

**COMMITTEE ON THE IMPACT OF
DOMESTIC VIOLENCE AND THE COURTS**
Minutes - Telephonic Meeting
January 4, 2012
Arizona State Courts Building
Conference Room 230
1501 W. Washington Street, Phoenix, AZ 85007

MEMBERS PRESENT TELEPHONICALLY:

Honorable Emmet Ronan, Chair	Ms. Elizabeth Clements - <i>proxy for Ms. Dana Martinez</i>
Honorable Keith D. Barth	Honorable Cathleen Brown Nichols
Ms. Elizabeth Ditlevson - <i>proxy for Ms. Allison Bones</i>	Ms. Marla Randall
Honorable Lynn Fazz	Ms. Renae Tenney
Ms. V. Michele Gamez	Ms. Tracey J. Wilkinson
Professor Zelda Harris	

MEMBERS PRESENT IN PERSON:

Honorable Elizabeth Finn - <i>proxy for Ms. Cathy Clarich</i>	Mr. John Raeder - <i>proxy for Ms. Leah Meyers, M.S.W.</i>
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MEMBERS ABSENT:

Honorable Carol Scott Berry	Ms. Patricia Madsen, Esq.
Ms. Joi Davenport	Honorable Wendy Million
Dr. Kathy S. Deasy	Chief Jerald L. Monahan
Ms. Pegg Derrow	Ms. Kristine Reich
Ms. Gloria E. Full	Captain David Rhodes
Honorable Carey S. Hyatt	Ms. Andrea K. Sierra
Honorable Joseph P. Knoblock	Detective Eugene J. Tokosh

STAFF:

Ms. Kay Radwanski	Ms. Tama Reily
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I. REGULAR BUSINESS

A. Welcome and Opening Remarks

Without a quorum present, the January 4, 2012, telephonic meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 1:34 p.m. by the Honorable Emmet J. Ronan, chair.

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

B. Petition to Amend Court Rules Regarding Public Access to Unserved Protection Orders

Kay Radwanski, AOC committee staff, recapped the facts surrounding unserved protection orders and their accessibility to the public. This issue was addressed at the November CIDVC meeting, and the ARPOP Workgroup has now drafted language for a rule change petition to make protection orders confidential until proof of service is filed with the court. Ms. Radwanski presented two draft petitions, one that would amend only ARPOP, and a second that would also modify the Arizona Rules of Family Law Procedure (ARFLP). She reported that Jeff Mangis from the Maricopa County Clerk's office met with the workgroup to discuss potential technical challenges from a case management perspective. He advised that the process of shielding the unserved orders should not pose any undue system issues.

Ms. Radwanski also reported that in December, she presented the draft rule petition to the presiding judges from the 15 counties. At the time, Judge Norman Davis from Maricopa County shared a concern that there is current authority under the ARFLP (family law rules) to address risks involved with unserved orders. However, it was noted that many protective orders are issued out of the limited jurisdiction courts, and the family law rules would not apply to these cases. The rule petition was also presented to the Arizona Judicial Council (AJC) and received its support. The deadline for submitting the rule change petition is January 10, 2012.

MOTION: Judge Finn moved to submit a rule change petition to amend ARPOP and ARFLP as discussed. Motion seconded by Professor Harris. Motion passed unanimously. CIDVC-12-001

While there was not a quorum present for the special meeting, the CIDVC members in attendance authorized Judge Ronan, CIDVC chair, to file the petition on the committee's behalf.

MOTION: Judge Finn moved to modify the final sentence of the petition to read "the court may share information about the protective order with prosecutors or with law enforcement. Motion seconded by Judge Barth. Motion passed unanimously. CIDVC-12-002

MOTION: Judge Finn moved to amend the last motion to include the plaintiff, along with prosecutors or law enforcement. Motion seconded by Judge Barth. Motion approved unanimously. CIDVC-12-003

Ms. Radwanski explained that the petition will be filed electronically within the next several days. The petition will remain available for comment on the [Rules Forum](#) until May 20, 2012.

III. OTHER BUSINESS

A. Call to the Public

No public were present.

B. Next Meeting

February 14, 2012
Conference Room 119 A/B
Arizona State Courts Building
1501 W. Washington
Phoenix, AZ 85007

Meeting adjourned at 2:07 p.m.

**COMMITTEE ON THE IMPACT OF
DOMESTIC VIOLENCE AND THE COURTS
MINUTES
February 14, 2012
Arizona State Courts Building
Conference Room 119 A/B
1501 W. Washington
Phoenix, AZ 85007**

MEMBERS PRESENT:

Judge Emmet J. Ronan	Dana Martinez
Jessye Johnson, <i>proxy for Allison Bones</i>	Leah Meyers, M.S.W.
Judge Keith D. Barth	Judge Wendy Million
Cathy Clarich	Judge Cathleen Brown Nichols - <i>telephonic</i>
Pegg Derrow	Marla Randall - <i>telephonic</i>
V. Michele Gamez	Kristine Reich
Gabriel Munoz, <i>proxy for Prof. Zelda Harris</i>	Capt. David Rhodes
Judge Carey S. Hyatt	Andrea K. Sierra
Judge Joseph P. Knoblock	Rena Tenney
Patricia Madsen, Esq.	Tracey J. Wilkinson

MEMBERS ABSENT:

Judge Carol S. Berry	Gloria Full
Joi Davenport	Chief Jerald L. Monahan
Dr. Kathy Deasy	Det. Eugene J. Tokosh
Lynn Fazz	

GUESTS/PRESENTERS:

Amy Love, AOC	Jeff Schrade, AOC
Judge Elizabeth Finn, Glendale City Court	Julee Bruno, AOC
Glynn Thomas, Maricopa Co. Adult Probation	Shannon Rich, AzCADV
Dave Puyear, Maricopa Co. Adult Probation	Patrick Scott, AOC
John Raeder, GOCYF	Betty McEntire, Attorney General's Office

STAFF:

Kay Radwanski	Tama Reily
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I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the February 14, 2012, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 10:13 a.m. by Judge Emmett J. Ronan, chair. Members and guests were welcomed.

B. Approval of Minutes

The minutes for the November 8, 2011, and January 4, 2012, meetings of the CIDVC were presented for approval.

MOTION: To approve the minutes of the November 8, 2011, and January 4, 2012, meetings of the CIDVC as presented. Motion seconded. Approved unanimously. CIDVC-12-004

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. Legislative Update

Amy Love, AOC legislative liaison, reported on current legislation that will impact the courts.

HB 2015: Superior court; prohibited costs; counseling

Ensures no court in the state will pay the cost of anger management counseling or domestic violence counseling for any defendant required to attend.

HB 2217: Marriage license; fee; premarital course

Reduces the marriage license fee by half for applicants providing proof of completion of a marriage preparation course containing specified curriculum.

HB 2252: Custodial parents; medication; full access

Permits each parent with joint custody full access to all a child's prescribed medications. Forbids a parent from denying the other parent full access to medications. Prohibits a parent from designating a single pharmacy location as the sole source for the child's prescribed medications. This bill is expected to be further amended.

HB 2475: Child custody; relocation of child

Increases the distance a parent may relocate a child before providing written notice to the other parent from 100 to 125 miles.

HB 2559: Victims' rights; courtroom posting

Extends the posting of victims' rights and the reading of victims' rights by superior court judges to include being read by limited jurisdiction court judges.

HB 2587: Domestic relations; children; family unit

Requires parents involved in dissolution of marriage or legal separation to complete family counseling if they have minor children.

HB 2625: Marriage; disposition of property

Permits the court to consider damages and judgments resulting from a criminal conviction of abandonment or domestic violence when dividing property in dissolution of marriage proceeding.

HB 2742: Murder; domestic violence; inheritance

Authorizes a decedent's estate to assert the remedy of the court impressing a lien on the property of the decedent's killer for all actual damages and judgments. Includes a homicide committed by a party to an act involving domestic violence.

SB 1027: Domestic violence; supervised probation; fine

Expands the penalties for a misdemeanor domestic violence offense to include supervised probation, a minimum \$50 fine, and serving at least 48 consecutive hours in jail.

SB 1034: Electronic; digital devices; stalking; threatening

Expands the classification and definition of the use of a telephone to terrify, intimidate, threaten, harass, annoy, or offend to include the use of any electronic or digital device. Modifies the definition of "stalking" to include the use of any electronic, digital, or global positioning device to monitor any person or their wireless or internet activity continuously for 12 or more hours or on two or more occasions for any period of time.

SB 1072: Minors; reporting duty; missing; decreased

Adds the knowledge of a death involving unidentified bodies to the list of types of deaths that must be reported to a peace officer as soon as reasonably possible. Designates intentionally or knowingly failing to report a missing child under the age of 13 in one's care or custody to a law enforcement agency within 24 hours after disappearance as a Class 4 felony if the child suffers death or serious physical injury while missing.

SB 1074: Domestic relations; support arrest warrants

Extends statutes governing child support arrest warrants to include spousal support arrest warrants.

SB 1127: Child custody factors

Includes whether an allegation of domestic violence or child abuse has been made by one parent against another in bad faith or for an improper purpose.

SB 1176: Parenting time; court-ordered supervisors

Requires that any person who supervises parenting time for compensation must have a valid fingerprint clearance card.

SB 1177: Child support; factors

Removes the standard of living clause from the list of criteria considered when deviating from the usual child support guidelines. A strike-everything amendment was added to the bill and now focuses more on fingerprint requirements for volunteers who work with vulnerable adults.

SB 1246: Child support; supreme court; factors

Requires the factors used in forming guidelines for determining child support and the criteria for deviation be considered comprehensively.

SB 1247: Membership; domestic relations committee

Modifies the membership of the Domestic Relations Committee by requiring one of each type of parent appointed (custodial, noncustodial, and joint custody) to be a father and one to be a mother. Also adds two domestic relations attorneys and a representative of a statewide sexual assault network.

SB 1248: Domestic relations; decision-making; parenting time

Defines *coercive control* as exceptionally controlling and psychologically destructive behavior inflicted by one parent on another including emotional abuse, restrictions on access to finances, threats of suicide, and threats of injury to other persons or household pets, threats to withhold a child, as a means of control.

SB 1492: Out-of-wedlock children; fathers; rights

Presumes that the father has rights regarding custody that are equal to the child's mother, unless otherwise determined by the court.

B. Supervised Probation Review Docket

Judge Elizabeth R. Finn, presiding judge, Glendale City Court, Glynn Thomas, probation officer, and Dave Puyear, surveillance officer, Maricopa County Adult Probation, presented a report on the Maricopa County Adult Supervised Probation program. The program is available at no cost to any city court in Maricopa County. At present, only three (Glendale, Scottsdale, and Tolleson) of the 25 cities in Maricopa County take advantage of this opportunity. Judge Finn spoke about the benefits of the program and shared several of the effective aspects of it, such as warrantless arrests based on a preponderance of evidence and having the authority to order second-time domestic violence offenders to be fingerprinted. Mr. Thomas explained that the program enables probation officers to use numerous forms of oversight, including surprise visits. He also described some of the resources available to program participants, including inpatient/outpatient substance abuse or mental health programs, batterer intervention programs, legal resources, and victim advocates.

C. U.S. Department of Justice – VAWA Grant

Jeff Schrade, director, AOC Education Services Division, and Julee Ewy Bruno, ESD specialist, reported on the VAWA grant received by ESD last quarter. The \$50,000 grant runs until June 30, 2013. The primary goal of the funds is to increase the knowledge of best practices within the judiciary regarding *ex parte* and contested civil protective orders. The objectives in reaching that goal are:

- To enhance the DV bench book and develop an accompanying workbook that will contain best practices, rules of procedures, civil protective orders, statutes, resources, and forms.
- To develop a live webcast to introduce the workbook and the changes to the bench book and make it accessible on the Arizona Courts website.
- To sponsor the 2013 Domestic Violence Summit in March 2013.
- To provide training sessions at the 2013 Judicial Conference in June with national speakers to educate judges on DV, particularly on *ex parte* orders.

The grant planning committee will hold its first meeting on February 27, 2012, and CIDVC members are welcome to attend or provide feedback or suggestions.

D. Phase II – Protocol Evaluation Project

Renaë Tenney updated the committee on the Maricopa Association of Governments (MAG) Protocol Evaluation Project. She provided some background, explaining that the project assessed the DV protocols and practices used by law enforcement, prosecutors, and victim advocates and gathered input from survivors of domestic violence in hopes of developing more consistency in DV response procedures across the region. Ms. Tenney also talked about the multi-disciplinary stakeholders involved in the project and some of the developments and outcomes from their efforts over the past 18 months, such as webinar trainings and a grant for a victim advocate in the El Mirage area.

The plans for this year will expand the reach of the project to include felony level protocols and how they are being implemented, as well as to explore measures for tracking success and best practices nationally. In addition, they expect to organize broader conversations around specific topics with community stakeholders, to include affinity groups, law enforcement, prosecutors, victim advocates, and judges to gather feedback. Ms. Tenney welcomed participation or input on the project. It was pointed out that there are ethical conflicts to judicial membership on the MAG committee since it endorses a specified protocol.

E. Supervised Visitation Sites and Domestic Violence

Shannon Rich, Arizona Coalition Against Domestic Violence, discussed supervised parenting time visitation facilities, particularly those used for DV victims in Arizona. She informed members of safety issues that exist because the industry is unregulated. While the facilities are intended to provide a safe place for victims and their children, victim reports reveal that abuse can continue in subtle ways with the current oversight process. Ms. Rich said that the courts can create contracts with such facilities and thus could impose requirements such as DV training and fingerprint clearance cards. Many states with supervised visitation programs recommend domestic violence training and setting up guidelines with the supervised providers.

Judge Hyatt mentioned that Maricopa County courts currently use a roster of individual behavioral health professionals who provide supervised time, but the cost is higher than that at the supervised facilities. There was some discussion about making use of the Supervised Visitation Network, an international membership organization that works to establish standards and promote education in the field of supervised visitation. Members also discussed current legislation, SB 1176, which seeks to require a fingerprint clearance card for any individual receiving compensation for providing supervision services.

F. Secretary of State’s Address Confidentiality Program

Patrick Scott, court specialist, AOC Court Services Division, spoke about the Secretary of State’s Address Confidentiality Program, which allows persons who have been subjected to DV offenses, sexual offenses, or stalking or harassment offenses to keep their residential addresses confidential. Program participants will receive a substitute

address that becomes their lawful address of record, and a method will be established for forwarding mail to participants. The program is to be funded through a surcharge on fines or other penalties assessed against persons convicted of DV or sexual offenses and offenses involving violations of Injunctions Against Harassment. How the program will function in various situations is still being worked out. Implementation is expected to be around May 1, 2012. A statewide memo will go out to the courts, and the Secretary of State's office will work to get word out about the program to law enforcement, prosecutors, and domestic violence shelters and will also provide information on its website.

G. Petitions to Amend ARPOP Rules

Kay Radwanski, AOC committee staff, reported on several rule petitions that have been filed, including one by CIDVC, which affect the Arizona Rules of Protective Order Procedure (ARPOP). Members will need to consider whether the committee should file formal comments on any of the petitions.

- Petition R-11-0043 – amends ARPOP Rule 1(M). Would require that the court send proof of service to the victim in protective order cases. In previous CIDVC discussions about this petition, members had concerns that the rule change would not achieve the desired goal of timely notice to victims. The petition was filed by the Arizona State Bar.
- Petition R-12-0007 – amends ARPOP Rule 6(E) (4)(e)(2). The petitioner, an individual, is requesting an emergency repeal of the rule. CIDVC filed an objection to a similar petition in 2010. Ms. Radwanski will prepare CIDVC's comment objecting to the rule petition to be reviewed at the May CIDVC meeting.
- Petition R-12-0013 – amends ARPOP Rule 1(C) and ARFLP Rule 13(D). This petition was filed by CIDVC.
- Petition R-12-0023 – amends ARPOP Rule 1(D)(4). A similar rule petition was submitted by the same filer in 2010, at which time CIDVC filed comments objecting to the petition. Ms. Radwanski will update the 2010 comment for the committee to review at its May meeting.

MOTION: Judge Wendy Million moved to file a comment to petition R-11-0043 stating that CIDVC supports timely notification of victims but has concerns that the rule change does not accomplish timely notification, and noting the increased burden on state courts and clerks offices. Motion seconded. Approved unanimously. CIDVC-12-005

H. Workgroup Reports

The following reports were presented and discussed:

- *ARPOP* – Patricia Madsen reported that the workgroup will meet soon to review comments being prepared by committee staff regarding ARPOP rule petitions.
- *A.R.S. § 13-3601 Review* – Judge Million reported that the workgroup is still in the process of gathering information from other states' programs and essentially

exchanging ideas. An offer of help with the project has been received from the Morrison Institute.

- *Best Practices* – Judge Million reported that a conference topic has been selected as requested for the Judicial Conference in June. She has arranged for Professor Jill Messing from ASU to discuss lethality. Professor Messing’s presentation will include the topic of coercive control.
- *Forms & Processes* – Ms. Radwanski reported that the workgroup is scheduled to meet on February 23 to continue its review of auxiliary protective order forms. Their recommended changes will be brought before CIDVC at the May meeting.

III. OTHER BUSINESS

A. Announcements/Call to the Public

No comments offered.

B. Next Meeting Date

Tuesday, May 8, 2012
10:00 a.m. to 2:00 p.m.
Conference Room 119 A/B
1501 W. Washington
Phoenix, AZ 85015

The meeting adjourned at 1:26p.m.

**COMMITTEE ON THE IMPACT OF
DOMESTIC VIOLENCE AND THE COURTS**
Minutes
May 8, 2012
Arizona State Courts Building
Conference Room 119A/B
1501 W. Washington Street, Phoenix, AZ 85007

MEMBERS PRESENT IN PERSON:

Judge Emmet J. Ronan, Chair	Patricia Madsen, Esq.
Judge Keith D. Barth	Dana Martinez
Jessye Johnson (proxy for Allison Bones)	Leah Meyers, MSW
Cathy Clarich	Chief Jerald L. Monahan
Joi Davenport	Judge Carol Scott Berry
Pegg Derrow	Andrea K. Sierra
Gloria E. Full	Rena Tenney
V. Michele Gamez, Esq.	Det. Eugene J. Tokosh
Judge Carey S. Hyatt	

MEMBERS PRESENT TELEPHONICALLY:

Judge Cathleen Brown Nichols	Maria Randall
Lynn Fazz	

MEMBERS ABSENT:

Dr. Kathy S. Deasy	Kristine Reich, Esq.
Professor Zelda Harris	Capt. David Rhodes
Judge Joseph P. Knoblock	Tracey L. Wilkinson
Judge Wendy Million	

GUESTS/PRESENTERS

Amy Love, AOC	Andre Barth
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STAFF:

Kay Radwanski	Annette Mariani
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I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the May 8, 2012, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 10:09 a.m. by the Honorable Emmet J. Ronan, chair. All members and guests were welcomed.

B. Approval of Minutes

The minutes of the February 13, 2012, CIDVC meeting were presented for approval.

MOTION: To approve the minutes of the February 14, 2012, as presented. Motion seconded. Approved unanimously CIDVC-12-006.

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. Legislative Update

Amy Love, AOC legislative liaison, provided an update on legislation from the current session that have an impact on victims. All bills included in the handout she provided were signed with the exception of SB1127: child custody factors, which is expected to be signed soon. All bills on the handout have an effective date of August, 2, 2012, unless otherwise specified.

Chapter 269; criminal restitution order – delayed effective date of April 1, 2013

SB1127: child custody factors – This bill was introduced by Senator Linda Gray, co-chair of the Domestic Relations Committee (DRC), regarding the custody statutes in Title 25. It has a delayed effective date of December 31, 2012.

In response to a question, Ms. Love said she was uncertain whether consideration will be given in the next session to cleaning up language in ARS § 13-3602 to conform to SB1127. Section 13-3602 makes reference to child “custody,” a term that has been changed to “legal decision-making” in SB1127. The DRC typically reviews the Title 25 statutes, not Title 13.

B. Update – Maricopa Association of Governments Protocol Evaluation Project

Rena Tenney updated the committee on the Maricopa Association of Governments (MAG) Protocol Evaluation Project. She first provided background information, highlighting what transpired during the first year of implementation:

- The project, funded through a STOP Grant administered by the Governor’s Office, assesses the protocol used by law enforcement and prosecutors in handling domestic violence cases.
- The project is overseen by the MAG Regional Domestic Violence Council.
- Through the project, the region’s first misdemeanor domestic violence protocol model was developed, providing 28 protocols for consistency when law enforcement and prosecutors respond to domestic violence.

In the second year of implementation:

- The misdemeanor domestic violence protocol will continue to be maintained.
- Meetings with community partners will continue, looking at what is working out in the field and what is not working and possible solutions to these responses.
- A prosecutor affinity group meeting will take place next week to look at bridging gaps and processes with the goal of having a more streamlined model.
- The work of the victim advocate affinity group has been expanded in collaboration with the Avon Project at the O’Connor House and a newly

established domestic violence collaborators’ group to discuss findings of a survey, which addressed the supports that are in place for the victim advocates and how this would help them to move forward. A representative of the Avon Project will present information on this survey at the June 4, 2012, meeting at the MAG office.

- Focus groups with victims have been taking place. In addition to working with the Phoenix Police Department on community issues, shelter visits have been made. The visits help gauge information on the services that shelters provide and give vital feedback on how community-based services are being used.

C. Comments – Petitions to Amend ARPOP Rules

Kay Radwanski, AOC committee staff, reported on several rule petition comments that had been prepared for the committee’s review and consideration of filing.

Timeline for the rule petition process:

Annually by January 10	Deadline for filing of petitions
Annually by May 20	Deadline for comments to be submitted (this year, May 21, 2012)
Annually by June 30	Deadline for petitioner response
Late August, early September	Justices meet to review all rule petitions that have been filed in order to make decision on adopting changes, rejecting suggestions, expanding rules, etc.

Petition R-12-0013 – ARPOP Rule 1(C) and ARFLP Rule 13(D), filed by CIDVC, regarding public access to unserved protective orders. David Byers, Administrative Director, AOC, filed a comment asking that if the petition is approved, Rule 123, Rules of the Supreme Court, should be amended with conforming language. Discussion ensued, resulting in the following motion:

MOTION: To not file a response to David Byers’ comment. Motion seconded. Approved unanimously. CIDVC-12-007

Petition R-11-0043 – ARPOP Rule (M) filed by the Arizona State Bar, regarding mailing of proof of service to plaintiffs. A comment in opposition has been filed by the Arizona Association of Superior Court Clerks. The consensus in the previous meeting was that although this is a well-intended idea, there is a concern that it may not achieve timely notice to the victim. There also would be an additional expense incurred by the court that may not benefit the plaintiff. Discussion ensued resulting in the following motion:

MOTION: To approve the language and content of the comment that was previously submitted by the ARPOP Workgroup and to authorize its filing by May 21, 2012. Motion seconded. Approved unanimously. CIDVC-12-008

Petition R-12-0007 – ARPOP Rule 6(E) (4) (e) (2) – filed by Michael Roth of Quartzsite, who is requesting an emergency repeal of this rule, regarding weapons and Injunctions Against Harassment. Two comments in support were filed by Michael Palmer. Information clarifying the federal Brady law, the state firearms statute, civil protection orders and the NCIC database were addressed in the committee’s comment to Mr. Roth’s petition. The Court will not be hearing the petition on an emergency basis, and it will be on the calendar for August or September 2012. Discussion ensued resulting in the following motion:

MOTION: To approve the language and content of the comment that was previously submitted by the ARPOP Workgroup, with the removal of the first paragraph on page 5 of this petition. Motion seconded. Approved unanimously. CIDVC-12-009

Petition R-12-0023 – ARPOP Rule 1(D)(4) – filed by Michael Palmer, a Phoenix resident, regarding the court’s authority to delay the exit of persons from a courtroom. CIDVC’s comment notes that the Code of Judicial Conduct requires the judge to maintain order and decorum in the courtroom and also cites State v. Bush, 149 Ariz. 325 (1986). Discussion ensued resulting in the following motion:

MOTION: To approve the language and content of the comment that was previously submitted by the ARPOP Workgroup, except for removal of the words “*that was dismissed*” in the first paragraph on page 2 of this petition. Motion seconded. Approved unanimously. CIDVC-12-010

All comments to petitions will be filed electronically by May 21, 2012.

D. 2012 Protective Order Forms Review

Ms. Radwanski gave a brief overview of Project Passport, an initiative by the National Center for State Courts (NCSC) to encourage states to use protective order forms that are similar nationwide in order to help law enforcement in recognizing these orders. The result of CIDVC’s work was a set of standardized protective order forms that were approved and then mandated by the Supreme Court to be used in every Arizona court beginning January 1, 2008. With minimum exception, Arizona courts cannot make changes to the forms without permission from the AOC. Since implementation, some courts have requested “tweaks” in these forms.

The Forms and Processes Workgroup, which met in February and March, presented its recommendations for forms modifications to CIDVC. Members were asked to review the workgroup’s proposals, discuss other suggested changes, and approve or disapprove the recommended changes. Once modifications have been reviewed and agreed upon, recommendations will be sent to David Byers, AOC administrative director, requesting his approval and issuance of an administrative directive.

Plaintiff’s Guide Sheet for Protective Orders

Page 1:

- Under paragraph 11 add: “To comply with federal law, no identifying information about you will be published on the Judicial Branch website (www.azocourts.gov).
- Under paragraph 7, add language to conform to text on the Defendant’s Guide Sheet, which reads: “However, orders are not automatically granted upon request. Legal requirements must be met.”
- Under paragraph 3, move text reading “A copy of your petition and the order will be given to the Defendant and may be used in future judicial proceedings” to #4: Service and Effect. Keep the text in boldface font.

Page 2:

- Add Date of Birth for the plaintiff, and boldface language about address confidentiality so it stands out.

Petition for OP/IAH/IAWH

- In the caption, add a bolded block that reads: “This is not a court order.”
- Discussion ensued on:
 - Whether there is enough room for the plaintiff to provide adequate information about domestic violence incidents?
 - Should the language “attach additional paper if necessary” be retained?
 - Should only the most recent incidents be listed?
 - Are plaintiffs limited to describing only five incidents?
 - Are the plaintiffs’ descriptions viewed as just “talking points” or are these incidents being memorialized?
 - Forms are available in various languages for comparison but must be filed in English.
 - Should a plaintiff be asked to state what has been the most dangerous incident in the past 12 months?
 - Add language advising that “A copy of this petition will be provided to the defendant upon service.”
 - Is number 8, Plaintiff’s request for Defendant to be ordered to participate in domestic violence counseling, useful and is it utilized? Because it is required in statute but can be ordered only after a hearing of which Defendant had notice and an opportunity to participate, should the workgroup remove it or provide more explanation?

Order of Protection – Discussion ensued on:

- Should the field for “Distinguishing Features/Alias” be left on or taken off? In developing a new case management system for limited jurisdiction courts, the AJACS development team noticed that the field cannot be populated because plaintiffs are not asked to provide this information. It was suggested that a question be added to the Plaintiff’s Guide Sheet. Ms. Radwanski advised, however, that for the field to populate automatically, changes will have to be made to multiple case management systems, which can be costly. As AZTEC is being phased out within the next few years and being replaced with AJACS, programming changes to AZTEC are discouraged.

- The workgroup had recommended that the “actual notice” language be stricken in response to concerns by the AJACS team. However, it was recalled that the line was intended to be used when orders were modified and when the defendant did have notice.
- Additional language will be added under “No Crimes” section to be consistent with U.S. v. Sanchez and policy previously decided by the Arizona Judicial Council.
- Additional advisory language – “However, orders are not automatically granted upon request. Legal requirements must be met.” – was presented. Similar language was recommended for inclusion on the Injunction Against Harassment, the Emergency Order of Protection, and the Defendant’s Guide Sheet.

Defendant’s Guide Sheet

- Additional advisory language – “However, orders are not automatically granted upon request. Legal requirements must be met.” – was added.
- Language in paragraph 5 could be enhanced so individuals understand that a hearing is needed for the order to be modified or quashed.

Injunction Against Harassment

- As on the Order of Protection, should the section on “Distinguishing Features/Alias” be left on or taken off?
- As on the Order of Protection, should the “actual notice” language be stricken?

Injunction Against Workplace Harassment

- As on the Order of Protection, should the section on “Distinguishing Features/Alias” be left on or taken off? – no discussion

Emergency Order of Protection

- As on the Order of Protection, should the section on “Distinguishing Features/Alias” be left on or taken off? – no discussion

Acceptance of Service – no changes

Declaration of Service

- Workgroup recommended addition of language and a check box to indicate a person authorized by the court (court staff) served the order in the courtroom
- Add IAWH to caption block - no discussion
- Workgroup recommended addition of a line and check boxes to indicate whether the plaintiff was advised of service.

Hearing Request

- Language regarding interpreter services and changes to the Certificate of Transmittal was added – no discussion.

Notice of Hearing Prior to

- Form title changed to “Notice of Hearing Prior to Issuance Of,” which is then followed by a list of the three protective orders
- Language for multiple locations/courtroom was added as many courts not only have multiple courtrooms but some also have multiple locations.
- The word “notice” instead of “copy” under Certificate of Transmittal was suggested.
- A court has asked that the defendant’s mailing and work addresses, as well as space for demographic information, be added. The request will be reviewed by the workgroup.

Hearing Order

Three different versions of this form were presented.

- An option for “withdrawn” was suggested because occasionally a plaintiff will have second thoughts after filing and fail to appear in the courtroom. Judges are reluctant to indicate the request was denied in this situation because there was no finding on the merits of the petition.
- The hearing request and the hearing order are combined on this form, leading to confusion regarding signatures by court staff and the judicial officer.
- The Certificate of Transmittal language was improved.
- A court has asked for the defendant’s address to be added on the bottom. This request was referred to the workgroup.
- On all three versions the suggested language states “The Court continues the hearing set for _____ date.” However, there is no space for the continuance date. A member asked whether another notice is required if the judge continues the hearing.

Notice to Sheriff – no changes

Transfer Order – no changes

Notice of Hearing

- The information on this new form was taken out of the Hearing Order, making the notice a stand-alone form.
- Change “copy” to “notice” under Certificate of Transmittal.
- A court has asked for the defendant’s address to be added on the bottom. This request was referred to the workgroup.

Declaration of Service

- A court has combined the Declaration of Service and Acceptance of Service forms into one page, retaining all information from the approved forms. The top portion is filled out if the order is served. The bottom portion is filled out if it is handed to the defendant in the courtroom. The workgroup should consider this as an option to help courts conserve resources.

The Forms and Processes Workgroup will meet to discuss the committee's comments and recommendations and bring updated information back to the group at the September 11, 2012, meeting.

E. Workgroup Reports

The following reports were presented:

A.R. S. §13-3601 Review Workgroup – This workgroup has been provided with a law student intern who has done some research on the broadness of the domestic violence law. Once this information has been presented to the workgroup, members will reconvene in the fall and bring back information to the committee.

Forms and Processes Workgroup – This workgroup will be reviewing the comments and recommendations provided during the meeting.

ARPOP Workgroup – The workgroup did not meet formally, but members were asked to review the Rule 28 comments prior to the CIDVC meeting. No workgroup members suggested changes to the draft comments.

Best Practices Workgroup/Education Workgroup – A domestic violence session has been planned for the Judicial Conference in June.

Batterer Treatment Programs Workgroup – Members were asked to join if interested. A condensed summary of offender treatment programs that are utilized in Arizona and in other states will be put together for presentation at a future committee meeting.

III. OTHER BUSINESS

A. Call to the Public – No persons from the general public were present.

B. Next Meeting

September 11, 2012
Conference Room 119 A/B
Arizona State Courts Building,
1501 W. Washington St.
Phoenix, AZ 85007

The meeting adjourned at 1:41 p.m.

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

Minutes

September 11, 2012

Arizona State Courts Building

Conference Room 119A/B

1501 W. Washington Street, Phoenix, AZ 85007

Present: Judge Emmet J. Ronan, Chair, Judge Keith D. Barth, Sonja Burkhalter (*telephonically*), Elizabeth Ditlevson Garman (proxy for Allison Bones), Cathy Clarich, Joi Davenport, V. Michele Gamez, Esq., Judge Carey Hyatt, Judge Joseph Knoblock, Patricia Madsen, Esq., Leah Meyers, Judge Wendy Million (*telephonically*), Chief Jerald Monahan (*telephonically*), Marla Randall, Kristine Reich, Esq., Captain David Rhodes, Andrea K. Sierra, Renae Tenney, Tracy J. Wilkinson

Absent/Excused: Judge Carol Scott Berry, Pegg Derrow, Lynn Fazz, Gloria Full, Dana Martinez, Judge Cathleen B. Nichols, Det. Eugene J. Tokosh

Presenters/Guests: Sgt. Chris Boyle (Phoenix Police Department), Judge Elizabeth Finn, Patricia George (City of Phoenix), Amy Love (AOC), Sgt. Marc Rivers (Phoenix Police Department), Nathalea Silva (MAG), Amanda Stanko (MAG)

Staff: Kay Radwanski (AOC), Julie Graber (AOC)

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the September 11, 2012, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 10:10 a.m. by the Honorable Emmet J. Ronan, chair. Judge Ronan welcomed all members and guests and introduced new member, Sonja Burkhalter, executive director of the Northland Family Health Center, Flagstaff. He also informed CIDVC that new vacancies have opened following the resignations of Professor Zelda Harris and Dr. Kathy S. Deasy.

B. Approval of Minutes

The minutes of the May 8, 2012, CIDVC meeting were presented for approval.

Motion: To approve the May 8, 2012, meeting minutes as presented. **Action:** Approve, **Moved by** Cathy Clarich, **Seconded by** Judge Keith D. Barth. Motion approved unanimously. CIDVC-12-011

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. City of Phoenix: New Approaches to Domestic Violence Investigations

Sgt. Marc Rivers and Sgt. Chris Boyle from the Phoenix Police Department and Patricia George, assistant prosecutor for the City of Phoenix, informed members about a new policy that was recently developed and implemented in a partnership between the Prosecutor's Office and the police department. The new policy focuses on the elements of

coercive control in the investigation of domestic violence (DV) crimes. It is intended to help detectives direct precious resources to the victims who need them and to hold offenders accountable for their actions.

Sgt. Boyle provided some history about prior DV case procedures. Instead of triaging DV cases based on the type of suspect, cases were lumped together based on the amount and severity of injuries. He pointed out that historically, regardless of the total number of homicides in a year, 10 percent typically are DV-related cases, which are normally composed of “patterned” and “unpatterned” DV. Patterned DV is the most dangerous type for victims and officers, and it involves coercive control (e.g., the partner intimidates and isolates the person or demands things to be done and verifies that they were done) while unpatterned DV does not. A situation where brothers assault one another is an example of unpatterned DV, which is often based on situational conflicts.

Sgt. Boyle described the new offender-based approach used by officers and detectives to investigate and recognize coercive control, which is based on four course-of-conduct patterns (i.e., presumptive acts, frames of action, escalation, and coercion process). A card is provided to officers, who receive the necessary training to take notes about DV cases, and it also contains specific questions to profile the lethality of situations. Sgt. Boyle reviewed three types of DV situations that officers and detectives encounter. Situational conflicts that do not manifest coercive control are known as Group 3 situations and account for two-thirds of DV cases, which are handled as normal assault cases. Groups 1 and 2 situations are similar in that they both involve coercive control; however, Group 1 already displays violence whereas in Group 2, the partner is usually working toward violence (e.g., the partner might break and enter into the victim’s home after the couple splits up). According to extensive research, 99.9 percent of coercive control victims are women, unless victims are in a homosexual relationship. Sgt. Boyle explained that the new approach focuses on Groups 1 and 2 and allows detectives to conduct quality investigations by spending two-thirds of their time on one-third of cases. He also noted that when officers and detectives dedicate their time to these victims and get them in touch with the necessary resources, victims have been more likely to stay with the prosecution.

Ms. George relayed a prosecutor’s perspective on the new procedures, which she applauded based on the results obtained. She pointed to the constant contact she has with detectives and to the immediate information she receives. Ms. George commended the Phoenix Police Department for the quality work and dedication shown.

B. MAG Victim Advocates Project

Renaë Tenney, MAG Human Services Planner, Nathalea Silva, MAG Human Services Intern, and Amanda Stanko, MAG Information Services Intern, presented the MAG Victim Services Provider Inventory and Interactive Web Map. The inventory and map were developed following MAG focus group discussions where victims related a lack of knowledge about the court process and about where to go to get help, and stressed the importance and benefits of having someone such as a victim advocate guide them. Because many agencies provide a variety of victim services, a need was identified for a

centralized inventory of victim service providers as well as a map of their locations to help connect victim advocates and to provide the services and guidance victims need. A survey was conducted seeking feedback from victim advocates regarding training, and respondents' information was compiled into an easy-to-use toolkit for users, which was featured and demonstrated for CIDVC members. The toolkit will be available online to the public at the beginning of June. Survey results identified training inconsistencies among agencies (law enforcement advocates had the most training while court advocates had the least) as well as the main barriers to training (costs and time). Additionally, advocates sought more frequent training requirements (quarterly rather than annually) with more advanced and specialized options.

A question was raised about how the tool would be updated. Information updates would be done on a quarterly basis and would be agency-based rather than advocates-based.

C. 2012 Forms Review

The Forms and Processes Workgroup presented for CIDVC's approval their proposed recommendations to the protective order forms based on comments received from CIDVC members. Highlights of the discussion included the following:

Plaintiff's Guide Sheet for Protective Orders

- There was new discussion about whether the Guide Sheet needs the "ORI" (originating agency identifier) or "DPS" identifiers. AOC staff who perform court operational reviews have noted that ARPOP Rule 10 requires the ORI and DPS numbers to appear on all approved protective order forms.
- Judge Finn indicated that the original intent was for the identifiers to go on the forms that are served, not an informational form like this, which is intended for the plaintiff to keep.
- In order to be consistent and avoid compliance issues, the committee agreed that a rule change petition should be drafted indicating that it is not necessary to have such identifiers on the form because the information would be on the petition and order. This would be a task for the ARPOP Workgroup.
- Email address line was added in anticipation of the State Bar Association's rule change petition to add the email information.
- After discussion, members agreed that the question calling for distinctive features and aliases will not be displayed on this form or on the Order of Protection, Injunction Against Harassment, Injunction Against Workplace Harassment, or Emergency Order of Protection.

Petition for OP/IAH/IAWH

- After some discussion, the committee agreed not to include language advising the plaintiff that he or she can reference police reports in the description of what happened.

Emergency Order of Protection

- There was discussion and agreement that space should be created for law enforcement to handwrite "ORI" and "DPS" identifiers on the form when needed.

Hearing Request

- There was a suggestion to add space on the form to insert the name of the language needed when interpreter services are requested.

Hearing Order

- There was a recommendation to document the reason why an ex-parte protective order is denied and thereby provide additional clarification in accordance with ARPOP rules. Members agreed to insert a line called “Reason: _____” after “[] A protective order is [] granted [] denied [] withdrawn.”
- There was discussion about whether to keep the “Continuance date is _/_/_” and members agreed to remove it and replace it with “See Notice of Hearing.”

Motion: To recommend to David Byers that the forms be approved, as modified. **Moved by** Judge Carey Hyatt, **Seconded by** Tracy J. Wilkinson. Michele Gamez asked if the forms’ footers would be changed. The footers will be modified to refer to the Administrative Directive. Motion passed unanimously.

D. Update: Petitions to Amend ARPOP Rules

Kay Radwanski, AOC committee staff, updated CIDVC on the outcome of the rule petitions affecting the Arizona Rules of Protective Order Procedure filed in the most recent rules cycle. The Supreme Court conducted its Rules Agenda meeting in August.

Petition R-11-0043 – ARPOP Rule 1(M)

This petition, filed by the State Bar of Arizona (SBA), concerned the notice of service to plaintiff. The Supreme Court referred this petition directly to CIDVC for further review. The ARPOP Workgroup might consider taking up this matter and find a possible compromise. Judge Finn cautioned about possibly duplicating efforts because of ongoing pilot projects where law enforcement provides notice directly to the plaintiff.

Petition R-12-0007 – ARPOP Rule 6(E)(4)(e)(2)

The petition filed by Michael Roth regarding Injunctions Against Harassment (IAH) and weapons was continued with another version under consideration. The Court substituted language from the SBA requiring a judge to make a finding that defendant is a credible threat to plaintiff before prohibiting weapons on IAH. The petition will remain open for comments on the Arizona Court Rules Forum until May 20, 2013.

Petition R-12-0013 – ARPOP Rule 1(C), ARFLP Rule 13(D), and Rule 123, Rules of the Supreme Court

This petition filed by CIDVC regarding unserved orders was adopted with a modification, making changes to ARPOP, the Arizona Rules of Family Law Procedure, and the Rules of the Supreme Court. Effective January 1, 2013, courts cannot make information publicly available regarding the filing of or contents of a petition for or issuance of a protective order until proof of service has been filed with the court.

Petition R-12-0023 – ARPOP Rule 1(D)(4)

The petition filed by Michael Palmer regarding courtroom control was rejected.

E. Advisory Committee on Supreme Court Rules 123 and 125

Ms. Radwanski introduced the new Advisory Committee on Supreme Court Rules 123 and 125, which was established by Administrative Order 2012-41, and tasked with recommending policy regarding Internet publication of minute entries in family law cases and case records in probate cases. She described the committee's membership and provided background into its formation and the reasons for which it was created. The committee intends to submit a rule petition to AJC for discussion at its December meeting. The intent is to file it in January 2013. Ms. Radwanski raised some of the issues discussed in the committee regarding the publication of family law minute entries on the Internet as well as the effect that posting certain information about protective order parties would have on family law cases. She highlighted some of the concerns with regard to family law minute entries:

- Family law minute entries vary among counties. Some minute entries are very short and non-descriptive while others are very extensive and contain an analysis of all the child custody factors, including mental and physical health information. The availability of this detailed information on the Internet was a matter of concern, prompting two legislators to introduce a bill in the last session. The legislators agreed to withdraw the bill to allow the Court time to try to resolve the issue through a rule change.
- In some courts, if during a pending divorce case a protective order is filed, the same case number is used for both cases. The information from both cases is then pulled together and minute entries can reflect information about the protective order, which is problematic because federal law prohibits the Internet publication of any protective order information that would identify and locate the plaintiff even if defendant has been served.

After consideration, the committee's consensus was that minute entries in probate cases and mental health cases should be limited to the four data elements (i.e., names of parties, names of attorneys, case number, and case type). Ms. Radwanski noted that language is currently being drafted for the committee's approval that would deal with family law minute entries versus matters taken under advisement. Courts would also need some education about what and what not to post. Ms. Radwanski will provide an update on the committee's work at the next CIDVC meeting.

F. Workgroup Reports

The following reports were presented:

A.R.S. §13-3601 Review Workgroup – Judge Wendy Million reported having law students researching domestic violence laws in other states.

Forms and Processes Workgroup – No update provided.

ARPOP Workgroup – No update provided.

Best Practices Workgroup/Education Workgroup – Judge Million reported on the domestic violence session given at the Judicial Conference in June. She noted that the

information was good but more education is needed for judges regarding coercive control and lethality factors.

Batterer Treatment Programs Workgroup – No update provided.

III. OTHER BUSINESS

A. Call to the Public

No persons from the general public were present.

A workshop entitled “Building Connections to Justice Training Event” from the MAG Protocol Evaluation Project is scheduled for October 24, 2012, at the University of Arizona College of Medicine-Phoenix (Virginia G. Piper Auditorium, Building 2, 600 East Van Buren Street, Phoenix, AZ).

B. Next Meeting

November 13, 2012
Conference Room 119 A/B
Arizona State Courts Building
1501 W. Washington St.
Phoenix, AZ 85007

The meeting adjourned at 1:39 p.m.