correct information.
A: The current transfer order requires the limited jurisdiction court to list the superior court case number. This simplifies matching the protective order to the correct family law case.

The committee referred the proposal to the ARPOP Workgroup for further discussion. The workgroup

will decide whether to draft a comment for the full committee to approve on May 11. The deadline for filing comments to rule petitions is May 20.

III. Additional Petitions to Amend the Arizona Rules of Protective Order Procedure

Kay Radwanski, committee staff, reported that a person from the public has filed three petitions to amend various sections of ARPOP. The petitions address Rule 1(B)(1)(d), regarding interchangeable use of the words “victim” and “plaintiff” in the rules; Rule (1)(D)(4), regarding courtroom security; and Rule 6(E)(4)(e)(2), regarding firearms and Injunctions Against Harassment. The committee asked the ARPOP Workgroup to review the petitions for further discussion. The workgroup can draft a reply for the full committee to approve on May 11. The deadline for filing comments to rule petitions is May 20.

IV. Education Services Division Update

Jeff Schrade, director of the Education Services Division, Administrative Office of the Courts (AOC), presented on the efforts of the Education Services Division (ESD) to provide training for judges and court staff on domestic violence. Mr. Schrade also introduced Gabriel Goltz and Leslee Garner, ESD staff who are assisting in the coordination of the training. Ms. Garner, education specialist, was hired under the Recovery Act STOP Grant that the AOC received last September. Mr. Goltz is program manager of the Judicial College of Arizona.

Mr. Schrade also reported the AOC is partnering with Glendale City Court, the Arizona Coalition Against Domestic Violence (AzCADV), AzPost, the Arizona Prosecuting Attorneys’ Advisory Council (APAAC), the Morrison Institute, the Phoenix Public Defenders Office, and the O’Conner House Avon Program for Women and Justice on a grant opportunity. A grant application has been put together for \$1 million from the Department of Justice. This grant, if received, will fund a coordinated and collaborative development of training resources in several disciplines around issues concerning domestic violence, assist in distributing educational materials, and fund the Third Annual Domestic Violence Summit. The partnership has been a huge collaborative effort.

Ms. Garner introduced herself, discussing her role to develop several domestic violence-related distance learning modules for judges and court staff and to develop a domestic violence manual for court staff.

V. Conference: New Directions in Domestic Violence Fatality Review

Dr. Neil Websdale, Northern Arizona University (NAU), and director of the National Domestic Violence Fatality Review Initiative, reported on an upcoming conference regarding domestic violence fatality reviews that will be held on August 16-17 in Scottsdale. A number of speakers who are considered experts in the domestic violence field will participate. Dr. Websdale encouraged the committee to participate in this important coordinated community response to domestic violence and domestic homicide. He emphasized the importance of involving judges in DV fatality review. The goal of the fatality review is to study DV homicide cases and then implement change to assist victims. Team members offer different perspectives on why women are killed in DV situations.

VI. Legal Assistance for Domestic Violence Survivors

Renaë Tenney, Maricopa Association of Governments (MAG), and Jannette Brickman, AzCADV, presented on the results of a study, “The Availability and Awareness of Legal Assistance for Domestic

Violence Survivors,” that was completed to determine what kind of legal assistance domestic violence survivors need and if that assistance was readily assessable. The report had four key findings:

- Nearly one quarter of domestic violence survivors wanting legal assistance (filing paperwork, etc.) reported they did not receive services. The majority of professionals estimated that domestic violence survivors would benefit from this assistance.
- The majority of survivors wanting legal representation (attorneys) were not able to secure it.
- The number one reason survivors cited for not accessing legal representation is their inability to afford these services. The majority of professionals cited awareness as the biggest barrier to survivors securing legal representation.
- The majority of domestic violence survivors reported needing legal representation for future civil cases. They do not expect to be able to secure representation.

With these findings, MAG forwarded its recommendations to the AzCADV Legal Committee. The AzCADV Legal Committee has been assessing ways to improve legal assistance for survivors. They reported on the some of the programs available to survivors needing legal assistance:

- Modest Means Program - This program is offered at the Arizona Foundation for Legal Services and Education. Survivors can receive assistance for \$75 an hour. There is an income eligibility requirement for this program.
- Flat Fee Lawyer Program - This program allows attorneys to go online and post the services they can provide for a certain amount.
- Representation Law Firm - A lawyer can assist the survivor in any part of the process requested. Each request is \$90.

VII. Workgroup Reorganization

Ms. Radwanski explained the various workgroups that committee members can join. These workgroups meet during the CIDVC meeting lunch hour. If a workgroup needs further meetings, the AOC can assist with arrangements. A workgroup member does not have to be an appointed member of the committee. The workgroups are as follows:

- *ARPOP* - This workgroup will review rule change petitions pertaining to ARPOP.
- *Best Practices*-This workgroup was created to respond to a report written by the Morrison Institute. This group will present the report at the upcoming Arizona Judicial Council (AJC) meeting.
- *CPOR Policy* - This workgroup assists in determining safeguards for the Court Protective Order Repository (CPOR) database.
- *Education* - This workgroup will assist Ms. Garner in developing ideas for staff and judicial training. To fulfill the Recovery STOP Grant requirements.
- *Forms and Processes* - This workgroup is responsible for reviewing the protective order forms and proposing changes to them as necessary.

VIII. Workgroup Report: Best Practices – Response to “System Alert” Report

Ms. Tenney, Best Practices Workgroup member, made a presentation on the workgroup’s response to the Morrison Institute’s “Systems Alert” report. Then-Chief Justice Ruth McGregor asked CIDVC to respond to the report. The workgroup has drafted a report that will be presented to the AJC on March 25, 2010.

In preparing this report, the workgroup researched state and national best practices for developing improvements in responses to domestic violence. The workgroup addressed police and prosecution,

victim advocates and services, courts, offender treatment and domestic violence resources. The purpose of the response report was to give the professionals in the criminal justice system guidance, ideas, resources, and support in establishing best practices in domestic violence cases in their part of the system.

MOTION: Motion was made and seconded to approve the Best Practice Report as written to present to AJC. Motion passed unanimously.

IX. Workgroup Reports

- A. *Forms and Processes* (Hon. Elizabeth Finn, chair) – The workgroup completed development of requirements for electronic filing for protective orders. The AOC is engaged in a large project in developing electronic filing statewide. Also, the workgroup periodically reviews the protective order forms.
- B. *Best Practices* (Hon. Wendy Million) – Ms. Tenney reported on the workgroup’s efforts as described in agenda item VIII.
- C. *ARPOP* (no designated chair) – The workgroup will undertake review of the four rule change petitions. Members will decide whether comments should be filed regarding the petitions, and if so, what the comments should state. The workgroup will present any proposed comments at the May 11 CIDVC meeting.
- D. *Education* (Allie Bones, chair) – Nine new members joined the workgroup during the lunch hour.
- E. *CPOR Policy* (no designated chair) - No update at this time.

X. Legislative Report

Jerry Landau, AOC government affairs director, provided an update of legislative proposals of interest to the CIDVC that have been introduced in the Arizona Legislature. In addition to the bills listed below, the committee heard about HB 2650, which would extend the waiting period between filing of a petition for divorce and the time for trial or entry of a final decree from 60 days to 180 days. As currently drafted, the bill contains no exception for victims of domestic violence. SB 1314 also was discussed. This bill would create a presumption that “fit and capable” parents must be given joint legal custody of their children, unless one parent can prove that the other is unfit.

- SB 1055; Victims’ rights; disclosure of information (Sen. Paton)

<http://www.azsleg.gov/legtext/49leg/2r/bills/sb1055p.pdf>

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

Title affected: 13

S1055: VICTIMS’ RIGHTS; DISCLOSURE OF INFO 1/26 From Senate rules okay. Stricken form consent calendar by Rios.

- SB1059; Human Trafficking; definition (Sen. Paton)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1059p.pdf>

Rewrites the definition of “to traffic” in statutes pertaining to sex trafficking and human smuggling.

Title affected: 13

S1059: HUMAN TRAFFICKING; DEFINITION 2/2 From Senate rules okay.

- SB 1084; Injunction Against Harassment; fees (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1084p.pdf>

Removes the prohibition of charging fees for service of an Injunction Against Harassment arising from a dating relationship. Dating relationships are now covered under Orders of Protection.

Title affected: 12

S1084: INJUNCTION AGAINST HARASSMENT; FEES 2/1 passed Senate 28-0; ready for house.

- SB 1085; Order of Protection; animals (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1085p.pdf>

Would allow the court to issue an Order of Protection giving the petitioner exclusive rights to care for any animal living in the petitioner's residence and forbidding the respondent from having any contact with the animal.

Title affected: 13

S1085: ORDERS OF PROTECTION; ANIMALS 1/19 referred to Senate jud.

- SB 1086; Strangulation; Suffocation; Aggravated Assault (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1086p.pdf>

Adds strangulating or suffocating another person in a domestic violence incident the list of acts classified as aggravated assault. Mr. Landau said questions need to be resolved about the definition of some of the terms in this bill.

Title affected: 13

S1086: STRANGULATION; SUFFOCATION; AGGRAVATED ASSULT 1/19 referred to Senate jud.

- SB 1087; Domestic Violence; definition; notice (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1087p.pdf>

Classifies the following as acts of domestic violence: negligent homicide, manslaughter, 1st and 2nd degree murder, sexual assault, intentionally or knowingly subjecting any animal under the person's custody or control to cruel neglect or abandonment that results in serious physical injury to the animal, intentionally preventing or interfering with the use of a telephone by another person in an emergency situation. Repeals the requirement that the court provide written notice to a defendant found guilty of a first offense included in domestic violence. The notice outlines consequences the person could face if convicted of a second or third offense. Mr. Landau noted that it is rare to find a provision in the law that requires a warning to a defendant not to do something again.

Title affected: 13

S1087: DOMESTIC VIOLENCE; DEFINITION; NOTICE 1/19 referred to Senate jud.

- SB 1162; Domestic Relations Committee; Membership (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1162p.pdf>

Membership of the Domestic Relations Committee would be expanded to include a gubernatorial appointee representing a statewide coalition that combats sexual assault and assists victims.

Title affected: 25

S1162: DOMESTIC RELATIONS COMMITTEE; MEMBERSHIP 2/8 to Senate

consent calendar.

- SB 1308; High School Instruction; dating violence (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1308p.pdf>

All public high schools (including charters) would be required to include in their curricula instruction on the recognition and prevention of dating violence (defined).

Tile affected: 38

S1308: HIGH SCHOOL INSTRUCTION; DATING VIOLENCE

2/1 referred to Senate educ.

XI. Call to the Public

No public comment.

XII. Adjournment

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

Next Meeting:

Tuesday, May 11, 2010

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 11, 2010

10:00 a.m. – 2:00 p.m.

State Courts Building, Room 119 A/B
1501 W. Washington St., Phoenix, AZ 85007

MEMBERS PRESENT

Allison Bones
Dr. Kathy S. Deasy (telephonic)
Joan Fox, DDS
V. Michele Gamez, Esq.
Professor Zelda Harris
Bridget Humphrey, Esq. (telephonic)
Honorable Joseph P. Knoblock
Honorable Dennis Lusk
Patricia Madsen, Esq.
Leah Meyers, GOCYF/DFW
Honorable Wendy Million
Chief Jerald Monahan
Honorable Cathleen Brown Nichols
(telephonic)
Doug Pilcher
Marla Randall
Honorable Emmet Ronan
Honorable Kristi Youtsey Ruiz
Andrea K. Sierra
Renaë Tenney

Honorable Lynda J. Howell
Honorable Daniel G. Martin
Commander Scott Mascher
Heidi Muelhaupt
Tracey Wilkinson

STAFF

Kay Radwanski
Lorraine Nevarez

GUESTS

Honorable Elizabeth Finn, Glendale City
Court
Leslee Garner, AOC
William Hart, ASU
Lucia Howard, Avon Program
Kim Sterling-Heflin, Avon Program
Jerry Landau, AOC
Stephanie Mayer, AzCADV
Carol Mitchell, AOC
John Raeder III, GOCYF

MEMBERS ABSENT

Joi Davenport
Gloria Full
Laura Horsley

I. CALL TO ORDER

A. Welcome and Opening Remarks

Honorable Emmet Ronan, chair, called the May 11, 2010, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) to order at 10:10 a.m. Judge Ronan welcomed the members.

B. Approval of Minutes from February 9, 2010

Minutes of the February 9, 2010, CIDVC meeting were presented for approval.

MOTION: Motion was made and seconded to approve the February 9, 2010, meeting minutes. Motion passed unanimously.

II. Legislative Report

Jerry Landau, AOC government affairs director, provided an update of legislative proposals of interest to CIDVC that were part of the recent legislative session. They are as follows:

SB1055; Victims' rights; disclosure of information (Sen. Paton)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1055s.pdf>

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

Title affected: 13

S1055: VICTIMS RIGHTS; DISCLOSURE OF INFO 4/26 signed by governor. Chap. 233, Laws 2010

SB1189; Admissibility of opinion testimony (Sen. Leff)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1189h.pdf>

Requires that in a civil and criminal action, expert testimony regarding scientific, technical or other specialized knowledge may only be offered by a qualified witness. In order for the testimony to be admissible, the witness must be qualified as an expert on the subject matter based on knowledge, skill, experience, training or education. Requires that the opinion be based on facts, are the product reliable principles that the witness reliably applies to the case, and will assist the Trier of fact in understanding the case. In order to determine whether the testimony provided by a qualified witness is admissible, the court may consider the following factors: whether the expert opinion and its basis can be tested and have subjected to peer reviewed publication, the rate of error of error of the expert opinion and its basis and the degree to which the opinion and its basis are accepted in the scientific opinion and its basis and the degree to which the opinion and its basis are accepted in the scientific community. In essence legislatively applies *Daubert* to Arizona, though not exactly identical to the case.

Title affected: 12

S1189: ADMISSIBILITY OF OPINION TESTIMONY 4/28 5/10 signed by governor chapter number awaited

SB1266 Sexting; domestic violence, protection orders (Sen. Paton)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1266h.pdf>

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

A second offense is a Class 2 misdemeanor. For the purposes of this provision a prior diversion counts as an offense.

"Electronic Communication Device" has the same meaning as in 13-3560, "Explicit Sexual

Material” means material that depicts human genitalia or that depicts nudity, sexual activity, sexual conduct, sexual excitement or sadomasochistic abuse as defined in 13-3501, and “Visual Depiction” has the same meaning as in 13-3551.

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

It eliminates the requirement that the court provide a written notice to a defendant who is found guilty of a first domestic violence offence. Adds the following offences to the definition of domestic violence:

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

Title affected: 8, 13

SB1266 SEXTING; DOMESTIC VILENCE; PROTECTION ORDERS 4/29 signed by governor, Chap. No. awaited.

Staff reported that the Forms and Process workgroup will meet to make recommendations on the language to update the protective order forms.

Committee member Allison Bones pointed out that the SB1266 also includes the strangulation and suffocation provisions that increase the penalty for this offense to a class 4 felony.

SB1308; Schools; dating abuse and violence (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1308h.pdf>

A school district governing board may prescribe and enforce policies and procedures to address incidents of dating abuse involving students at school that may be based on a model dating abuse policy.

A school district that provides instruction in grades seven through twelve may incorporate dating abuse information that is age-appropriate into the schools districts existing health curriculum that includes the following components:

- Definition of dating abuse
- The recognition of dating abuse warning signs
- The characteristics of healthy relationships

The parent or guardian of a pupil who is under 18 years of age is permitted to review the dating abuse information instructional materials within a reasonable time after submitting a written request.

Defines “dating abuse” as a pattern of behavior in which one person uses or threatens to use physical, sexual, verbal, or emotional abuse to control the person’s dating partner.

Defines “dating partner” as any person who is involved in an intimate association with another person that is primarily characterized by the expectation of affectionate involvement and that includes

casual, serious and long-term dating partners.

Title affected: 13

S1308 SCHOOLS; DATING ABUSE AND VIOLENCE

Ready for governor

III. Avon Program for Women and Justice/A Project of Friends of the O'Connor House

Lucia Howard and Kim Sterling-Heflin, co-chairs, Avon Program, presented on how the program evolved through the efforts of retired Justice Sandra Day O'Connor and the O'Connor House. The Avon program in 2009 received a \$250,000 five-year grant to tackle the critical and growing problem of domestic violence.

In order to develop effective solutions, the co-chairs have met with stakeholders such as law enforcement officers, lawyers, judges, court personnel, elected officials, academics, survivors and community activists to formulate projects that will (1) leverage the Avon grant to provide the greatest benefit to the most victims now and in the future (2) use Justice O'Connor's commitment and credibility to elevate the priority of domestic violence within the justice system and the community; (3) leverage existing resources and assets by forming meaningful partnerships and collaborations, and (4) produce outcomes that are achievable, sustainable and quantifiable.

After reviewing numerous reports, assessing existing resources, opportunities and the unique ability of the O'Connor House to reach high-level decision makers, the following projects were formulated and are currently being organized and executed: (1) partnership with Sandra O'Connor College of Law at ASU to provide victim advocates and legal services, (2) improvement of the protective orders process, (3) education and public awareness (4) attorney general collaboration, and (5) DV grants.

The co-chairs reported that ongoing work continues in domestic violence and it is necessary for collaborations and partnerships to leverage all resources. Avon has partnered with Arizona State University (ASU) Law School to develop a law clinic that will comprise all disciplines to take a more holistic approach. Also, the Avon Program Advisory Committee has obtained funding for at least a two-year, fulltime position for a director of the Avon Program on Women and Justice at the O'Connor House. Applications are now being accepted.

IV. Forum 411: Domestic Violence in Arizona: Old Problems, New Possibilities

William Hart, Morrison Institute, presented on the *Forum 411: Domestic Violence in Arizona-Old Problems, New Possibilities* report. The report provides a brief history of the domestic violence movement and then looks toward the future. Arizona opened one of the first domestic violence shelters in 1972. Historical progression began with (1) women demanding change, (2) lawmakers beginning to listen, (3) the system beginning to evolve and (4) the contemporary reassessment. Arizona has made a lot of progress over the last 40 years. Arizona has dedicated people and good ideas for tackling domestic violence such as (1) collaboration: O'Connor House domestic violence project, (2) justice: specialty domestic violence courts, (3) prevention: purple ribbon council, (4) reflection: Arizona's domestic violence fatality review teams, (5) legislation: Arizona Coalition Against Domestic Violence, and (6) law enforcement: Phoenix Police Department. Domestic violence cases continue to pose challenges because of their complexity; however, in order to work toward new possibilities, experts should continue to focus on education and training, promoting publicity in reference to education and collaboration.

Judge Million asked whether the broadness of the definition of those included domestic violence relationships dilutes the main purpose of domestic violence. She noted that domestic violence refers to intimate partner violence, yet college roommates and siblings are included in the scope of domestic violence relationships.

Allie Bones, executive director of the Arizona Coalition Against Domestic Violence (AzCADV), responded that law enforcement needs better tools to help identify cases that deal with controlling relationships and criminal acts between two people who just know each other. Both are crimes but the approach taken by the criminal justice field might be different in each situation. The City of Phoenix is working on a project to develop a card that asks questions about the situation. Narrowing the language in the statute itself to really address this issue might be challenging unless some predominant aggressor language were added to distinguish between long-term battering cases and single-incident situations.

Judge Million questioned the purpose of adding combative family members who are committing crimes to a statute that is supposed to be about intimate partner violence. She noted that the term “relationship” has broadened.

Ms. Bones explained that the Coalition is having discussions with the City of Phoenix, Arizona law enforcement, and the Arizona Peace Officer Standards and Training Board (AZPOST) to determine the tools that Arizona law enforcement can use to assess dangerous and lethal situations. She noted the importance of focusing resources on areas where families and individuals can most benefit.

Judge Finn commented that this is partly a training issue. She said that the definition in A.R.S. § 13-3601 and the relationships it covers may be broad to protect certain classes within the legislature’s definition of domestic violence. She thought it would be helpful to send a request to all other states coalitions to find out how they define relationships and then have a discussion about the information. Ms. Bones said AzCADV could survey other states to collect that information.

V. 2009 Arizona Domestic Violence Fatality Report

Stephanie Mayer, AzCADV, presented on the statistical findings regarding domestic violence-related deaths in Arizona in 2009. She reported the following findings:

- A decrease in domestic violence related fatalities from 2008
- The highest age range of the deceased was the 26-35 age group
- 50% of male deaths were from suicides
- 68% of females have died in domestic violence related incidents
- 43 total fatalities from homicides and suicides
- 1/3 of fatalities came from estrangements
- 63 fatalities came from firearms and domestic violence
-

From her findings, Ms. Mayer recommended more funding, continuing fatality review teams, increased community awareness and education, and seizure of weapons as ways to reduce domestic violence homicides.

VI. Interpreters and the Courts

Allie Bones, AzCADV, presented an issue regarding interpreter services not being readily accessible at the courts. The Coalition has received complaints that interpreter services are not being offered at the courts particularly during protective order hearings. Ms. Bones provided a resource guide handout for advocates and attorneys on interpreter services for domestic violence victims. She explained that any organizations receiving federal financial assistance under Title VI are required to develop and implement policies that ensure meaningful access for limited English proficient persons in their programs and activities.

Carol Mitchell, AOC court specialist, explained that some of the statewide issues deal with courts having limited resources. Efforts to assist have been made, including development of a list serve that court interpreters use to locate interpreters for specifically requested languages. Also, the New Judges Orientation program includes an educational component regarding court interpreters. Doug Plicher said that the Phoenix Municipal Court spends \$1 million per year on interpreter services. Professor Harris noted that the University of Arizona has a certification program for interpreters.

VII. Workgroup Reports

- A. *ARPOP* (Judge Finn, chair) – Judge Finn discussed R-10-0017, a rule change petition she filed regarding transfers of protective order cases where the “other protected persons” (children) are the subject of a custody or parenting time order but also included on a protection order. Judge Finn has agreed to withdrawal her petition so a workgroup can have further discussion on the proposal.

The AOC created another workgroup to address this issue. Workgroup members include:

Superior Court Judges	Colleen McNally	Maricopa County
	David Ostapuk	Pima County
	David Mackey	Yavapai County
	Andrew Gould	Yuma County
Limited Jurisdiction Court Judges	Elizabeth Finn	Glendale City Court (Maricopa)
	Gerald Williams	North Valley Justice Court (Maricopa)
	Wendy Million	Tucson City Court (Pima)
	Joseph Knoblock	Benson Justice Court (Cochise)
Clerks of Court	Kristy Ruiz	Pinal County
	Karen Duffy (for Patricia Noland)	Pima County
	Kathy Whittiker (for Michael Jeanes)	Maricopa County

The workgroup also reviewed three other rule change petitions. Comments were prepared in response to rule change petitions R-09-0045, R-10-0013, and R-10-0014. The workgroup asked CIDVC to approve the draft comments so they can be filed before May 20, 2010.

MOTION: Motion was made and seconded to approve comment to petition R-09-0045, as written. Motion passed with one opposed.

MOTION: Motion was made and seconded to approve comment to petition R-10-0013 with exception of staff to review for consistency with the rules or Judicial Code of Conduct. Motion passed unanimously.

MOTION: Motion was made and seconded to approve comment to petition R-10-0014 as written. Motion passed unanimously.

- B. *CPOR Policy* (no designated chair) – Judge Finn, reporting for Doug Plicher, explained that the Phoenix Domestic Violence Fatality Review Team would like to enhance its investigations by accessing the AOC’s Court Protective Order Repository (CPOR). Phoenix Municipal Court has received access in the past, and Glendale currently has access to CPOR through a written agreement with the AOC. CPOR contains information on served and unserved protection orders. Mr. Plicher proposed that one DVFRT member have access and would look up data on cases only where the defendant’s avenues for appeal had run or the defendant was deceased.

MOTION: Motion was made and seconded to approve access to Phoenix Municipal Court to CPOR to assist its DV fatality review team. Motion passed unanimously.

- C. *Best Practices* (Hon. Wendy Million) – Judge Million reported that the workgroup’s Best Practices report was well received by the Arizona Judicial Council (AJC). The Morrison Institute also acknowledged the report in its on-line newsletter. Judge Million will try to have the report placed on the Wendell website for judges. The workgroup discussed having links on websites maintained by AZPOST, the Arizona Prosecuting Attorneys’ Advisory Council (APAAC), and possibly the law school clinics.

The workgroup would like to disseminate information to judges regarding protective orders involving children. Some protective orders are protecting children only for a limited time. The workgroup would like to refer judges to the ARPOP rules in a statement or email. The information could be framed as a best practices policy statement. The workgroup also discussed sending scenarios out to judges via email regarding different types of DV cases. This would provide judges with information and references to the specific rules that apply to the case. The scenarios would be short and the references concise.

- D. *Education* (Allie Bones, chair) – The workgroup has met with Leslee Garner, AOC education specialist, to assist her in developing computer-based DV training modules for judges and court staff. The workgroup will develop a survey to be disseminated to family court judges to determine the type of training needed regarding domestic violence as it relates to family court. The workgroup also discussed developing a community-based training regarding court

interpreters. The workgroup will begin discussing plans for the next DV summit at its next workgroup meeting.

- E. *Forms and Processes* (Hon. Elizabeth Finn, chair) – The workgroup will be reviewing the forms to consider how to add language to the forms regarding protection of animals. SB1266 contains a provision authorizing the courts to give custody of animals to Order of Protection petitioners.

X. Progress Report: Recovery Act STOP Grant Project

Ms. Garner reported on some of the projects that she is currently working on with the help of the education workgroup. They are as follows:

- Final stages of DV101 for court staff to highlight the rules
- DV101 for Judges
- Top ten questions asked about DV
- Elder abuse and late life domestic violence
- Beginning stages of the DV summit and bench book
- Resource manual

XI. Call to the Public

No public comment.

Committee member Leah Myers introduced John Raeder, program administrator, Governor's Children, Youth and Family. Mr. Raeder will administer Recovery Act Stop grants.

XII. Adjournment

The meeting was adjourned at 2:00 p.m.

Next Meeting:

Tuesday, September 14, 2010

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 14, 2010

10:00 a.m. – 2:00 p.m.

State Courts Building, Room 119 A/B
1501 W. Washington St., Phoenix, AZ 85007

MEMBERS PRESENT

Allison Bones
Joi Davenport (telephonic)
Joan Fox, DDS
Gloria Full
V. Michele Gamez, Esq.

Bridget Humphrey, Esq.
Honorable Joseph P. Knoblock
Honorable Dennis Lusk
Patricia Madsen, Esq.
Commander Scott Mascher
Leah Meyers, GOCYF/DFW
Honorable Wendy Million
Heidi Muelhaupt
Honorable Cathleen Brown Nichols
(telephonic)
Marla Randall (telephonic)
Honorable Emmet Ronan
Honorable Carol Scott Berry
Rena Tenney
Tracey Wilkinson

MEMBERS ABSENT

Dr. Kathy S. Deasy
Professor Zelda Harris
Laura Horsley
Honorable Daniel G. Martin
Chief Jerald Monahan

Andrea K. Sierra
Doug Pilcher
Honorable Kristi Youtsey Ruiz

STAFF

Kay Radwanski
Lorraine Nevarez

GUESTS

Ashley Donovan, CLS
Leslee Garner, AOC
Laura Guild, DES
Stephanie Mayer, AzCADV

I. CALL TO ORDER

A. Welcome and Opening Remarks

Honorable Emmet Ronan, chair, called the September 14, 2010, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) to order at 10:10 a.m. Judge Ronan welcomed and introduced the newly appointed member Honorable Carol Scott Berry. All members introduced themselves.

B. Approval of Minutes from May 11, 2010 Minutes of the May 11, 2010, CIDVC meeting were presented for approval.

**MOTION: Motion was made and seconded to approve the May 11, 2010, meeting minutes.
Motion passed unanimously.**

II. MAG Protocol Evaluation Project

Rena Tenney, Maricopa Association of Governments (MAG), presented on a project that MAG will be conducting. MAG was established in 1967 as a planning agency. Its mission is to work with different cities, towns and tribal communities across Maricopa County regarding air quality, water quality, transportation and human services. The Human Services Division has a Regional Domestic Violence Council that will be facilitating a multidisciplinary project. The project will focus on bringing together stakeholders that are involved in the arrest and prosecution of misdemeanor domestic violence offenders.

The Regional Domestic Violence Council received funding from St. Luke's Health Initiative to complete a regional plan. The plan focused on identifying 15 strategies that could be implemented to continue better serving domestic violence survivors. Some of the areas that were identified were funding, collaboration, coordination, training and education. Through the 15 strategies, the council was able to develop the MAG Domestic Violence Protocol Evaluation Project.

The MAG Domestic Violence Protocol Evaluation Project aims to assess local protocols by engaging law enforcement officers, prosecutors, advocates, and survivors. Funded by the STOP Grant from the Governor's Office, the project strives to increase safety for survivors, hold more abusers accountable, and potentially find cost savings through streamlined processes.

The Council is gathering information by soliciting suggestions from different agencies to improve the process. A protocol inventory list is being developed to learn the current practices in place.

Ms. Tenney asked whether the committee had any suggestions to improve the process. The committee suggestions are as follows:

- Make sure law enforcement is using Form 4 (located in the Rules of Criminal Procedure) to gather information that judges can use when determining a defendant's release conditions.
- Have accurate resource information, such as current telephone numbers for service providers and the type of help available, to provide to victims.
- Use investigative tools that will provide information in evidence-based prosecutions.
- Ask law enforcement to include more detail in their probable cause statements on Form 4. If the probable cause statement lacks sufficient detail and does not include all the elements of the crime charged, the case will be dismissed.
- Improved communication between victim advocates and county attorneys and prosecutors.
- Keep track of victims to avoid having cases dismissed when a victim moves and cannot be served with court papers.

III. SACT Regional Community Conversations

Leah Meyers, Governor's Office for Children, Youth & Families, reported about the State Agency Coordination Team (SACT). SACT is comprised of nine state agencies that meet monthly to discuss domestic violence-related issues. This summer SACT members traveled throughout the state and conducted regional "community conversations" to discuss the needs in the DV community in Arizona. These discussions focused on domestic violence, sexual assault, stalking, dating violence and other violent crimes. Each community identified areas in which they had limited resources and services for their community. Trends identified in the meetings included:

- Available resources vary among communities, particularly when comparing the county seat to surrounding rural areas.
- There were longer term stays in shelters.
- The rural areas need more legal advocacy support.
- In some areas, burglary, child abuse and petty crimes have increased.
- Child care resources are lacking.
- DV communities are requesting more support with providing basic needs (food boxes, increased thrift store activity, more requests for utility assistance, etc
- Some agencies found that there were fewer donations of time and usable donations, while other agencies saw an increase in the number of volunteers.
- Some of the people who are desperate for services have become rude, annoyed, and angry.
- A few communities noticed an increase in suicides and substance abuse.
- Collaboration and communication among service agencies increased.
- There were fewer requests from Spanish-speaking clients.

Part of the community discussion also included ideas (not considering the budget) that would improve their services. They are as follows:

- Transportation, especially in rural areas.
- One-stop-shop for victim services that would be all-encompassing, responsive, accessible, serve all populations, and would have no language barriers (on-scene crisis response, emergency shelter, nurse examiner, support for investigation, advocate, case management, utility support center, etc.).
- Legal services to victims in civil cases.
- Basic needs support
- Making child care and housing (emergency and transitional) more affordable.
- Provide training to improve job and education skills.
- Provide education for law enforcement and first responders.
- Improve defendant accountability through probation.
- Provide improved batterer intervention programs.

SACT will put together a report that encompasses all the information gathered from the various communities. This will help agencies that administer grants to be informed of the communities' priorities.

IV. Report from the Domestic Violence Fatality Review Conference

Stephanie Mayer, project coordinator, Arizona Coalition Against Domestic Violence (AzCADV), reported on the national conference of the Domestic Violence Fatality Review Initiative (DVFRI). The group met in Phoenix on August 16-17. Dr. Neil Websdale, NAU professor, is director of the national initiative. The two-day conference, attended by more than 300 participants from all over the U.S., included nationally known speakers. The interactive conference allowed attendees to participate in mock reviews involving real cases. Ms. Mayer noted that learning the process and gaining a better understanding of how communities respond to domestic violence is essential. Panel discussion topics included setting up DV fatality teams, working with surviving family members, examining barriers to services for immigrants, and risk assessment and practical applications. Conference materials are available on a CD, which Ms. Mayer can provide to interested members.

V. Progress Report: Recovery Act STOP Grant Project

Leslee Garner, AOC, reported and provided a brief demonstration on the computer-based training program (CBT) materials she has developed. The “DV 101 for Court Staff” CBT is an hour long and contains assessment questions. The “Top Ten DV Questions” CBT is about 30 minutes long. Both CBTs have been distributed to the courts, and a CBT for judges is in progress. Ms. Garner described other projects she has been working on, such as revision of the DV Benchbook (scheduled for release in January), a resource manual for court staff, and finalizing the DV Summit agenda for March 3, 2011.

VI. Update: ARPOP Rule Change Petitions

Kay Radwanski, AOC, reported on Supreme Court’s Rules Agenda meeting on August 31-September 1. CIDVC had filed comments opposing three Rule 28 petitions filed by a Glendale resident. The Supreme Court rejected all three petitions. The following three petitions were rejected:

- R-09-0045 (regarding R. 6(E)(4)(c)(2), ARPOP, and the requirement that judicial officers ask a plaintiff for an Injunction Against Harassment about the defendant’s access to firearms);
- R-10-0013 (regarding R. 1(D)(4), ARPOP, and the court’s discretion to direct a defendant to remain in the courtroom for a period of time after the plaintiff is excused); and
- R-10-0014 (regarding R. 1(B)(1)(d), ARPOP, and usage of the term “victim” in the rules).

The Court did adopt the following two petitions:

- R-09-0026 (filed by the AOC, amending Rule 6, regarding romantic or sexual relationships and Orders of Protection), and
- R-10-0025 (filed by the AOC, regarding animals and Orders of Protection, adopted on emergency basis, will circulate for comments until May 20, 2011).

The petitions, comments, and responses can be found on the Judiciary Branch website at <http://azdnn.dnnmax.com/AZSupremeCourtMain/AZCourtRulesMain/CourtRulesForumMain/CourtRulesForum/tabid/91/view/topics/forumid/45/Default.aspx>

VII. Workgroup Reports

A. *ARPOP* (Judge Finn, chair) – Nothing to report.

Special ARPOP Workgroup - This workgroup met to discuss the transfer of cases from Limited Jurisdiction courts to Superior Court when children who are the subject of a custody order are also named on a protective order, specifically in situations in which only one party on the protective order is a parent to the child. The workgroup is still discussing possible resolutions.

B. *CPOR Policy* (no designated chair) – Nothing to report.

C. *Best Practices* (Hon. Wendy Million) – Judge Million reported that the workgroup’s Best Practices report was placed on the Wendell website for judges. Judge Million said she would follow up on sending scenarios out to judges via email regarding different types of DV cases. This would provide judges with information and references to the specific rules that apply to

the case. The scenarios would be short and the references concise.

- D. *Education* (Allie Bones, chair): Ms. Bones reported that the workgroup has been working with Ms. Garner to confirm speakers for the March DV Summit. The summit will focus on court-related topics such as criminal issues, protective orders, family court and domestic violence, and probation. Another project will be establishing DV-related workshops sponsored by CIDVC at the 2011 Judicial Conference.

- E. *Forms and Practices* (Hon. Elizabeth Finn, chair): Ms. Radwanski advised the committee of the change in the Plaintiff's Guide Sheet for Protective Orders regarding animals. Ms. Radwanski noted that Tucson City Court has translated the Plaintiffs and Defendants Guide Sheet into Spanish, and the Superior Court in Coconino County has translated all of the Project Passport forms into Spanish.

The workgroup will also be working on adding clarifying language to the Defendant's Guide Sheet. This will inform defendants that they may request their own protective order if they meet other legal requirements.

Ms. Radwanski noted that "I Speak" cards are being developed to help litigants communicate to the courts what language they speak so, an interpreter can be located. It was suggested that the card also have pictures for those that are not literate.

XI. Adjournment

The meeting was adjourned at 1:09 p.m.

Next Meeting:

Tuesday, November 9, 2010

10:00 a.m. – 2:00 p.m.

State Courts Building, Conference Room 119 A/B